

**PROTECTION FROM INTERNET FALSEHOODS AND
MANIPULATION AND OTHER RELATED MATTERS BILL 2019**

Sponsored by Senator Muhammad Sani Musa

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THIS ACT IS TO PROVIDE PROTECTION FROM INTERNET FALSEHOODS AND MANIPULATIONS

Be it enacted by the National Assembly of the Federal Republic of Nigeria as follows:-

PART 1 – AIMS, OBJECTIVES AND APPLICATION

commencement

1. The Aims and objectives of this Act is :-
 - (a) to prevent the transmission of false statements/declaration of facts in Nigeria and to enable measures to be taken to counter the effects of such transmission;
 - (b) to suppress the financing, promotion and other support of online locations that repeatedly transmit false statements/declaration of facts in Nigeria;
 - (c) to enable measures to be taken to detect, control and safeguard against coordinated inauthentic behaviour and other misuses of online accounts and bots; and
 - (d) to enable measures to be taken to enhance disclosure of information concerning paid content directed towards a political end.
 - (e) to sanction offenders;
2. The provisions of this Act shall apply throughout the Federal Republic of Nigeria

aims, objectives and application

PART 2 - PROHIBITION OF TRANSMISSION OF FALSE STATEMENTS OF FACT

prohibition of transmission of false statements of fact in Nigeria

3. Transmission of false statements of fact

(1) A person must not do any act in or outside Nigeria in order to transmit in Nigeria a statements knowing or having reason to believe that :-

- (a) it is a false statements of fact; and
- (b) the transmission of the statements in Nigeria is likely to :-
 - (i) be prejudicial to the security of Nigeria or any part of Nigeria;
 - (ii) be prejudicial to public health, public safety,

Transmission of false statements of fact

public tranquility or public finances;

- (iii) be prejudicial to the friendly relations of Nigeria with other countries;
- (iv) influence the outcome of an election to any office in a general election or a referendum;
- (v) incite feelings of enmity, hatred directed to a person or ill-will between different groups of persons; or
- (vi) diminish public confidence in the performance of any duty or function of, or in the exercise of any power by the Government.

(2) Subject to subClause (3), a person who contravenes subClause (1) shall be guilty of an offence and shall be liable on conviction :-

- (a) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) in any other case, to a fine not exceeding N10 Million.

(3) Where an inauthentic online account or a bot is used :-

- (a) to transmit in Nigeria the statements mentioned in subClause (1); and
- (b) for the purpose of accelerating such transmission, the who person is guilty of an offence under that subClause shall be liable on conviction -
- (c) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (d) in any other case, to a fine not exceeding N10 Million.

(4) SubClause (1) does not apply to the doing of any act for the Purpose of, or that is incidental to, the provision of :-

- (a) an internet intermediary service;
- (b) a teletransmission service;
- (c) a service of giving the public access to the internet; or
- (d) a computing resource service.

(1) A person must not, whether in or outside Nigeria, make or alter a bot with the intention of :-

making or
altering bots for
transmission of
false
statements of
fact

- (a) transmitting, by means of the bot, a false statements of fact in Nigeria;
or
- (b) enabling any other person to transmit, by means of the bot, a false statements of fact in Nigeria.

(2) A person who contravenes subClause (1) shall be guilty of an offence and shall be liable on conviction :-

- (a) in the case of an individual, to a fine not exceeding N200,000 or to imprisonment for a term not exceeding 3 years or to both; or
 - (b) in any other case, to a fine not exceeding N5 Million.
- (3) However, if the transmission of the false statements of fact under subClause (1) is likely to :-
- (a) be prejudicial to the security of Nigeria or any part of Nigeria;
 - (b) be prejudicial to public health, public safety, public tranquility or public finances;
 - (c) be prejudicial to the friendly relations of Nigeria with other countries;
 - (d) influence the outcome of an election to the office of President, a general election of Members of Parliament, a by-election of a Member of Parliament, or a referendum;
 - (e) incite feelings of enmity, hatred towards a person or ill-will between different groups of persons; or
 - (f) diminish public confidence in the performance of any duty or function of, or in the exercise of any power by the Government, an Organ of State, a statutory board, or a part of the Government, an Organ of State or a statutory board,

the person who is guilty of an offence under that sub Clause shall be liable on conviction:-

- (g) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 3 years or to both; or

5. Providing services for transmission of false statements of fact in Nigeria

providing
services
for
transmissi
on of false
declaratio
ns of fact
in Nigeria

(1) A person who, whether in or outside Nigeria, solicits, receives or agrees to receive any financial or other material benefit as an inducement or reward for providing any service, knowing that the service is or will be used in the transmission of one or more false statements of fact in Nigeria, shall be guilty of an offence if the service is in fact used in such transmission.

(2) A person who is guilty of an offence under sub Clause (1) shall be liable on conviction :-

- (a) in the case of any individual, to a fine not exceeding N150,000 or to imprisonment for a term not exceeding 2 years or to both; or
- (b) in any other case, to a fine not exceeding N500,000.

(3) However, if the transmission of the false statements of fact under sub Clause (1) is likely to :-

- (a) be prejudicial to the security of Nigeria or any part of Nigeria;
- (b) be prejudicial to public health, public safety, public tranquility or public finances;
- (c) be prejudicial to the friendly relations of Nigeria with other countries;
- (d) influence the outcome of any election to any office in a general election in Nigeria.
- (e) incite feelings of enmity, hatred towards a person or ill-will between different groups of persons; or
- (f) diminish public confidence in the performance of any duty or function of, or in the exercise of any power by the Government, an Organ of State, a statutory board, or a part of the Government, an Organ of State or a statutory board,

the person who is guilty of an offence under that sub Clause shall be liable on conviction :-

- (g) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (h) in any other case, to a fine not exceeding N10 Million.

