THE NATIONAL ASSEMBLY

FEDERAL REPUBLIC OF NIGERIA

NATIONAL TRANSPORT COMMISSION BILL, 2018

(HARMONISED)

A

BILL FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL TRANSPORT COMMISSION AS AN INDEPENDENT MULTI-MODAL REGULATOR FOR THE REGULATED TRANSPORT INDUSTRY SECTORS AND FOR OTHER MATTERS RELATED THERETO, 2018

ADOPTED BY THE SENATE ON WEDNESDAY, 6TH JUNE, 2018

NATIONAL TRANSPORT COMMISSION BILL, 2018

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A
BILL FOR
AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL TRANSPORT COMMISSION AS AN INDEPENDENT MULTI-MODAL REGULATOR FOR THE REGULATED TRANSPORT INDUSTRY SECTORS AND FOR OTHER MATTERS RELATED THERETO, 2018

ENACTED by the National Assembly of the Federal Republic of Nigeria- { } Commencement

PART I - PURPOSE, APPLICATION AND SCOPE OF THE BILL

1. The purpose of this Bill is to: Purpose of the Bill.

(a) establish the National Transport Commission as an effective, impartial and independent regulatory authority in the transport sector and to set out the objectives, functions and powers of the Commission;

(b) promote the implementation of the national transport policy;

(c) provide an economic regulatory framework and safety oversight regime for the regulated transport sector;

(d) provide mechanism for monitoring compliance of government agencies and transport operators in the regulated transport sector with relevant legislation and advice Government on matters relating to economic and safety regulation of regulated transport sector;

(e) provide for the efficient regulation of the regulated transport sector by a multi-modal economic regulator;

(f) Protect the rights and interests of service operators and users within Nigeria; and

(g)Create an enabling environment for private sector participation in the provision of services in the transport sector; and

(h) ensure consumer protection and quality of service in the provision of any transport service in the regulated transport sector.

2. This Bill shall apply to: Application and Scope.

(a) the provision or use of any regulated transport services or facilities in a regulated transport sector in Nigeria; and

(b) any private or public sector operator or service provider using public infrastructure to provide transport services or facilities in a regulated transport sector in Nigeria.

3. (1) The President may by Order or Regulation on the advice of the Commission declare a sector to be a regulated transport industry after having regard to: Power to declare a Regulated Transport Sector.

(a) the existence of a significant and non-transitory market power;

(b) the non-existence of economic and or safety regulation specific to that sector;

(c) the existence of significant failures in the management and operations of a transport sector as a result of lack of regulation in that sector ; and

(d) other relevant considerations.

(2) The Order or Regulation which shall be published in the Federal Government Gazette may declare -

(a) which sector is to be deemed a regulated transport sector; and

(b) the extent or the scope of such regulation

(3) A transport sector shall become regulated under this Bill only as prescribed under this Bill or under such Order or Regulation made pursuant to the provisions of this Bill.

PART II - ESTABLISHMENT OF THE NATIONAL TRANSPORT COMMISSION

4. (1) There is established an independent multi-modal transport sector economic regulator to be known as the National Transport Commission (in this Bill referred to as "the Commission").

Establishment of the National Transport Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and shall have the power to do all and any of the following:

(a) enter into contracts and incur obligations;

(b) acquire, hold, mortgage, purchase, sell, lease and deal howsoever with property, whether movable or immovable, real or personal for the purpose of this Bill;

(c) do all acts and things which a body corporate may by law do and which are necessary or convenient for the purposes of this Bill; and

(d) exercise all of the powers given to it under this Bill and do all acts and things which are necessary or convenient for carrying out its functions and duties under this Bill.

(3) The Common Seal of the Commission shall be kept in the custody of the Commission's Secretary or Legal Adviser as the case may be.

(4) The Commission shall be structured as may from time to time be deemed appropriate for the effective discharge of its functions and operations.

5. (1) The Commission shall have and exercise the following functions and powers:

Functions and Powers of the Commission.

(a) All such functions and powers as may be conferred on it by sector legislation or any other legislation;

(b) create an economic regulatory framework and safety oversight regime for the provision of transport services and facilities;

(c) implement Government's economic and safety regulatory policies on transport and execute all such other functions and responsibilities as are given to the Commission under this Bill or any relevant transport sector legislation;

(d) enforce and supervise economic regulatory and safety oversight provisions of all relevant legislations on a regulated transport sector;

(e) protect the interest of users of transport services by ensuring that prices are fair and reasonable while having regard to the level of competition in, and efficiency of, the regulated transport sector;

(f) facilitate effective competition and promote and protect a transparent and competitive market; free of unfair business conduct as well as ensure that the misuse of monopoly, or dominant position or non-transitory market power is prevented;

(g) ensure the prevention or regulation of negative activities including price or rate fixing and discrimination, predatory pricing, conspiratorial pricing amongst some competitors or against others or against service users, as well as hoarding and other restrictive or exclusive contracts which have or may have a negative effect within the regulated transport sector;

(h) examine and resolve complaints, objections and disputes referred to it on any regulatory matter as between Government agencies in a regulated transport sector and concessionaires, operators, users, shippers and consumers or any other person involved in a regulated transport sector, using such dispute-resolution methods as the Commission may determine from time to time including mediation and arbitration;

(i) ensure that regulatory decision making has regard to the relevant health, safety, environmental and social legislation and best practices applicable to a regulated transport industry;

(j) approve, review and fix terms, conditions and maximum fees for the grant of licenses and permits for the provision of transport services and make regulations for the grant of licenses;

(k) ensure that users have equitable access to transport facilities, services, channels and routes while having regard to the level of competition and efficiency within a regulated transport industry;

(l) monitor the performance of the regulated sectors and to effect the review and setting of tariffs in cases of abuse of monopoly power or dominant position and anti-competitive behavior by public and private transport operators and service providers and operators;

(m) set guidelines, general policies and monitor compliance on tariffs, rates, charges or other fees charged by public and private transport operators and service providers of prescribed goods and services;

(n) monitor the relationship between public transport service operators and their affiliates and the relationship between concessionaires and their affiliates to ensure that no party derives unfair advantages over other transport service operators;

(o) enforce and monitor performance standards and indices relating to the quality of transport services and facilities provided to users, and consumers in Nigeria having regard to best international performance indicators;

(p) perform a supervisory safety role in respect of safety regulation by government agencies and the private sector service provider in the regulated transport sector to ensure compliance with established standards and quality service delivery in accordance with the powers and duties conferred on the Commission by this Bill and sector legislations;

(q) advice Government on matters relating to economic and safety regulation of regulated transport sector;

(r) make such regulations as may be necessary under this Bill to give full force and effect to the provisions of this Bill; and

(s) execute all such other functions and responsibilities as are given to the Commission under this Bill and sector legislations.

(2) Subject to this Bill, the Commission has the power to do all things necessary for the performance of its functions and to enable it to achieve its objectives under this Bill and any sector legislation.

(3) Further to the provisions of subsections (1) and (2) of this Section, the Commission shall have such other functions and powers as may be conferred on the Commission any other relevant legislation and regulation.

(4) In the case of any conflicts between this Bill and any sector legislation on the economic regulatory functions and powers of the Commission, the provisions of this Bill shall prevail.

(5) The Commission shall not perform its functions in such a manner as to contravene any mandatory international convention to which Nigeria is a party and shall ensure compliance with obligations under those international conventions by government agencies charged with the responsibility for those

matters.

6. (1) This section applies to the Commission and to prescribed Agencies for the purpose of ensuring that: Consultation.

(a) the regulatory and decision making processes of the Commission and prescribed Agencies are closely integrated and better informed; and

(b) overlap or conflicts between regulatory schemes are avoided.
(2)The Commission may, as it deems fit, consult with a relevant prescribed Agency in:

(a) making determinations;

(b) conducting inquiries; or

(c) preparing and reviewing sector regulations and regulatory practices.

(3) Where required to do so by the Commission, a prescribed Agency shall consult with the Commission in:

(a) relation to any matter specified by the Commission which is relevant to the objectives or functions of the Commission under this Bill or under any other legislation; or

(b) respect of any matter specified by the Commission which may impact on a regulated transport sector.