(4) Sub Clause (1) does not apply to any act carried out for the purpose of, or that is incidental to, the provision of :-

- (a) an internet intermediary service;
- (b) a teletransmission service;
- (c) a service of giving the public access to the internet; or

- (d) a computing resource service.
- (5) Where the Court convicts a person of an offence under sub Clause (1) the Court must in addition to imposing the punishment in Sub Clause or (3) order the person to pay as penalty, a sum equal to the amount of any financial or material benefit received or in the opinion of the Court the value of such financial or material benefit
- (6) Sub Clause does not apply if the court determines that the value of the financial or other material benefit cannot be assessed.
- (7) Where :-
 - (a) a person charged with 2 or more offences under sub Clause (1) is convicted of one or more of those offences; and
 - (b) the other outstanding offences are taken into consideration by the Court, the Court may increase the penalty mentioned in subClause (5) by an amount not exceeding the total amount or value of the financial or other material benefit received for the offences so taken into consideration.

PART 3

REGULATIONS DEALING WITH TRANSMISSION IN NIGERIA OF FALSE DECLARATIONS OF FACT

6. Conditions for issuance of Part 3 Regulations

(1) The Law Enforcement Department may issue a Part 3 Regulation in the event of the following:-

- (a) that a false DECLARATION of fact (called in this Part the subject DECLARATION) has been or is being transmitted in Nigeria;
- (b) the Law Enforcement Department is of the opinion that it is in the public interest to issue the Regulation.

(3) The Law Enforcement Department shall issue a Part 3 Regulation in relation to the subject DECLARATION even if it has been amended or has ceased to be transmitted in Nigeria.

regulations dealing with transmission in nigeria of false declarations of fact

conditions for issuance of part 3 regulations

7. Correction Regulation

(1) A Correction Regulation is one issued to a person who transmitted the

subject DECLARATION in Nigeria, requiring the person to transmit in Nigeria ^{correction} in the specified form and manner, to a specified person or description of persons, ^{regulation} (if any), and by the specified time, a notice (called in this Part a correction notice) that contains one or both of the following:

- (a) a DECLARATION, in such terms as may be specified, that the subject DECLARATION is false, or that the specified material contains a false DECLARATION of fact;
- (b) a specified DECLARATION of fact, or a reference to a specified location where the specified DECLARATION of fact may be found, or both.

(2) A Correction Regulation may require the person to whom it is issued to transmit in Nigeria a correction notice in a specified online location.

(3) A Correction Regulation may also require the person to whom it is issued to do one or both of the following:

- (a) to transmit in Nigeria the correction notice by placing it in the specified proximity to every copy of the following that is transmitted by the person in Nigeria:
 - (i) the false DECLARATION of fact;
 - (ii) a substantially similar DECLARATION;
- (b) to publish the correction notice in the specified manner in a specified newspaper or other printed publication of Nigeria.

(4) A person who transmitted a false DECLARATION of fact in Nigeria may be issued a Correction Regulation even if the person does not know or has no reason to believe that the DECLARATION is false.

(5) In this Clause -

- (a) "specified" means specified in the Correction Regulation; and
- (b) a person does not transmit a DECLARATION in Nigeria merely by doing any act for the purpose of, or that is incidental to, the provision of :-
 - (i) an internet intermediary service;
 - (ii) a teletransmission service;
 - (iii) a service of giving the public access to the internet; or
 - (iv) a computing resource service.

8. Stop Transmission Regulation

(1) A Stop Transmission Regulation is one issued to a person who transmitted ^{stop} the subject DECLARATION in Nigeria, requiring the person to stop transmitting ^{transmission} in ^{regulation} Nigeria the subject DECLARATION by the specified time.

(2) A Stop Transmission Regulation may also require the person to whom it is
(3) issued to stop transmitting any DECLARATION that is substantially similar to the subject DECLARATION.

(4) A Stop Transmission Regulation may also require the person to whom it is issued to do one or both of the following:

- (a) to transmit in Nigeria a correction notice in the specified form and manner, to a specified person or description of persons (if any), and by the specified time;
- (b) to publish a correction notice in the specified manner in a specified newspaper or other printed publication of Nigeria.

(5) A person who transmitted a false DECLARATION of fact in Nigeria may be issued a Stop Transmission Regulation even if the person does not know or has no reason to believe that the DECLARATION is false.

(5) In this Clause :-

- (a) "specified" means specified in the Stop Transmission Regulation;
- (b) "stop transmitting", in relation to a DECLARATION, means taking the necessary steps to ensure that the DECLARATION is no longer available on or through the internet to end-users in Nigeria, including (if necessary) the removal of the DECLARATION from an online location; and
- (c) a person does not transmit a DECLARATION in Nigeria merely by doing any act for the purpose of, or that is incidental to, the provision of :-
 - (i) an internet intermediary service;
 - (ii) a teletransmission service;
 - (iii) a service of giving the public access to the internet; or
 - (iv) a computing resource service.

9. Provisions applicable to all Part 3 REGULATION

- provisions
applicable to
all part 3
regulation**
- (1) A Part 3 Regulation may be issued to a person whether the person is in or outside Nigeria.
 - (2) A Part 3 Regulation may require the person to whom it is issued to do an Act in or outside Nigeria.
 - (3) A Part 3 Regulation must identify the subject DECLARATION in sufficient detail.
 - (3) A Part 3 Regulation must comply with such form, manner and other as may be prescribed (if any), and for this purpose different requirements may be prescribed for :-
 - (a) different Regulation;
 - (b) different parts of a Regulation;
 - (c) different persons or descriptions of persons to whom a Regulation is to be issued; and
 - (d) different circumstances under which a Regulation is to be issued.
 - (5) A Part 3 Regulation remains in effect until the date it expires (if any), or it is set aside under Clause 15 or cancelled under Clause 17.
 - (6) A person issued a Part 3 Regulation is responsible for the costs of complying with the Regulation.

10. Service of Part 3 REGULATION

A Part 3 Regulation may be served by such means (including electronic means) as may be prescribed :-

- service of part 3
regulation**
- (a) on the person to whom it is issued; or
 - (b) on a person in Nigeria that the person to whom the Part 3 Regulation is issued has appointed to accept service on the person's behalf.

11. Non-compliance with Part 3 Regulation an offence

(1) A person to whom a Part 3 Regulation is issued and served and who, without reasonable excuse, fails to comply with the Regulation whether in or outside Nigeria, shall be guilty of an offence and shall be liable on conviction :-

- non-compliance
with Part 3
Regulation an
offence**
- (a) in the case of an individual, to a fine not exceeding N200,000 or to imprisonment for a term not exceeding 12 months or to both; or
 - (b) in any other case, to a fine not exceeding N5Million

- (2) It is not a defence to a charge under sub Clause (1) that :-
- (a) the person is subject to a duty under any written law, any rule of law, any contract or any rule of professional conduct, that prevents the person from complying with any part of a Part 3 Regulation or restricts the person in such compliance; or
 - (b) The person has applied under Clause 19 to vary or cancel the Part 3 Regulation or has appealed to the High Court against the Regulation.
- (2) No civil or criminal liability is incurred by the person or an officer, employee or agent of the person, for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with or giving effect to the Part 3 Regulation.

12. Access Blocking Order

access
blocking order

- (1) This Clause applies where :-
- (a) a person fails to comply with a Part 3 Regulation;
 - (b) the subject DECLARATION is being transmitted in Nigeria by the person \on an online location; and
 - (c) the Law Enforcement Department is satisfied that one or more end-users in Nigeria have used or are using the services of an internet access service provider to access that online location.
- (3) The Law Enforcement Department may direct the NCC to order the internet access service provider to take reasonable steps to disable access by end-users in Nigeria to the online location (called in this Clause an access blocking order), and the NCC must give the internet access service provider an access blocking order.
- (4) An internet access service provider that does not comply with any access blocking order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding N10Million for each day during any part of which that order is not fully complied with, up to a total of N5 Million .
- (5) No civil or criminal liability is incurred by an internet access service Provider or an officer, employee or agent of such provider, for anything done or omitted to be done with reasonable care and in good faith in complying with any access blocking order.

13 Appeals to the High Court

- (1) A person to whom a Part 3 Regulation is issued may appeal to the High Court against the Regulation.
- (2) No appeal may be made to the High Court by any person unless the person has first applied to the Law Enforcement Department to vary or cancel the Part 3 Regulation and

appeals to the
high court

the Law Enforcement Department refused the application whether in whole or in part.

- (2) An appeal may only be made to the High Court within such period as may be prescribed by Rules of Court.
- (3) The High Court must hear and determine any such appeal and may either confirm the Part 3 Regulation or set it aside.
- (4) The High Court may only set aside a Part 3 Regulation on any of the following grounds on an appeal:
 - (a) the person did not transmit in Nigeria the subject DECLARATION;
 - (b) the subject DECLARATION is not a DECLARATION of fact, or is a true DECLARATION of fact;
 - (c) it is not technically possible to comply with the Regulation.
- (6) A Part 3 Regulation that is the subject of an appeal under sub Clause (1) remains in effect despite the appeal, and only ceases to have effect if it is set aside by the High Court or the Court of Appeal on appeal from the High Court, or if it expires or is cancelled by the Law Enforcement Department.

(7) In spite of sub Clause (6), if the appellant establishes a prima facie case that it is technically impossible to comply with the Part 3 Regulation, the High Court may direct that the Regulation be stayed pending determination of the appeal.

(8) Rules of Court may provide for the manner in which and the time within which an appeal under sub Clause (1) may be made and the procedure for an application to stay a Part 3 Regulation appealed against.

14. Other causes of action not affected

The issue of a Part 3 Regulation in relation to the subject DECLARATION does not affect any power or right of any person (including a Law Enforcement Department or any party interested) to take any action under this Act or any other law in relation to that DECLARATION, or the power of the Public Prosecutor to initiate proceedings for an offence under this Act or any other law in relation to that DECLARATION.

other causes
of action not
affected

15. Variation or cancellation of Part 3 Regulation

- (1) The Law Enforcement Department may vary or cancel the Part 3 Regulation, serving a written notice on the person to whom the Regulation is issued.
- (2) The Law Enforcement Department may vary or cancel the Part 3 Regulation under sub Clause (1) :-
 - (a) on the Law Enforcement Department's own initiative provided there is overwhelming sufficing evidence necessitating this variation or

variation or
cancellation of
part 3
regulation

cancellation;

(b) on an application by the person to whom the Regulation is issued.

(3) A Part 3 Regulation remains in effect despite any application made to the Law Enforcement Department for its variation or cancellation.

(4) Clauses 14 to 17 apply in relation to a Part 3 Regulation that is varied under this Clause as they apply in relation to the original Part 3 Regulation.

(5) Clause 14 applies in relation to a notice cancelling a Part 3 Regulation under this Clause as it applies in relation to the original Part 3 Regulation.

PART 4

REGULATION FOR INTERNET INTERMEDIARIES AND PROVIDERS OF MASS MEDIA SERVICES

regulation for internet intermediaries and providers of mass media services

16. Conditions for issue of Part 4 REGULATION

(1) Any Law Enforcement Department may issue a Part 4 Regulation if all of the following conditions are satisfied:

(a) material (called in this Part the subject material) that contains or consists of a false DECLARATION of fact (called in this Regulation the subject DECLARATION) has been or is being transmitted in Nigeria;

conditions for issue of part 4

(b) the Law Enforcement Department is of the opinion that it is in public interest to issue the Regulation.