(4) A prescribed Agency must ensure that consultation occurs as early as practicable in the regulatory, advisory or decision making processes of the prescribed Agency.

(5) The Commission shall whenever it deems it appropriate and practicable to do so consult with relevant stakeholders, the public and representatives of a relevant transport sector in the exercise of its powers with regard to a sector wide, new or revised set of regulations which is published in the Federal Government Gazette.

(6) For the purposes of this subsection 5 of this Section, it shall be the duty of the Commission to establish and identify the relevant persons, organisations and institutions to be consulted.

(7) The Commission shall include in its Annual Report a report on the implementation of its consultation programmes carried out during the year covered by the Report.

(8) The requirements under this Section are in addition to any other requirements or processes under any other relevant legislation or regulatory schemes to the extent that such legislation is consistent with the provisions of this Bill.

7. (1) Subject to subsection (2) of this Section, the Minister shall convey to, the Commission in writing, the general policy direction of government for the transport sector provided that such policies are not in conflict with this Bill or the Constitution of the Federal Republic of Nigeria. Role of the Minister.

(2) The Commission shall comply with and implement the government policy on transport provided that it shall at all times be independent in the performance of its functions.

(3) In the execution of his functions and in relating with the Commission, the Minister shall at all times ensure that the independence of the Commission, with regards to the discharge of the Commission's economic regulatory functions and operations under this Bill, is protected and not compromised in any manner.

(4) Prior to the formulation or review of policies for the relevant sector, the Minister shall ensure consultation with relevant stakeholders in that sector.

(5) The Minister of Transportation shall, in consultation with the President not later than three months after the coming into force of this Bill, take such steps as are necessary to bring into being the institutional structures of the Commission.

PART III - MEMBERSHIP OF THE COMMISSION

8. (1) The Commission shall be comprised of :

Membership of the Commission.

(a) a Chairman who shall also serve as the Chief Executive Officer of the Commission;

(b) five (5) Executive Commissioners; and

(c) six (6) part-time non-Executive Commissioners, one to be appointed from each of the six geo-political zones.

(2) The Chairman, five (5) executive Commissioners and the six (6) non-executive Commissioners shall constitute the Commission and shall have power to regulate its own proceedings.

(3) The supplementary provisions set out in the First Schedule to this Bill shall have effect with respect to the proceedings of the Commission and other matters contained therein.

9. (1) The Chairman and the Commissioners shall be appointed on the basis of being persons of recognised qualification, expert knowledge and experience in one or more of the following fields:

Qualification for Membership of the Commission.

(a) Ports, Aviation, Roads, Railway, Marine, or Maritime administration;

(b) Marine or Maritime transport;

(c) Rail transport;
(d)Road transport;
(e) Aviation transport;

(f) Civil, Mechanical or other relevant engineering discipline;

(g) Finance;

(h) Law;

(i) transport economics or management;

(j) infrastructure asset management;

(k) regulatory matters;

(l) public administration; or

(m) business administration;

Provided that the Chairman and Commissioners appointed under section 8(1) and referred to under this Section shall possess cognate qualifications, expert knowledge and not less than 20 years of professional experience relevant to their designated portfolio.

(2) A person shall not be appointed or remain in office as a member of the Commission if he:

(a) is not a Nigerian citizen;
(b) is a serving member of the National Assembly, State House of Assembly or any Local Government Council;
(c) is incapacitated by any physical illness;

(d) has been certified to be of unsound mind;
(e) is an un-discharged bankrupt;
(f)has been convicted in Nigeria or elsewhere of a criminal offence involving dishonesty; or
(g) has at any time been removed from an office of trust on account of misconduct.
(3) The Conflict of Interests provisions contained in the Second Schedule to this Bill shall apply to all members of the Commission.

10. (1) Subject to subsection (4) of this section, the President shall nominate only persons qualified in accordance with section 8 of this Bill for appointment as members of the Commission; Appointment and Tenure of Commissioners.

(2) The Chairman and Members of the Commission shall be appointed by the President subject to confirmation by the Senate.

(3) Each non-Executive Commissioner of the Commission shall serve a single term of 5 years only from the date of his appointment.

(4) The Chairman and each Executive Commissioner of the Commission shall serve a term of 4 years each at the expiration of which the President may renew the term for a further period of 4 years and no more.

(5) All appointments or re-appointments shall be made before the expiry of their term of office; or in the event of a death or vacancy, the President shall within one month nominate another Commissioner in accordance with the provisions of this Section for appointment to fill the vacancy.

11. The remuneration and allowances payable to the Chairman and Commissioners shall be as determined from time to time by the Revenue Mobilization, Allocation and Fiscal Commission. Remuneration and Allowances.

12. (1) A Member of the Commission may be suspended or removed from office by the President if he: Removal of a Member of the Commission.

(a) is found to have been unqualified for appointment as a member of the Commission pursuant to Section 8 of this Bill;

(b) has demonstrated inability to effectively perform the duties of his office;

(c) is guilty of serious misconduct in relation to his duties;

(d) is disqualified or suspended from practicing his profession in any part of the world by an order of a competent authority;

(e) it is in the public interest; or

(f) is in breach of the Conflict of Interests rules set out in the Second Schedule to this Bill.

(2) A member of the Commission shall not be removed from office except in accordance with the provisions of this Bill.

13. (1) There shall be a vacancy in the Commission if a Commissioner: Vacancy on the membership of the Commission.

(a) dies; or

(b) is removed from office in accordance with sections 8 (2) or 12 (1) of this Bill; or

(c) resigns from office; or

(d) upon the completion of his tenure of office.

(2) A vacancy in the Commission shall be filled by the appointment of another person to the vacant office by the President in accordance with section 8 (1) of this Bill, as soon as is reasonably practicable

after the occurrence of such vacancy.

(3) To ensure continuity, any person appointed in accordance with subsection (2) of this section shall hold office for a term of five (5) years from the date of his appointment at the expiration of which the President may renew his term for a further term of five (5) years and no more.

(4) In the case of vacancy to the office of the Chairman, the President shall appoint the most senior Commissioner to act as Acting Chairman of the Commission to preside over the affairs of the Commission; and

(5) In the case of inability of the Chairman for any reason to attend meetings of the Commission, the Commission shall appoint an Acting Chairman to preside over the meeting of the Commission.

PART IV - MANAGEMENT AND STAFF OF THE COMMISSION

14. (1) The Executive Chairman shall be the Chief Executive and Accounting Officer of the Commission and shall be responsible for the: The Executive Chairman.

(a) execution of the policy, decisions and programmes of the Commission;

(b) day-to-day management, administration and supervision of the activities, accounts and records of the Commission;

(c) supervision of all employees of the Commission; and

(d) the implementation of the Commission's regulatory and control functions.

(2) The Chairman shall perform such other functions as are assigned to him under this Bill or by the Commission from time to time.

(3) The Chairman may in writing delegate any of his powers or assign any of his duties to any Executive Commissioner of the Commission and shall advise the Commission of such delegation or assignment.

15. The Executive Commissioners shall perform such functions as are assigned to them by the Commission or the Executive Chairman from time to time. The Executive Commissioners.

16. (1) There shall be appointed by the Commission, a Commission's Secretary who shall also be the Legal Adviser of the Commission with relevant and adequate professional qualifications and experience of not less than ten (20) years post qualification experience. Commission's Secretary.

(2) The Commission's Secretary shall keep the records of proceedings of the Commission and perform such other duties and functions as the Commission or the Chairman may, from time to time, assign to him.

17. (1) The Commission shall have powers to appoint such other persons as it deems necessary, as employees of the Commission in line with applicable Public Service Rules. Staff of the Commission.

(2) The employment of the staff shall be subject to such terms and conditions as may from time to time be stipulated by the Commission and contained in the respective staff's employment contracts.

(3) The Commission shall develop and implement appropriate Staff Conditions of Service in line with Public Service Rules, for its employees, with particular regard to the issue of enumeration, pension schemes and other service benefits, sufficient for the Commission to attract and retained knowledgeable and expert manpower.