(6) Any Law Enforcement Department may instruct the Competent Authority to issue a Part 4 Regulation in relation to the subject material even if it has been amended or has ceased to be transmitted in Nigeria.

17. Targeted Correction Regulation

(1) A Targeted Correction Regulation is one issued to the internet intermediary that provided the internet intermediary service by means of which the subject material has been or is being transmitted in Nigeria, requiring it to transmit by means of that service to all end-users in Nigeria who access the subject material by means of that service at any time after a specified time, a notice (called in this Part a correction notice) that contains one or both of the following:

targeted correction regulation

(a) a DECLARATION, in such terms as may be specified, that the

subject DECLARATION is false, or that the subject material contains or consists of a false DECLARATION of fact;

- (b) a specified DECLARATION of fact, or a reference to a specified location where the specified DECLARATION of fact may be found, or both.

(2) Where the internet intermediary mentioned in sub Clause (1) is a prescribed internet intermediary, the Targeted Correction Regulation may also require the internet intermediary to do one or more of the following:

- (a) transmit the correction notice by means of the internet intermediary service to all end-users in Nigeria who access identical copies of the subject material by means of that service at any time after the specified time;
- (b) transmit the correction notice by any means and by a specified time, to all end-users in Nigeria that it knows had accessed the subject material or identical copies of the subject material (or both) by means of that service at any time before the specified time mentioned in sub Clause (1);
- (c) if the internet intermediary disables access by end-users in Nigeria to the subject material at any time after the Regulation is issued and before it expires or is set aside or cancelled, transmit the correction notice by means of the internet intermediary service to a specified description of end-users in Nigeria.

(3) In this Clause :-

- (a) "specified" means specified in the Targeted Correction Regulation; and
- (b) an end-user who accesses a part of any material is taken to access the material.

18. Disabling Regulation

(1) A Disabling Regulation is one issued to the internet intermediary that provided the internet intermediary service by means of which the subject material has been or is being transmitted in Nigeria, requiring it to disable access by end-users in Nigeria to the subject material provided on or through the service that consists of or contains the subject DECLARATION, by the

disabling
regulation

specified time.

(3) Where the internet intermediary mentioned in sub Clause (1) is a Prescribed internet intermediary, the Disabling Regulation may also require the internet intermediary to do one or both of the following:

- (a) to disable access by end-users of the service in Nigeria to identical copies of the subject material provided on or through the internet intermediary service;
- (b) to transmit a correction notice by any means to a specified description of end-users in Nigeria.

(4) Once a Disabling Regulation has been issued, the Law Enforcement Department must publish a notice of that fact in the *Gazette* as soon as possible.

(5) However, a failure to publish the notice of the issue of the Disabling Regulation in the *Gazette* does not invalidate the Regulation.

(5) In this Clause :-

- (a) "specified" means specified in the Disabling Regulation; and
- (b) an end-user who accesses a part of any material is taken to access the material.

19. General Correction Regulation

general
correction
regulation

(1) A General Correction Regulation is one issued to one of the following persons to carry out an act mentioned in sub Clause (2):

- (a) a prescribed internet intermediary;
- (b) such other person as may be prescribed.

(2) The act mentioned in sub Clause (1) is :-

- (a) if the Regulation is issued to a person mentioned in sub Clause (1)(a), to transmit a correction notice in Nigeria by means of the internet intermediary service provided by it, to all end-users who use that service at any time after the specified time, or a specified description of such end-users;
- (b) if the Regulation is issued to a person mentioned in sub

Clause (1)(b), to give a correction notice to a specified person or description of persons, by the specified means and by the specified time.

(2) In this Clause, "specified" means specified in the General Regulation.

20. Provisions applicable to all Part 4 Regulations and Remedial Orders

(1) A Part 4 Regulation or Remedial Order may be issued to a person whether the person is in or outside Nigeria.

(2) A Part 4 Regulation or Remedial Order may require a person to whom it is issued to do an act in or outside Nigeria.

(3) A Part 4 Regulation must identify in sufficient detail the subject material and the subject DECLARATION.

(4) A Part 4 Regulation or Remedial Order remains in effect until the date it expires (if any), it is set aside or it is cancelled.

(5) A person who is issued a Part 4 Regulation or Remedial Order is responsible for the costs of complying with the Regulation.

(6) A person (*A*) to whom a General Correction Regulation is issued may bring civil proceedings in the High Court against a person (*B*) who is the author of the subject DECLARATION and who transmitted in Nigeria the subject material, to recover the costs reasonably incurred by *A* to comply with the Regulation.

(7) In such proceedings, the Court, if it is satisfied on a balance of probabilities that *B* has contravened this law when transmitting the subject material in Nigeria, may award to *A* such damages for those costs as the court, having regard to all the circumstances of the case, deem just and equitable.

provisions
applicable to
all part 4
regulations
and remedial
orders

21. Service of Part 4 Regulation and Remedial Orders

A Part 4 Regulation or Remedial Order may be served by such means (including electronic means) as may be prescribed :-

- (a) on the person to whom it is issued; or
- (b) on a person in Nigeria that the person to whom the Part 4 Regulation or Remedial Order is issued has appointed to accept service on the person's behalf.

service of part 4
regulation and
remedial orders

22. Non-Compliance with part 4 Regulation or Remedial Order an Offence

(1) A person to whom a Part 4 Regulation or Remedial Order is issued and served and who, without reasonable excuse, fails to comply with the Regulation or Order whether in or outside Nigeria, shall be guilty of an offence and shall be liable on conviction :-

non-compliance with part 4 regulation or remedial order an offence

(a) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) in any other case, to a fine not exceeding N5Million,

and, in the case of a continuing offence, to a further fine not exceeding N10 Million for every day or part of a day during which the offence continues after

(2) It is not a defence to a charge under sub Clause (1) that :-

(a) the person is subject to a duty under any written law, any rule of law, any contract or any rule of professional conduct, that prevents the person from complying with any part of a Part 4 Regulation or Remedial Order or restricts the person in such compliance; or

(b) the person has applied to vary or cancel the Regulation or Order or has appealed to the High Court against the Regulation.