(4) Subject to subsection (3) above, the Commission shall pay its employees such remuneration including allowances as the Commission may from time to time determine, subject to the approval of the National Salaries, Incomes and Wages Commission.

(5) The Conflict of Interests provisions contained in the Second Schedule to this Bill shall apply to all employees of the Commission.

(6) Upon the commencement of this Bill, relevant staff of Government Agencies in the regulated transport sector and the Road Sector with cognate experience and/or qualifications relating to Tariff setting, standards setting, regulation and enforcement may be absorbed by the Commission for continuation of their service carriers on the same cadre as they were before the absorption.

18. (1) The Commission may, by instrument under its common seal, delegate to: Delegation.

(a) a Commissioner; or

(b) a person referred to in section 16 of this Bill; or

(c) a member of a department, unit, committee or panel appointed or designated by the Commission any function or power of the Commission under this Bill or the Regulations or under any other relevant legislation, other than this power of delegation or the powers of the Commission to make regulations under the provisions of this Bill.

(2) Any person that holds any delegated powers as may be delegated under this Section shall exercise the delegated power in accordance with the instrument of delegation and report to the Commission on the exercise of such powers at such intervals as may be determined by the Commission.

PART V - FINANCIAL PROVISIONS

19. (1) The Commission shall establish and maintain a Fund ("the Commission's Fund") which shall comprise of: Fund of the Commission.

(a) Subventions as may be appropriated to the Commission by the National Assembly;

(b) All charges, levies and fees collected by or for the Commission under this Bill or any Regulations or subsidiary legislation issued pursuant to this Bill or under any other Bill;

(c) Gifts, loans, grants, aids, other than from an operator or service provider in a regulated transport sector;

(d) All other assets that may from time to time be vested in or accrue to the Commission in the course of performing its duties under this Bill.

(2) The fund shall comprise of:

(a) initial and subsequent subvention as may from time to time be appropriated to the Commission by the National Assembly;

(b) a proportion of the proceeds from royalties collected by an authority empowered to collect royalty from transport service providers not exceeding 10% of what is collected from service providers, concessionaires, leases and licensees etc., shall accrue to the Commission;

(c) all charges, levies, subscriptions and fees collected by the Commission under this Bill or its subsidiary legislation issued pursuant to this Bill;

(d) annual fees for licenses and permits issued by the Commission.

(3) For the purpose of economic regulation of the transport sector, all government agencies, parastatals, departments, government owned companies and corporations, service providers, private companies and all other entities whose operations and services are within the economic regulatory powers and control of the Commission including those that are used for the purpose of transportation of and related to electric power generation and distribution cables, refineries, water, cable car, tramp,

water, oil and gas pipelines as well as other cables or pipelines used as a means of transporting goods and services, shall pay annual dues to the Commission in accordance with the approved Tariff.

(4) (a) All subscriptions or fees and charges for services rendered by the Commission including 2% port development levy;

(b) A charge of 3% freight (tariff stabilisation fee) on all import to and export from Nigeria including wet and dry cargo;

(c) License and permit fees collected annually by the Commission;

(d) Royalties accruing from issuance of licences and permits; and

(e) Fines.

(f) Registration fees collected annually by the Commission;

(g) Gifts, loans, grants, aids;

(h) all other assets that may from time to time be vested in or accrue to the Commission in the course of performing its duties under this Bill.

(5) The Fund shall be managed in accordance with extant Financial Regulations applicable in the Public Service and rules made by the Commission.

20. Any excess of the Commission's revenue over its approved outgoings and charges for that year shall be remitted to the Consolidated Revenue Fund. Application of Surplus Revenue.

21. (1) The Commission may, with the prior consent of, or in accordance with the authority given by the Minister of Finance, borrow such sums of money or raise capital otherwise than from the Government as the Commission may require in the exercise of its functions under this Bill. Borrowing Powers, Gifts, etc.

(2) The Commission may accept gifts or grants of money or aid or other property from national, bilateral and multi-lateral organisations and upon such terms and conditions, if any, as may be agreed upon between the donor and the Commission provided that the conditions are not inconsistent with the objectives and functions of the Commission under this Bill.

22. (1) The Commission shall prepare and submit to the President annually and not later than six months after the end of its financial year, a report on the activities of the Commission for the preceding financial year and shall include the Commission's audited accounts for the year under review together with the auditor's report. Annual Reports.

(2) A copy of the Annual report shall be sent to the National Assembly, the Ministry for Transportation and also published to the public.

23. (1) The Commission shall be exempted from the payment of tax on the income accruing from the investments made by the Commission or otherwise howsoever. Exemption from Taxation.

(2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Commission.

24. (1) The Commission shall not later than 30th September in each financial year prepare and submit to the National Assembly through the President its budget showing estimated income and the expenditure which the Commission proposes to incur in respect of the succeeding financial year in order to carry out the functions of the Commission. Budget and Expenditure.

(2) Subject to subsection (1) of this Section, the Commission shall apply the monies in the Commission's Fund for the:

(a) administrative and operating costs of the Commission;

(b) payment of salaries, wages, fees and other allowances, retirement benefits and any other remuneration payable to the Commissioners and staff of the Commission;

(c) purchase or acquisition of property or other equipment or other capital expenditure or for maintenance of any property acquired or vested in the Commission; and

(d) performance of all or any of the functions of the Commission under this Bill.

25. (1) The financial year of the Commission shall start on 1st January of each year and end on 31st December of the same year. Financial Year and Audit of Commission's Accounts.

(2) The Commission shall keep proper records of its accounts in respect of each year and shall cause its accounts to be audited within three (3) months from the end of each financial year by auditors whose appointment shall be approved by the Commission and shall be subject to reappointment on annual basis provided that such auditors are on the list of auditors approved from time to time by the Auditor-General of the Federation.

PART VI – REGULATION

26. (1) Notwithstanding the provisions of any other law, the Commission shall have the power to make guidelines and policies and any relevant regulations on tariffs in respect of prescribed facilities and services in a regulated transport sector. Regulation of Tariffs.
(2) In this Section:

"prescribed tariffs" mean tariff-range or particular factors used in tariff-fixing however designated for the provision, supply or sale of any prescribed facilities and services within a regulated transport sector; and

"tariffs" include fees, price, dues, charges and rates.

(3) In carrying out its functions under subsection (1), where necessary, the Commission shall adopt an approach and methodology to meet the objectives specified in this Bill and any sector legislation, other relevant legislation and any other matters that the Commission considers appropriate and the Commission may regulate the tariff for prescribed facilities and services in any manner that the Commission considers appropriate.

(4) In exercising its powers under this Section, the Commission shall have regard to:

(a) the costs of providing the services and facilities;

(b) the desire to promote competitive rates;

(c) any relevant benchmarks including international benchmarks for prices, cost and return on assets incomparable industries;

(d) the decision takes into account and clearly articulates any trade-off between costs and service standards;

(e) tariffs are fair, reasonable and non-discriminatory; and

(f) tariffs are cost-oriented and in general, cross-subsidies are not permitted.

(5) Without limiting the generality of subsection (3) of this Section, the procedure for tariff regulation may include, where necessary:

(a) specifying pricing policies or principles;

(b) specifying an amount determined by reference to a general tariff index, the cost of production, a rate of return on assets employed or any other specified factor;

(c) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the rate or supply of the goods or services;

(d) Any relevant benchmarks including international benchmarks for prices, costs, return on assets in comparable transport industries and the financial implication of the policy.

(e) monitoring the tariff levels of prescribed goods and services; and

(f) the cost of complying with relevant health, safety, environmental and social legislation applying to the regulated transport industry;

(g) any other factor that the Commission considers relevant and which will best meet the objectives specified in this Bill and any relevant legislation.

27. (1) The Commission may exercise such functions and powers as may be conferred upon it by any sector legislation including the power to make determinations for or with respect to : Regulatory Functions and Powers.

(a) standards and conditions of service;

(b) licencing;

(c) market conduct; and

(d) Policy and guidelines on tariffs, rights of access; and

(e) other regulatory matters.