3. No civil or criminal liability is incurred by a person or an officer, employee or agent of the person, for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with or giving effect to the Part 4 Regulation or Remedial Order.

(5) In determining whether a person charged with an offence under sub Clause (1) has a reasonable excuse for failing to comply with a Part 4 Regulation or Remedial Order, the court must consider :-

(a) the state of the art available to give effect to the Regulation or Order;

(b) the cost of complying with the Regulation or Order relative to the means available to the person; and

(c) any other relevant factor.

23. Access locking Order

(1) this clause applies where :-

Access locking
Order

- (a) a person that is an internet intermediary fails to comply with a Part 4 Regulation or Remedial Order;
- (b) the subject material is being transmitted in Nigeria on an online location; and
- (c) the Law Enforcement Department is satisfied that one or more end-users in Nigeria have used or are using the services of an internet access service provider to access that online location.

(2). Law Enforcement Department may direct the NCC to order the internet access service provider to take reasonable steps to disable access by end-users in Nigeria to the online location called in this Clause an access blocking order), and the NCC must give the internet access service provider an access blocking order.

(3).An internet access service provider that does not comply with an access blocking order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding N1Million for each day during any part of which that order is not fully complied with, up to a total of N10 Million.

(4) No civil or criminal liability is incurred by an internet access service provider or an officer, employee or agent of such provider, for anything done or omitted to be done with reasonable care and in good faith in complying with any access blocking order.

24.- Appeals to High Court

(1) The following persons may appeal to the High Court against any Part 4 Regulation:

appeals to high
court

- (a) the person to whom the Regulation is issued;
- (b) a person who transmitted in Nigeria the subject material.

(2)No appeal may be made to the High Court by any person unless the person has first applied to the Law Enforcement Department to vary or cancel the Part 4 Regulations either in whole or in part.

(3) An appeal may only be made to the High Court within such period as may be prescribed by Rules of Court.

- (4) The High Court must hear and determine any such appeal and may either confirm the Part 4 Regulation or set it aside.
- (5) The High Court may only set aside a Part 4 Regulation on any of the following grounds on an appeal by the person to whom the Regulation is issued:
- (a) in the case of a Targeted Correction Regulation or a Disabling Regulation, the subject material was not transmitted in Nigeria, or was not transmitted in Nigeria by means of any internet intermediary service provided by the person;
 - (b) the subject DECLARATION is not a DECLARATION of fact, or is a true DECLARATION of fact;
 - (c) it is not technically possible to comply with the Regulation.
- (6) The High Court may only set aside a Part 4 Regulation on an appeal by a person who transmitted in Nigeria the subject material, on the ground that the subject DECLARATION is not a DECLARATION of fact, or is a true of fact.
- (7) A Part 4 Regulation that is the subject of an appeal under sub Clause (1) remains in effect despite the appeal, and only ceases to have effect if it is set aside by the High Court or the Court of Appeal on appeal from the High Court, or if it expires or is cancelled.
- (8) If the appellant (being the person to whom the Part 4 Regulation is issued) establishes a prima facie case that it is technically impossible to comply with the Part 4 Regulation, the High Court may direct that the Regulation be stayed pending determination of the appeal.
- (9) There is such further right of appeal from a decision of the High Court under this Clause as exists in the case of a decision made by that Court in the exercise of its original civil jurisdiction.
- (10) Rules of Court may provide for the manner in which and the time within which an appeal under sub Clause (1) may be made and the procedure for an application to stay a Part 4 Regulation appealed against.

25. Other causes of action not affected

Other causes of
action affected

The issue of a Part 4 Regulation or Remedial Order in relation to any material does not affect any power or right of any person (including a Law Enforcement Department or any Party Interested) to take any action under this Act or any other law in relation to the subject DECLARATION, or the power of the Public Prosecutor to initiate Proceedings for an offence under this Act or any other law In relation to that DECLARATION.

26. Variation or cancellation of Part 4 Regulation or Remedial Order

variation or
cancellation of
part 4
regulation or
remedial order

(1) The Law Enforcement Department may at any time vary or cancel the Part 4 Regulation or Remedial Order, by serving a written notice on the Person to whom the Regulation or Order is issued.

(2) The Law Enforcement Department may vary or cancel the Regulation or Order under sub Clause (1) :-

- (a) on the Law Enforcement Department's own initiative provided there is a prima facie reason necessitating this variation or cancellation ; or
- (b) on an application by :-
 - (i) the person to whom the Regulation or Order is issued; or
 - (ii) a person who transmitted in Nigeria the subject material.

(3) A Part 4 Regulation or Remedial Order remains in effect despite any application made to the Law Enforcement Department for its variation or cancellation.

PART 5

DECLARATION OF ONLINE LOCATIONS

27. DECLARED Online Locations

(1) The Law Enforcement Department may declare an online location as DECLARED online location if all of the following conditions are satisfied:

- (a) 3 or more different DECLARATIONS that are the subject of one or more active Part 3 regulation or Part 4 regulation, or both, have been or are being transmitted in Nigeria on the online location;
- (b) at least 3 of those DECLARATIONS had first been transmitted in Nigeria on the online location within 6 months before the date the DECLARATION is made.

(2) For the purpose of subClause (1)(a), a DECLARATION is different from another if it is different in a material particular from that other DECLARATION.

(3) A DECLARATION :-

- (a) must contain the Universal Resource Locator (URL), domain name, or any other unique identifier of the online location;
- (b) must reproduce the relevant regulation;
- (c) must state the date the DECLARATION comes into effect;
- (d) must state the date of the DECLARATION's expiry or a formula by which that date may be worked out, which must not be later than 2 years after the date in paragraph (c);
- (e) may state the time on that date the DECLARATION is to expire or a formula by which that time may be worked out;
- (f) may require the owner or operator of the online location DECLARATION (whether or not he or she is in or outside Nigeria) to transmit in the specified manner in Nigeria to

end-user who accesses the online location, a notice in the specified terms that the online location is the subject of a DECLARATION; and

(g) must contain such other particulars as may be prescribed.

(4) A DECLARATION expires :-

(a) on the date and at the time (if any) DECLARED in, or worked out in accordance with, the; or

(b) on the date it is cancelled or set aside,

whichever is earlier.

(4) As soon as possible after a DECLARATION is made and before the date it comes into effect, the Law Enforcement Department must :-

(a) publish, in such form and manner as may be prescribed, a notice in the *Gazette* :-

(i) stating that a DECLARATION has been issued under this Clause; and

(ii) setting out the URL, domain name, or any other unique identifier of the online location, to which the DECLARATION relates; and

(b) make reasonable efforts to give a copy of the DECLARATION to the owner or operator of the DECLARED online location.

(6) The owner or operator of a DECLARED online location who fails to comply with any requirement mentioned in sub Clause (3)(f) whether in or outside Nigeria, shall be guilty of an offence and shall be liable on conviction :-

(a) in the case of an individual, to a fine not exceeding N500,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding N5 Million.

(7) It is a defence to a charge under sub Clause (6) for the accused to prove that the accused did not know and had no

reason to believe that a DECLARATION was made in relation to the online location.

(8) The Law Enforcement Department may at any time suspend a DECLARATION for such period as the Law Enforcement Department may determine, or vary or cancel a DECLARATION.

(9) The Law Enforcement Department may suspend, vary or cancel a DECLARATION:-

(a) on the Law Enforcement Department's own initiative; or

(b) on an application by :-

(i) the owner or operator of the DECLARED online location; or

(ii) any person with editorial control over the online location.

(10) As soon as possible after a DECLARATION is suspended, varied or cancelled, the Competent Authority must :-

(a) publish, in such form and manner as may be prescribed, a notice of the suspension, variation or cancellation in the *Gazette*; and

(b) make reasonable efforts to give a copy of such notice to the owner or operator of the DECLARED online location.

(11) For the purposes of sub Clause (1) :-

(a) "active", in relation to a Part 3 Regulation or Part 4 Regulation, means that the Part 3 Regulation or Part 4 Regulation (as the case may be) has not been set aside at the time the DECLARATION mentioned in sub Clause (1) is made;

(b) where a DECLARATION of fact is transmitted in Nigeria on :-

(i) an online location bearing a sub-domain name that is part of a domain name; or

(ii) a sub-directory of a website,

the Law Enforcement Department may treat the DECLARATION as transmitted on the online location that bears that domain name, or on that website, as the case may be; and

- (c) where the DECLARATIONS mentioned in sub Clause (1) are duplicated on another online location (called in this paragraph the mirrored location), each mirrored location is to be regarded as part of the original online location.

28. Access Blocking Order

(1) This Clause applies where :-

- (a) paid content included on a DECLARED online location is transmitted in Nigeria after a prescribed period starting on the date the DECLARATION concerned came into effect; and
- (b) the Law Enforcement Department is satisfied that after the date the DECLARATION came into effect, one or more end-users in Nigeria have used or are using the services of an internet access service provider to access the DECLARED online location.

(2) This Clause also applies where :-

- (a) the owner or operator of a DECLARED online location did not comply with a requirement mentioned in Clause 27(3)(f) that is specified in the DECLARATION concerned; and
- (b) the Law Enforcement Department is satisfied that after the date the DECLARATION came into effect, one or more end-users in Nigeria have used or are using the services of an internet access service provider to access the DECLARED online location.

(3) The Law Enforcement Department may direct the NCC to order the internet access service provider to take reasonable steps to disable access by end-users in Nigeria to the DECLARED online location (called in this Clause an access blocking order), and the NCC must give the internet access service provider an access blocking order.

(3) An internet access service provider that fails to comply with an access blocking order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding N10 Million for each day during any part of which that order is not fully complied with, up to a total of N10 Million .

(4) No civil or criminal liability is incurred by an internet access service provider or an officer, employee or agent of such provider, for anything done or omitted to be done with reasonable care and in

good faith in complying with an access blocking order.

29. Order to internet intermediary to disable access to DECLARED online Location

(1) This Clause applies where :-

- (a) paid content included on a DECLARED online location is transmitted in Nigeria after a prescribed period starting on the date the DECLARATION concerned came into effect;
- (b) the Law Enforcement Department is satisfied that after the date the DECLARATION came into effect, one or more end-users in Nigeria have used or are using the services of an internet intermediary to access the DECLARED online location; and
- (c) the internet intermediary has control over access by end-users in any place to the DECLARED online location.

(2) This Clause also applies where :-

- (a) the owner or operator of a DECLARED online location did not comply with a requirement that is specified in the DECLARATION concerned;
- (b) the Law Enforcement Department is satisfied that after the date the DECLARATION came into effect, one or more end-users in Nigeria have used or are using the services of an internet intermediary to access the DECLARED online location; and
- (c) the internet intermediary has control over access by end-users in any place to the DECLARED online location.

(4) The Law Enforcement Department may direct the Competent Authority to order the internet intermediary to disable access by end-users in Nigeria to the DECLARED online location, and the Competent Authority must give the internet intermediary such order.