(2) In performing its safety regulatory function over government agencies and service providers the Commission shall :

(a) monitor the government agencies and service providers to ensure they comply with applicable economic and safety regulations; and

(b) receive and determine complaints from the public or any aggrieved party with respect to the performance or non-performance of the duties of any agency referred to in this Section.

(3) In making a determination under this Section, the Commission shall have regard to:

(a) availability, quality and standards of facilities or services;

(b) cost of the services, access or use of the facilities;

(c) any factors specified in a sector legislation; and

(d) any other factor that the Commission considers relevant.

3. (1) The Commission shall from time to time make rules or regulations on determination and publication of tariff rates for the prescribed services specified in Section 26 of this Bill. Power to issue regulation on tariffs.

(2) The regulations and rules made by the Commission under subsection (1) of this Section may include:

(a) rules about the tariff and variation of tariff for specified services or class of services;

(b) rules about the publication or disclosure of tariff for specified or class of services; or

(c) range of tariff applicable to specified services or class of services.

29. Notwithstanding the provisions of section 26 of this Bill, the Commission may intervene in such manner as it deems appropriate in determining and setting the tariff rates for any non-competitive services provided by any transport service provider in order to meet the objectives of this Bill or for reasons of national or public interest.

Commission may prescribe Tariffs.

30. (1) As from the commencement of this Bill, every transport service provider in the regulated transport industry shall file their tariffs or range of tariffs with the Commission for approval and shall not impose any tariffs, rates, levies or charges for the provision of any service unless such tariffs, rates, levies or charges are approved by the Commission under section 29 (2) (a) or as otherwise provided in this Bill.

Approval of tariffs or charges by the Commission.

(2) Every regulated transport service provider shall provide services only at the rate approved by the Commission and shall not depart therefrom without a prior written approval by the Commission.

(3) Every regulated transport service provider shall publish the tariff and rates charged to users for their respective services and the modifications thereto as may be approved from time to time by the Commission.

(4) The tariff rates fixed by transport service providers shall be on the principles of fair and competitive trading and such other principles as the Commission may from time to time stipulate in its guidelines or regulations and shall have regard to:

(a) the particular and peculiar circumstances of the regulated transport industry, the transport service and facility for which the determination is being made;

(b) the costs of providing the transport services or facilities;

(c) the cost of complying with relevant health, safety, environmental and social legislation applying to the regulated transport industry;

(d) the return on investment in the regulated transport industry;

(e) any relevant interstate and international benchmarks for tariffs, costs and return on assets incomparable industries;

(f) the financial implications of the determination for the regulated transport industry and regulated entities; and

(g) any other factor that the Commission considers relevant and which will best meet the objectives specified in this Bill and any relevant legislation.

(5) In exercising its powers under this Part, the Commission shall ensure that:

(a) the costs of regulation do not exceed the benefits;

(b) the decision takes into account and clearly articulates any trade-off between costs and service standards;

(c) tariffs are fair, reasonable and non-discriminatory; and

(d) tariffs are cost-oriented and in general, cross-subsidies are not permitted.

1. (1) All operators or service providers of a regulated transport sector where required by the Commission shall file their tariffs or range of tariffs with the Commission.

Filing and Publication of Tariffs or Charges

(2) Every operator or service provider of a regulated transport sector where required by the Commission shall not impose any tariff or charges for the provision of any service or use of any facility unless such tariff and charges are in line with the tariff guidelines or regulations made by the Commission under this Bill.

by the Commission.

(3) Every operator or service provider of a regulated transport sector shall publish the tariff rates charged to users and consumers for their respective services and facilities, and the modifications thereto in line with the guidelines made by the Commission.

32. Notwithstanding any other provision of this Bill, the Commission shall prescribe and enforce appropriate penalties on any transport service provider who violates the tariff duly approved by the Commission for the provision of any of its services.

Penalty for unauthorized tariffs.

PART VII - LICENSING OR CERTIFICATION

33. (1) From the commencement of this Bill, and subject to the provision under any sector legislation for the issuance of operational licenses by Government Agencies vested with the ownership of transport services or facilities in a regulated transport sector Nigeria, no person shall operate a transport facility or provide transport services in a regulated transport sector for which the Commission has prescribed a regulatory licensing or certification regime, unless the person is granted such a license or certificate by the Commission.

Requirement for Regulatory Licensing or Certification.

(2) The license or certificate under this Section shall relate only to matters relating to the economic regulation or safety oversight functions of the Commission and may be issued to a person or class of persons insofar as they are operating a transport facility or providing transport services in a regulated transport sector and for such purposes only.

(3) The Commission shall grant licensing or certification to any transport operator or service provider for economic and safety matters in the manner prescribed by the sector legislation for the purpose of transport services and facilities in that sector and every license or certificate shall be in such form and for such period and may contain such conditions as the sector legislation may determine.

(4) Any person who acts in breach of subsection (1) of this section shall on conviction be liable to:

(a) a fine not exceeding ten times the initial fee for the relevant license or certificate;

(b) a prohibition from providing such services or facilities for a period as the Commission may determine.

(5) The Commission shall from time to time publish for the general public the transport services or facilities that require Licensing or certification.

(6) The provisions of this Part shall apply to existing Government owned transport service provider or facilities operator and any other Government Agencies with the power to operate and provide prescribed transport services or facilities in a regulated transport sector in Nigeria insofar as they are operating a transport facility or providing transport services in a regulated transport sector.

(7) Nothing in this Part shall affect the power of any Government Agency to grant operational licences to any person provided that such person shall satisfy any regulatory requirements stipulated by the Commission for such operations.

4. (1) Any application for a license or certificate must be lodged in the prescribed manner.

Application for Regulatory License or Certificate.

(2) The Commission shall specify the:

(a) kind of service in respect of which applications are invited;

(b) form in which applications may be submitted, including any fee payable upon submission of an application;

(c) manner in which the service or facility must be provided;

(d) place where and times when any application form or relevant document may be obtained from the Commission; and

(e) period within which such applications must be submitted.

(3) The Commission may require an applicant for a license or certificate to submit to the Commission within the period specified by it and at the applicant's expense, such further information as may be necessary to consider the application.

(4) Within a period not exceeding twelve weeks after receiving an application lodged in the prescribed manner the Commission shall:

(a) issue a license or certificate subject to specified terms and conditions;

(b) refuse to issue a Registration Certificate and give written reasons for such refusal; or

(c) where the failure to issue a license or certificate is based on a delay occasioned by any factor, the Commission shall give reasons for such delay and issue directives as may be relevant for the issuance of such license or certificate.

(5) In performing its function under this section, the Commission shall at all times be guided by the principles of and consideration for:

(a) relevant sector legislation;

(b) transparency, fairness and non-discrimination;

(c) efficient use and management of port and land transport facilities;

(d) development of indigenous capacity in ownership and provision of transport services;

(e) the need to promote fair competition and investment in the regulated transport industry;

(f) the need to provide modern, qualitative, and competitive transport services in Nigeria; and

(g) such other principles and considerations as the Commission may from time to time consider necessary and in the national interest.

5. (1) The Commission shall prior to the grant of a license or certificate under this Part, where it deems it relevant, refer the application to and obtain written recommendation on each application from any relevant Government Agency.

Recommendation from Government Agencies in Regulated Transport Sector.

(2) It shall be the duty of the Commission to ascertain that in making the recommendation under subsection (1) of this section, the guidelines and criteria for evaluation and selection issued by the relevant Government Agency have been strictly complied with.

6. (1) The Commission shall from time to time issue guidelines and regulations for granting of licenses or certificates.

Guidelines and Regulations on granting of Regulatory Licenses or Certificates.

(2) Any government agency or Authority in a regulated transport sector with the responsibility of issuing licenses to operators or service providers within their sector shall where requested by the Commission, submit to the Commission detailed guidelines and criteria used for evaluation and recommendation of qualified applicants, specifying, amongst others, the persons or classes of persons who are eligible generally to apply for any licenses issued by such an agency or Authority, and the technical standard, the procedure for technical evaluation and the applicable terms and conditions for grant of any license

issued by it .