(5) An order of the Competent Authority under sub Clause (3) may be issued to a person whether the person is in or outside Nigeria, and may require the person to do an act in or outside Nigeria.

(6) An internet intermediary that fails to comply with an order of the Competent Authority under sub Clause (3) whether in or outside Nigeria, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding N1 Million for each day during any part of which that order is not fully complied with, up to a total of N10 Million.

(7) No civil or criminal liability is incurred by an internet intermediary or an officer, employee or agent of such intermediary, for anything done or omitted to be done with reasonable care and in good faith in complying with an order under sub Clause (3).

30. Appeals to High Court

(1) The following persons may appeal to the high court against a DECLARATION:

- (a) the owner or operator of the DECLARED online location;
- (b) any person with editorial control over the online location.

(2) No appeal may be made to the High Court by any person unless the person has first applied to the Law Enforcement Department to vary or cancel the DECLARATION and the Law Enforcement Department refused the application whether in whole or in part.

(3) An appeal may only be made to the High Court within such period as may be prescribed by Rules of Court.

(5) the high court must hear and determine any such appeal and may either confirm the DECLARATION or set it aside.

(6) the high court may only set aside a DECLARATION on the ground that, at the time of making the DECLARATION, the condition specified was not satisfied.

(7) A DECLARATION that is the subject of an appeal remains in effect despite the appeal, and only ceases to have effect if it is set aside by the High Court or the Court of Appeal on appeal from the High Court, or if it expires or is cancelled.

- (8) There is such further right of appeal from a decision of the High Court under this Clause as exists in the case of a decision made by that Court in the exercise of its original civil jurisdiction.
- (9) Rules of Court may provide for the manner in which and the time within which an appeal under sub Clause (1) may be made.

31 Deriving Benefit from Operating DECLARED Online Location

(1) A person who, whether in or outside Nigeria, solicits, receives or agrees to receive any financial or other material benefit as an inducement or reward for operating a DECLARED online location shall be guilty of an offence and shall be liable on conviction :-

- (a) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) In any other case, to a fine not exceeding N5 Million.

(2) Without limiting the generality of the expression, a person receives financial or other material benefit as an inducement or reward for the operation of an online location if the person receives from another :-

- (a) any consideration for the sale of advertising space on the online location; or
- (b) any consideration for access to any part of the online location.

(3) Where a court convicts any person of an offence under sub Clause (1), the court must, in addition to imposing on that person the punishment in that sub Clause, order the person to pay as a penalty, within the time specified by the court, a sum equal to the amount of any financial or other material benefit received or the amount that in the court's opinion is the value of that financial or other material benefit, and any such penalty is recoverable as a fine.

(3) Sub Clause (3) does not apply if the court determines that the value of the financial or other material benefit cannot be assessed.

(4) In this Clause, a person is not taken to operate an online location if the person does so merely as part of providing an internet intermediary service or incidentally to such provision.

32. Certain Persons must not transmit in Nigeria paid content on Declared Online Locations, etc.

(1) A service provider must take reasonable steps (both in and Outside Nigeria) to ensure that after a prescribed period starting on the date the DECLARATION comes into effect, any paid content that it include or causes to be included on a DECLARED online location is not transmitted in Nigeria on the DECLARED online location.

(2) A digital advertising intermediary must take reasonable steps (both in and outside Nigeria) to ensure that, after a prescribed period starting on the date the DECLARATION comes into effect, any paid content that it includes or causes to be included on a DECLARED online location is not transmitted in Nigeria on the DECLARED online location.

(3) A prescribed digital advertising intermediary or prescribed internet intermediary must take reasonable steps (both in and outside Nigeria) to ensure that, after a prescribed period starting on the date the DECLARATION comes into effect, it does not, when acting as a digital advertising intermediary or an internet intermediary, facilitate the transmission in Nigeria of any paid content that gives publicity to, or otherwise promotes, a DECLARED online location.

(4) A person who contravenes sub Clause (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction :-

(a) in the case of an individual, to a fine not exceeding N200,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) in any other case, to a fine not exceeding N5 Million

(5) In any proceeding for an offence under sub Clause (1), (2) or (3), it is a defence for the accused to prove that the accused did not know and had no reason to believe that the online location was a DECLARED online location.

(5) In any proceeding for an offence under sub Clause (1), (2) or (3), it is

(6) not a defence for the accused to show that :-

(a) the accused did the act in question at the Regulation of another person; or

(b) the paid content was transmitted in Nigeria by its inclusion on any online location through an automatic process without the accused

choosing where the paid content is transmitted, except as an automatic response to the request of a person.

33. Prohibition on providing financial support to Declared Online Locations

(1) A person must not, whether in or outside Nigeria, expend or apply any property knowing or having reason to believe that the expenditure or application supports, helps or promotes the transmission of false declaration of fact in Nigeria on a Declared Online Location.

(2) SubClause (1) does not apply to a service provider or a digital advertising intermediary which gives any consideration for the purpose of transmitting any paid content in Nigeria on the declared online location.

(3) A person who contravenes sub Clause (1) shall be guilty of an offence and shall be liable on conviction :-

(a) in the case of an individual, to a fine not exceeding N300,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding N10 Million

(4) In this Clause, “property” means money and all other property, movable or immovable, including things in action and other intangible or incorporeal property.

34. Regulation

The Law Enforcement Department may make Regulation necessary or convenient to be prescribed for carrying out or giving effect to this Act.

35. General interpretation

In this Act, unless the context otherwise requires :-

“Law Enforcement Department” means a The Nigeria Police Force;

“bot” means a computer program made or altered for the purpose of running automated tasks;

“computing resource service” means a service that provides the use of any computer hardware or software to enhance the processing

capability or storage capacity of a computer;

“coordinated inauthentic behaviour” means any coordinated activity carried out using 2 or more online accounts, in order to mislead end-users of any internet intermediary service as to any matter, but excludes any activity carried out using online accounts :-

- (a) that are controlled by the same person; and
- (b) none of which is an inauthentic online account or is controlled by a bot;

“Correction Regulation” means a Regulation issued under Clause 7;

“DECLARATION” means a DECLARATION made under Clause 27;

“DECLARED online location” means an online location that is the subject of a DECLARATION that is in effect;

“digital advertising intermediary” means any person who, in the ordinary course of business, facilitates the transmission of paid content in any place by acting as the link or part of the link between :-

- the owners or operators of online locations; and
- advertisers and service providers,

by means of an internet-based service;

Examples

Examples of digital advertising intermediaries are persons who provide any of the following by means of an internet-based service:

- (a) advertising exchange;
- (b) demand side platform;
- (c) supply side platform.

“Disabling Regulation” means a Regulation issued under Clause 18;

“General Correction Regulation” means a Regulation issued under Clause 19;

“NCC” means the Nigerian Communications Commission established by the Nigerian Communications Commission Act 2003

“inauthentic online account” means an online account that is controlled by a person other than the person represented (whether by its user profile, unique identifier or other information) as its holder, and the representation is made for the purpose of misleading end-users in Nigeria of any internet intermediary service as to the holder’s identity;

regulation
to
counteract
inauthentic
online
accounts
and
coordinate
d
inauthentic
behaviour

“internet intermediary” means a person who provides any internet intermediary service;

“internet intermediary service” means :-

a service that allows end-users to access materials originating from third parties on or through the internet;

a service of transmitting such materials to end-users on or through the internet; or

a service of displaying, to an end-user who uses the service to make an online search, an index of search results, each of which links that end-user to content hosted or stored at a location which is separate from the location of the index of search results,

but excludes any act done for the purpose of, or that is incidental to, the provision of :-

a service of giving the public access to the internet; or

a computing resource service;

Examples

Examples of internet intermediary services are :-

(a) social networking services;

- (b) search engine services;
- (c) content aggregation services;
- (d) internet-based messaging services; and
- (e) video-sharing services.

“material” means anything that consists of or contains a DECLARATION;

Examples

Examples of a material are a message, a post, an article, a speech, a picture, a video recording and a sound recording.

“MMS” means a system that enables the transmission, through a mobile network, of multimedia messages;

“online account” means an account created with an internet intermediary for the use of an internet intermediary service;

“online location” means any website, webpage, chatroom or forum, or any other thing that is hosted on a computer

“paid content” means any DECLARATION that is transmit in any place for consideration;

“Part 3 Regulation” means a Correction Regulation or a Stop Transmission Regulation;

“Part 4 Regulation” means a Targeted Correction Regulation, a Disabling Regulation or a General Correction Regulation;

“prescribed digital advertising intermediary” means a digital advertising intermediary, or a class of digital advertising intermediaries, prescribed by Regulation made under Clause 62;

“prescribed internet intermediary” means an internet intermediary, or a class of internet intermediaries

“Remedial Order” means an order made under Clause 21;

“service provider” means any person (other than a digital advertising intermediary) who, in the ordinary course of business, provides advisory or other services relating to the transmission of paid content in any place;

“SMS” means a system that enables the transmission, through a mobile network, of text messages;

“DECLARATION” means any word (including abbreviation and initial), number, image (moving or otherwise), sound, symbol or other representation, or a combination of any of these;

“Stop Transmission Regulation” means a Regulation issued under Clause 8;

“Targeted Correction Regulation” means a Regulation issued under Clause 17

“teletransmission service” means any transmission emission or reception of signs, signal, writing, images, sounds or intelligence of any nature wire radio visual or other electro- magnetic systems

(2) In this Act :-

- (a) a DECLARATION of fact is a DECLARATION which a reasonable person seeing, hearing or otherwise perceiving it would consider to be a representation of fact; and
- (b) a DECLARATION is false if it is false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears.

(3) In this Act, a person has editorial control over an online location if the person is able to decide one or both of the following:

- (a) whether any DECLARATION may be included or excluded on the online location;
- (b) where to place any DECLARATION on the online location.

Meaning of “transmit”

3.-(1) In this Act other than in Part 2, a DECLARATION or material is transmitted in Nigeria if it is made available to one or more end-users in Nigeria on or through the internet.

(2) In Part 2, a DECLARATION is transmitted in Nigeria if it is made available to one or more end-users in Nigeria on or through :-

- (a) the internet; or
- (b) MMS or SMS.

(3) A reference in this Act to transmitting a DECLARATION or material in Nigeria includes causing its transmission (within the meaning of sub Clause (1) or (2), as the case may be) in Nigeria.

Meaning of “Public Interest”

4. For the purposes of this Act and without limiting the generality of the expression, it is in the public interest to do anything if the doing of that thing is necessary or expedient :-

- (a) in the interest of the security of Nigeria or any part of Nigeria;
- (b) to protect public health or public finances, or to secure public safety or public tranquility;
- (c) in the interest of friendly relations of Nigeria with other countries;
- (d) to prevent any influence of the outcome of a general election to any Office;
- (e) to prevent incitement of feelings of enmity, hatred or ill-will between different groups of persons; or
- (f) to prevent a diminution of public confidence in the performance of any duty or function of, or in the exercise of any power by the Government.

36. This Act may be cited as the Protection from Internet Falsehoods, Manipulations and Other Related Matters Act.

EXPLANATORY MEMORANDUM

This Act is to prevent Falsehoods and Manipulations in Internet transmission and correspondences in Nigeria. To suppress falsehoods and manipulations and counter

the effects of such communications and transmissions and to sanction offenders with a view to encouraging and enhancing transparency by Social Media Platforms using the internet correspondences.