(3) Any government agency or Authority in a regulated transport sector shall ensure that any concession contract or operational license issued by it to operators or service providers are made subject to the regulatory licenses or certificates to be granted by the Commission, where such are being granted.

PART VIII – ACCESS

37. (1) An operator or service provider of a facility or service in a regulated transport sector shall use all reasonable means to meet the requirements of a person seeking access to a facility or service in accordance with the terms of the license. Access.

(2) Subject to such exemptions as may be determined pursuant to subsection (3) of this Section, an operator or service provider of a facility or service in a regulated transport sector shall provide access on fair and commercial terms and must not prevent or hinder access to any person.

(3) An operator or service provider of a facility or service in a regulated transport sector may grant priority, preferential or negotiated access to transport facilities and services on conditions that must be fair, competitive and open to any third party that meets the set conditions given similar circumstances subject to subsection (4) of this Section.

(4) Any person seeking priority, preferential or negotiated access may request for access on terms stated in the request for access and the operator or service provider of a facility or service in a regulated transport sector shall make a formal proposal of terms and conditions for access for approval by the government agency responsible for the sector.

(5) The government agency responsible for the sector may refuse to grant approval if it considers that granting access would, including without limitation, substantially impede the existing right of access of another person, give undue advantage or substantial degree of market power or adversely affect competition and fair market conduct or that it contravenes any existing legislation.

38. This Part applies to channels, berths, terminals, anchorage, fairways, routes, jetties, bridges, stations, ports including dry ports, sidings, platforms, roads, rails, paths, walkways, cable cars, pipelines, tramps, tunnels, monorails, or any service facility as may be declared by the Commission. Application of this part.

39. (1) Subject to such exemptions as may be determined and published by the Commission, a service provider shall provide access to a significant infrastructure facility on fair and reasonable terms and conditions. Provision of access.

(2) A service provider shall:

(a) explore all reasonable means within its disposal to meet the requirements of a person seeking access to a significant infrastructure facility; and

(b) make a formal proposal of terms and conditions for access within 10 working days of receiving a request or within such reasonable lesser period as may be determined by the Commission.

(3) The terms and conditions of access may vary according to the actual and opportunity costs to the service provider or user.

0. (1) Any person who is aggrieved by the decision of the Government Agency: Determination on Access.

(a) refusing approval in respect of an application for access; or

(b) the terms and conditions on which approval for access is granted may apply in writing to the Commission for the making of a determination reviewing the decision refusing to grant approval for access or for modifying the terms and conditions on which access is to be provided.

(2) The Commission shall make a determination on the application within a reasonable time and communicate the decision to the applicant in writing and the decision of the Commission shall be final.

(3) Any cost of making a determination by the Commission under this Section shall be borne by the person making the application for determination.

41. (1) The Commission shall have power to make an order in respect of any violation of the terms of any license, permit, concession or the provisions of this Bill directing compliance by the operator, transport service provider or government agency with the terms of the order. Enforcement of Orders.

(2) Any person against whom an order is made shall comply with the order which may require such persons named therein:

(a) to refrain from any conduct in contravention of the provisions of this Bill or sector legislation;

(b) to take actions required to be taken in order to comply with this Bill or sector legislations;

(c) direct the suspension, withdrawal or cancellation of a license granted to a operator or service provider of a regulated transport sector upon material default in complying with the terms of the license, or gross violation of the provisions of this Bill and other sector legislation.

Provided that the Commission shall not direct withdrawal of the license of any operator or service provider in respect of a concession, license or operating permit however called with a term of more than five years without the concurrence of the government agency responsible for the regulated transport sector.

(3) A compliance order shall be made in writing specifying the grounds for the order and shall be enforced by the government agency responsible for the regulated transport sector.

42. (1) A service provider or any person having access to a significant infrastructure facility shall not engage in any conduct having the purpose of hindering access by any other person in the reasonable exercise of a right of access. Hindering access.

(2) A person who considers that his or her right of access has been hindered in contravention of subsection (1) of this Section may apply in writing to the Commission for the making of a determination in accordance with the provisions of this Bill.

(3) If the Commission determines that there has been a contravention of subsection (1) of this Section, the Commission may make a determination that a person is entitled to access on such terms and conditions as are specified in the determination.

43. (1) The Commission may conduct an enquiry under the provisions of this Bill every 5 years or at any reasonable time as deemed necessary, commencing from the coming into force of this Bill to make a determination whether or not a facility that is declared to be a significant infrastructure facility has ceased to be such a facility. Enquiry about a significant infrastructure facility.

(2) For the purpose of this section, a facility is a significant infrastructure facility if:

(a) there are no other alternative facilities;

(b) it would not be economically feasible to use another facility providing access to the same route;

(c) it would not be economically feasible to develop another facility providing access to the same route;

(d) access to the facility would promote competition in at least one market (whether or not in Nigeria) other than a market for using the facility;

(e) safe access to the facility can be ensured at an economically feasible cost; and

(f) any other matter which the Commission may consider relevant.

(3) An enquiry under this Section shall be conducted in accordance with Part XII of this Bill.

44. (1) A service provider of a significant infrastructure facility may apply in writing to the Commission for the making of a determination under this Part approving the terms and conditions on which access to the facility is to be provided for the period specified in the determination.

Application for determination on conditions for provision of access.

(2) The Commission shall, within 14 days of receiving an application under subsection (1) of this section, give notice in writing to the person making the application specifying:

(a) any information that the Commission requires the person to give for the purpose of the determination; and

(b) a reasonable time within which the information must be provided.

(3) The Commission shall determine whether to accept or refuse an application under this section within 21 days of receiving the application, excluding the period of time between the day on which notice is given under subsection (2) of this section and the day on which the required information is received by the Commission.

(4) The costs of the Commission in making a determination under this section shall be borne by the service provider.

(5) Section 42 of this Bill shall not apply whilst a determination under this section is in force unless the Commission finds that the determination deals with the matters that are in dispute.

45. (1) The Commission, for the purposes of facilitating negotiations or determining a dispute under this Part, may require a person who is or was a party to the dispute to do or refrain from doing something, including:

Commission may give directions in relation to a dispute.

(a) requiring a person to give relevant information or a document to one or more other persons identified by the Commission and copies to the Commission, subject to the provisions of this section;

(b) requiring a person to carry out reasonable research or investigations in order to obtain relevant information;

(c) prohibiting a person from imposing, or seeking to impose, an unreasonable procedural condition on the person's participation in negotiations;

(d) requiring a person to respond in writing to another person's proposal or request in relation to the time and place of a meeting;

(e) requiring a person, or a representative of a person, to attend a mediation conference.

(2) For the purposes of subsection (1) (c) of this section "an unreasonable procedural condition" includes a requirement by one party that the other party or parties to the dispute must not disclose to the Commission information or a document provided in the course of negotiations.

(3) A person who fails to comply with any requirement made under this section commits an offence and is liable on conviction to a fine of not less than ₦3,000,000.00.

46. (1) This section applies if:

Confidentiality agreements.

(a) the Commission makes a requirement under section 42 (1) (a) of this Bill;

(b) the person in control or possession of the information or document ("the disclosing party") notifies the Commission in writing that the information or document is of a confidential or commercially sensitive nature; and

(c) the Commission notifies the person that the information or document shall still be required in accordance with section 42 (1) (a) of this Bill.

(2) Where under subsection (1) (c) of this section, the Commission notifies the disclosing party that the information or document shall still be required in accordance with Section 42 (1) (a) of this Bill, the disclosing party may require the person receiving the information or document ("the receiving party") to enter into a confidentiality agreement.

(3) The terms of a confidentiality Agreement may be proposed by the disclosing party and those Terms shall be promptly notified to the Commission and to the receiving party.

47. Where the Commission considers that the terms of the proposed confidentiality agreement are unreasonable, the Commission may request the parties to amend or delete those terms or substitute other terms.

Unreasonable confidentiality clauses.

PART IX — APPLICATION FOR DEREGISTRATION

48. (1) Any person or service provider may subject to the provisions of this Bill, apply to the commission for deregistration.

Application for deregistration.

(2) Any application for deregistration shall be lodged in writing to the Commission.

(3) The Commission shall:

(a) consider the application;

(b) make recommendations on the applicant's financial standing;

(c) in the event the applicant is in any way indebted to the Commission, proceed against such an applicant to recover such monies, moveable and immoveable property or other items in the possession of the applicant and return same to the Commission;

(d) in the event, the applicant is not indebted to the Commission, the Commission shall deregister the person and have such name struck out from its register.

(4) Nothing in this Bill shall prevent the Commission from deregistering any person or operator under these conditions:

(a) death in the case of a natural person;

(b) having been declared bankrupt by a court of competent jurisdiction in the case of a corporate entity;

(c) winding up or dissolution of a corporate entity;

(d) in the interest of public policy; or

(e) failure to pay penalty for a period exceeding 60 days.

PART X - OTHER REGULATORY POWERS

9. (1) The Commission may exercise such powers including the power to make determinations for or with respect to other safety regulatory matters as may be conferred on the Commission by the transport sector legislation or other empowering instrument.

Supervisory function over Safety Matters in the Regulated Transport Sector.

(2) In making a determination under this Section, the Commission shall have regard to any:

(a) factors specified in the empowering instrument; and

(b) other factors that the Commission considers relevant.

50. (1) The Commission shall monitor all matters relating to the performance and compliance of all transport agencies or Authorities, operators and service providers with the provisions of this Bill and other applicable sector legislation and publish regular reports at such intervals as it may deem necessary.

Monitoring and Reporting.

(2) Matters upon which the Commission shall monitor and report include but are not limited to the following:

(a) the operation and administration of this Bill and its subsidiary legislation;

(b) the quality of services;

(c) the tariff rates and charges paid by any regulated transport sector services user, for the services rendered to the user;

(d) anti-competition practices including cross-subsidies;

(e) the development of industry self-regulation;

(f) any deficiencies in the scope or operation of this Bill and its subsidiary legislation; and

(g) other matters which the Commission considers relevant.

(3) For the purpose of discharging its duties under this Section the Commission may request the provision of any information or report on any activity of any transport agency or Authority, an operator or service provider of any facility or service, or any person within the provisions of this Bill, a sector legislation or subsidiary legislation and such information or report shall be provided as may be determined by the Commission.

(4) The Commission may publish the reports, in the manner it deems appropriate, provided that they shall be made available to the public.

(5) In addition to any report which the Commission is required by this Bill to submit to the President, the Commission shall:

(a) submit to the President such other reports as the President shall require and at such intervals as he may determine; and

(b) may submit to the President such other reports as the Commission may determine as necessary.

1. (1) Subject to the provisions of any other law, the Commission shall have power in relation to the regulated industry, to determine, pronounce upon, administer, monitor and enforce compliance of all persons with competition laws and regulations, whether of a general or specific nature, as such laws and regulations relate to the regulated transport industry including prohibition on anti-competition practices.

Commission's Power on Competition Matters.

(2) In relation to the Commission's power on competition matters, the Commission may where appropriate investigate, report and make recommendations to the relevant agencies.

2. (1) The Commission may determine that a transport service provider is in a dominant position in any aspect of the Nigerian transport sector.

Dominant Operator.

(2) The Commission may publish guidelines and regulations on the determination of "dominant position" for transport service providers.

(3) The guidelines and regulations in subsection (2) of this Section shall specify the matters which the

Commission may take into account, including:

(a) the relevant economic market;

(b) global technology and commercial trends affecting market power;

(c) the market share of the transport service provider;

(d) the provider of prescribed service's power to independently set its rates;

(e) the degree of service or product differentiation and promotion in the market; and

(f) any other matter which the Commission may consider relevant.

(4) The Commission may direct a transport service provider in a dominant position in the transport sector to cease any conduct in that market which has or may have the effect of substantially lessening competition in the transport sector and to implement appropriate recommendations.

53. (1) A transport service provider may apply to the Commission prior to engaging in any conduct which may be construed to have the purpose or effect of substantially lessening competition in any aspect of the transport sector, for authorization for the conduct. Authorisation for specific conduct.

(2) Notwithstanding the provisions of this Part, the Commission may authorize the conduct if the Commission is satisfied that it would be in the national interest to grant such authorization.

(3) Prior to granting the authorization, the Commission may require the transport service provider to submit an undertaking regarding his conduct in any matter relevant to the authorization.

54. (1) A transport service provider may withdraw an application made under subsection (1) of section 50 of this Bill at any time prior to authorization by the Commission. Withdrawal of authorization granted by the Commission.

(2) An authorization granted by the Commission under subsections (2) or (3) of section 50 of this Bill, may only be withdrawn upon such terms and subject to such conditions as the Commission may specify.

(3) The Commission shall maintain a register of current authorizations of conduct under this Part in accordance with Part XVII of this Bill.

55. (1) Subject to subsection (2) of this section, the Commission may make regulations or rules under this Bill in respect of agreements between private sector transport service provider on one hand and between the Government and private sector transport service providers, on the other. Regulation relating to agreements.

(2) The Commission shall only make rules under subsection (1) of this section which are intended to prevent or mitigate:

(a) any conduct by the parties mentioned in subsection (1) of this section that will or is likely to lead to a substantial lessening of competition in any aspect of the regulated transport industry; or

(b) the misuse of market power in any aspect of the regulated transport industry.

56. (1) The Commission may exercise such powers as may be conferred by sector legislations, including the power to make determinations for or with respect to: Regulatory powers conferred by sector legislations.

(a) licensing;

(b) standards and conditions of service;

(c) market conduct; and

(d) other regulatory matters.

(2) In making a determination under this section, the Commission shall have regard to:

(a) any factors specified in the sector legislation; and

(b) any other factor that the Commission considers relevant.

(3) In performing its regulatory function over the government agencies and service providers, the Commission shall:

(a) monitor government agencies and other service providers to ensure they comply with applicable safety and standards regulations; and

(b) receive and determine complaints from the public or any aggrieved party with respect to the performance or non-performance of the duties of any agency referred to in this section.

57. (1) The Commission may make and publish regulations for or with respect to any matter or thing required or permitted by this Bill and sector legislation to be prescribed or necessary to be prescribed to give effect to this Bill and sector legislation.

Power to make regulations and guidelines.

(2) The regulations under subsection (1) of this section may in accordance with this Bill or sector legislation

(a) provide for industry specific economic, safety and standards regulations taking into consideration the peculiarities of the individual regulated sectors;
(b) regulate proceedings relating to appeals;

(c) provide for written authorisations, permits, licences and concessions in the regulated transport industry;

(d) specify fees, charges, rates or fines to be imposed;

(e) specify a system of national service obligation for un-served areas and underserved areas;

(f) provide for standards for quality of service;

(g) provide for related offences and penalties;

(h) any matter for which this Bill and sector legislation makes express provision; and

(i) such other matters as are necessary for giving full effect to the provisions of this Bill and sector legislation and for their due administration.

(3) The regulations may —

(a) be of general or limited application;

(b) differ according to differences in time, place or circumstances;
(c) apply, adopt or incorporate with or without modification the provisions of any -

(i) act or the provisions of any subsidiary legislations under any of those Acts with respect to the regulated transport industry;

(ii) act or the provisions of any subsidiary legislations under any of those Acts, whether wholly or partially or as amended by the regulations or as in force or published at a particular time or from time to time,

(iii) relevant documents, standards, rules specifications or methods formulated by, issued, prescribed or

published by any Governmental Authority with the statutory powers to issue such documents; and

(d) leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Commission.

(2) The Commission may also make and publish Guidelines on any matter for which this Bill and sector legislations makes express provision and such other matters as are necessary for giving full effect to the provisions of this Bill and sector legislations and for their due administration.

(3) The Commission shall ensure that regulatory decision making has regard to the relevant health, safety, environmental and social legislations applicable to the regulated transport industry.

58. Subject to subsection (2) of this section, the Commission may review, as at when it deems necessary, any rules, guidelines and regulations made under this Bill and sector legislations that are in effect at the time of the review and may modify, vary, or repeal any such rules or regulations: Power to review guidelines and regulations.

(i) which are no longer necessary for the purposes of this Bill and sector legislation;

(ii) for any other reason that the Commission deems appropriate.

PART XI – DIRECTIVES

59. (1) The Commission may, from time to time, issue directives or orders in writing to any person regarding the compliance or non-compliance with the provisions of this Bill, sector legislation or its subsidiary legislation or any license conditions, including the remedy for a breach of the provisions of this Bill, sector legislation or its subsidiary legislation. Issuance of Directives

(2) Where the Commission is satisfied that a person has breached or is likely to breach the provisions of this Bill, sector legislation or its subsidiary legislation on safety, it may issue a directive under this Section.

(3) Before issuing a directive or order under this Section, the Commission shall issue a notice in writing to the person specifying the nature of compliance required and the person shall be granted an opportunity to be heard or may submit a written submission within a reasonable time specified in the notice on reasons for his conduct or activity.

(4) After the expiration of the notice specified in subsection (3) of this Section, the Commission shall take into consideration any reasons provided by the person before making a decision in relation to the relevant conduct or activity of the person or failure or omission to such steps or measures required under this Bill, a sector legislation or subsidiary legislation.

(5) After due consideration of any reasons provided by the person, the Commission may issue a directive or order under this Section requiring the person to take specified action or to refrain from taking any action, in order to prevent a breach or continued breach of any of the provisions of this Bill, a sector legislation or subsidiary legislation.

(6) The Commission shall give the person written notice of its directive or order not later than 30 days from the date the decision was made and the person shall comply with the directive or order issued by the Commission.

60. (1) The Commission may, when issuing a directive or order under this Bill, sector legislation or subsidiary legislation in relation to prescribed services, have regard to the costs associated with any service related to the prescribed services if: Matters to consider in Issuing Directives.

(a) the related service is necessary or essential to the provision of prescribed services;

(b) the related service cannot readily be provided by another operator; and

(c) it is not feasible to charge a separate fee or price for the related service.

(2) The Commission may when issuing a directive or order in relation to prescribed services have regard to services required to meet the objectives of the relevant regulated transport sector including the provision of:

(a) infrastructure within the relevant regulated transport sector that is necessary for moving cargo and passengers to or from berthing facilities, rail and road transport stations, terminals, platform, sidings, short term storage facilities or cargo marshalling facilities;

(b) infrastructure erected in order to satisfy safety, security, planning, or environmental requirements;

(c) safety, security, emergency or environmental management services that are required by law;

(d) strategic planning for the transport facility; and

(e) the facilitation of trade through the relevant transport facility.

61. (1) The Commission may modify, vary or revoke a directive or order. Modification of Directives.

(2) The procedure set out in section 57 of this Bill shall apply in respect of any modification, variation or revocation of a directive or order.

62. A person who fails to comply with a directive of the Commission under this Part shall be liable to a fine not exceeding ₦20,000,000.00 and to a further fine not exceeding ₦2,000, 000.00 or as may be reviewed by the Commission from time to time, for each day the contravention continues after service of the direction or order on it. Non-Compliance with Directives.

63. The Commission shall maintain a register of all directives issued by the Commission, including any written instruments modifying, varying or revoking a directive or order, in accordance with Part X of this Bill. Register of Directives.

PART XII – ENQUIRY

64. (1) The Commission may hold a public inquiry on any matter of a general nature that the Commission considers an inquiry is necessary or desirable for the purpose of carrying out its functions. Enquiry

(2) Subject to subsection (3) of this section, the Commission may hold a public enquiry under subsection (1) of this section:

(a) in response to a written request from a person; or

(b) on its own initiative, provided that if it is satisfied that the matter is of significant interest to either the public or to current or prospective transport service providers.

(3) The Commission shall hold a public inquiry in all instances that it is mandatorily required to hold an inquiry under this Bill and sector legislation and their subsidiary legislation.

(4) The Commission may combine two or more inquiries into a single enquiry and an enquiry under this Part shall be conducted as and when the Commission deems fit.

(5) The Commission may, for the purposes of an inquiry, exercise any or all of its investigation and information-gathering powers under this Bill or a sector legislation.

65. (1) Where the Commission decides to hold a public enquiry, the Commission shall publish, in a national daily newspaper and on the internet notice of the enquiry. Public Enquiry.

(2) The notice shall specify the:

(a) purpose of the enquiry;

(b) period during which the enquiry is to be held;

(c) nature of the matter to which the enquiry relates;

(d) period, of at least 21 days, within which, and the form in which, members of the public are invited to make submissions to the Commission including details of public hearings;

(e) matters that the Commission would like the submissions to deal with; and

(f) address or addresses to which the submissions may be sent.

(3) The Commission shall send a copy of any notice published under this section to anyrelevant person or body that the Commission considers should be notified.

(4) The Commission shall consider all submissions received within the time limit as specified in the notice and the submissions made by the members of the public shall be as specified in the notice.

66. (1) The Commission may determine that an enquiry or a part of an enquiry may be conducted in private if the Commission is satisfied that: Private Enquiry.

(a) the documents or information that may be given, or a matter that may arise during the enquiry or a part of the enquiry, is of a confidential nature or commercially sensitive nature;

(b) it would be in the public interest; or

(c) the enquiry or part of the enquiry or a matter, or part of a matter, in public domain, would not be conducive to the exercise of its functions under this Bill.

(2) If an enquiry takes place in public and the Commission is of the opinion that the:

(a) evidence or other material presented to the enquiry; or

(b) material in written submissions lodged with the Commission is of a confidential nature, the Commission may direct that —

(i) the evidence or material should not be published; or

(ii) its disclosure be restricted.

(3) A person shall not without an excuse that is considered reasonable by the Commission fail to comply with a direction under subsection (2) of this section.

(4) Where an enquiry or part of an enquiry takes place in private, the Commission:

(a) shall give a direction as to the persons who may be present at the enquiry or part of the enquiry; and

(b) may give a direction restricting the disclosure of evidence or other material presented at the enquiry or part of the enquiry.

(5) A person who without reasonable cause fails to comply with a direction given under subsection (4) of this Section commits an offence and shall be liable on conviction to a fine of not less than ₦500,000.00.

67. (1) (a) The Commission shall publish a final report setting out its findings from any enquiry it conducts and the report shall be published within 45 days of the conclusion of the inquiry. Publication of Report

(b) Where it is not possible to publish the report within the time provided under paragraph (a) of this subsection, time may be extended by 14 additional days and no more.

(2) The Commission shall not include in the report any material:

(a) that is, in the opinion of the Commission, of a confidential nature; and

(b) the disclosure of which would likely prejudice the fair trial of a person.

(3) If, in the opinion of the Commission, a final report will contain confidential or commercially sensitive information, the Commission shall divide the report into:

(a) a document containing the confidential or commercially sensitive information; and

(b) another document containing the rest of the report.

(4) Civil proceedings shall not lie against a person in respect of any loss, damage or injury of any kind suffered by another person because of any of the following acts:

(a) the making of a request to the Commission under Section 45(2)(a) under this Part; or

(b) the making of a statement or giving of a document or information, to the Commission in relation to an inquiry under this Part.

(5) The Commission shall maintain a register of all reports made pursuant to an inquiry under this Part, in accordance with the provisions in Part XI of this Bill.

68. (1) Subject to the provisions of this Bill, the Commission may conduct an inquiry in such manner as the Commission considers appropriate. Conduct of Enquiry
(2) In conducting an inquiry, the Commission is not bound by rules or practice as to evidence, but may inform itself in relation to any matter in such manner as the Commission considers appropriate.
(3) The Commission may receive written submissions or statements during an enquiry.
(4) The Commission:
(a) shall hold at least one public hearing in case of a public inquiry; and
(b) has discretion as to whether any person may appear before the Commission in person or be represented by another person.
(5) In conducting an inquiry the Commission may:
(a) consult with any person that it considers appropriate;
(b) hold public seminars and conduct workshops;
(c) establish working groups and task forces.

PART XIII - INVESTIGATION AND POWERS OF ENTRY

69. Notwithstanding the provisions of any other law, but subject to Section 54 of this Bill the Commission shall investigate any matter pertaining to the administration of this Bill, sector legislation and their subsidiary legislation if the Commission has any ground to believe that an infringement, civil or criminal, of the provisions of this Bill, sector legislation and their subsidiary legislation was, is or will be committed. Investigation

70. (1) The Commission may conduct an investigation on a matter referred to it upon a written complaint by a person and the complaint shall specify the person against whom the complaint is made. Complaint

(2) If a complaint has been made to the Commission under this Section, the Commission may make inquiries of the respondent for the purpose of deciding whether the Commission should, in its discretion, investigate the matter.

(3) If the Commission decides not to investigate a matter to which a complaint relates, or to stop the investigation of a matter after its commencement, it shall, not later than 60 days from the date of receipt of the complaint and in such manner as it deems fit, inform the complainant and the respondent

of the decision and the reasons for the decision.

71. (1) Before beginning an investigation of a matter to which the complaint relates, the Commission shall inform the respondent that the matter is to be investigated. Conduct of Investigation

(2) An investigation under this Part shall be conducted as the Commission considers appropriate and the Commission may, for the purposes of an investigation, obtain information from any person as it deems fit.

(3) Subject to subsection (4) of this section, a complainant or respondent may, at the Commission's discretion, be given an opportunity to appear before the Commission in connection with an investigation.

(4) The Commission shall not, as a result of the investigation, make a finding that is adverse to a complainant or a respondent unless it has given the complainant or respondent an opportunity to make written submissions about a matter to which the investigation relates within a time period of not less than 21 (twenty one) days.

(5) The Commission shall consider the submissions made by the complainant or the respondent under subsection (4) of this section before making its decision.

(6) After concluding an investigation, the Commission may prepare and publish a report which shall cover:

(a) the conduct of the investigation concerned; and

(b) any findings that the Commission has made as a result of the investigation; and

(c) the evidence and other material on which those findings were based; and

(d) such other matters relating to, or arising out of the investigation as the Commission thinks fit.

72. (1) The Commission may in writing authorise any of its officials or appoint external inspectors on its behalf to exercise the powers of monitoring and enforcement vested in the Commission under this Bill and sector legislation. Power to enter Premises

(2) The Commission may direct its authorised officials or appointed inspectors to investigate the activities of an operator or service provider, agency or other person with regard to his compliance with this Bill, sector legislation or subsidiary legislation as the Commission deems necessary for the performance of its functions under this Bill and sector legislation.

(3) In exercising any of the powers specified in subsection (2) of this Section and notwithstanding any other provision of this Bill or sector legislation, an authorised official of the Commission or its appointed inspector:

(a) shall on demand produce to the person against whom he is acting, the authority issued to him by the Commission; and

(b) may at any reasonable time and without prior notice to any affected person enter into any premises of an operator or service provider within a regulated transport sector and:

(i) request, inspect and make copies of or extracts from books, records, documents or other information storage systems; and

(ii) demand the production of and inspect the relevant licence, permit, certificate or authority.
(c) shall obtain a Court warrant prior to the entry into the premises of any affected person or premises under the meaning of this Bill.

73. (1) The President shall have the power to whenever he deems it necessary and in the event of a major accident within a regulated transport sector, appoint any person or persons to sit as a tribunal, panel or commission of inquiry as authorised by him to perform functions including: Major Accident Investigation

(a) to conduct investigations and public enquiries into such accidents and incidences as the President shall determine;

(b) establish the causes of such accidents;

(c) identify safety deficiencies as evidenced by the occurrences;

(d) record the findings of the investigation;

(e) recommend corrective action, including, if applicable, the issuance or amendment of any regulations in order to prevent a recurrence of similar accidents;

(f) make recommendations of any action to be taken in response or against any person or agency .

(2) For the purpose of conducting an investigation, such a tribunal, panel or commission of inquiry appointed by the President shall have the power to :

(a) issue a summons requiring the attendance of any person or the production of any evidence at a hearing of such a a tribunal, panel or commission of inquiry;

(b) administer the prescribed oath;

(c) examine witnesses;

(d) order the seizure of anything which may be material to the investigation.

(3) Any person required to appear before such a tribunal, a panel or commission of inquiry shall be entitled to be represented by a legal practitioner of his choice.

(4) A hearing conducted under this Section shall be open to the public; provided however that the President is satisfied that it is in the public interest, any tribunal, panel or commission of inquiry established under subsection 1 of this Section may on his own initiative or at the request of any party order that the proceedings be conducted in camera.

(5) At the conclusion of the investigation such tribunal, panel or commission of inquiry appointed under subsection 1 of this Section shall present a report to the President

(6) A report presented to the President pursuant to subsection 5 of this Section shall be published in a white paper within six (6) months of its submission to the President.

(7) A report published under this Section may be used as evidence in court in any proceedings that may arise in respect of any regulated transport sector accident or incidence that was investigated.

(8) Any person or persons appointed under subsection 1 of this Section shall not, directly or indirectly, as owner, shareholder, director, officer, member, partner or otherwise :

(a) be engaged in a regulated transport sector undertaking or business;

(b) be engaged in any transport regulated agency; or

(c) have an interest in a regulated transport sector undertaking or business or an interest in the manufacture or distribution of regulated transport sector plant or equipment, except where the distribution is merely incidental to the general merchandising of goods.

(9) Any person or persons appointed under subsection 1 of this Section shall not carry on any activity inconsistent with the performance of his duties under this Bill.

PART XIV - COLLECTION AND USE OF INFORMATION

74. (1) This section shall apply to any person who is subject to this Bill and a relevant sector legislation and who the Commission has reason to believe:

General Power to obtain Information and Documents

(a) has any information including accounts and records or any document that may assist the Commission in the exercise of the Commission's powers and functions under this Bill or its subsidiary legislation; or

(b) is capable of giving any evidence which the Commission has reason to believe is relevant to the exercise of the Commission's powers and functions under this Bill, sector legislation or their subsidiary legislation.

(2) The Commission may, by written notice, direct any person who is subject to this Bill and sector legislation, in relation to the information contemplated in subsection (1) of this Section, to:

(a) give the Commission, within the period and in the manner and form specified in the notice, any such information;

(b) produce to the Commission, within the period and in the manner specified in the notice, any such documents, whether in a physical form or in electronic media;
(c) make copies of any such documents and to produce those copies to the Commission within the period and in the manner specified in the notice.
(3) The Commission shall allow the person so directed under subsection (2) of this section a reasonable time to give and to produce any information or documents specified in the notice.

(4) Any person who is subject to this Bill and sector legislation and who is required to provide information under subsection (2) of this Section shall ensure that the information provided is true, accurate and complete and such person shall provide a representation to that effect, including a representation that he is not aware of any other information which would make the information provided false or misleading.

75. (1) A person who fails to disclose or omits to give any relevant information or evidence or document, or fails to comply with any request made by the Commission under this Part commits an offence and shall be liable on conviction to a fine of not less than ₦500,000.00.

Refusal to Provide Information

(2) Notwithstanding the provisions of this Bill and subsection (1) of this Section, a person who is subject to this Bill and sector legislation and who provides information or evidence or document that he knows or has reason to believe is false or misleading, in response to a direction issued by the Commission, commits an offence and shall on conviction be liable to a fine of not less than N500,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment and if a company shall be liable to a fine of not less than N1,500,000.00.

(3) A person shall not :

(a) threaten, intimidate or coerce another person; or

(b) take, threaten to take, incite or be involved in any action that causes another person to suffer any loss, injury or disadvantage because that other person complied, or intends to comply, with a request made under this section.

(4) A person who contravenes the provision of subsection (3) of this section commits an offence and shall be liable on conviction to a fine of not less than N500, 000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

(5) A person is not liable in any way for any loss, damage or injury suffered by another person because of the giving of any information or document in good faith to the Commission under this Section.

76. A person who is subject to this Bill and sector legislation shall, if at any time called upon in writing by the Commission to do so, produce to the Commission all such evidence and provide all such information as the person may have relating to his compliance with any of the provisions of this Bill, a sector legislation or subsidiary legislation as the Commission may generally, or in relation to any particular case, require. Evidence of Compliance

77. Notwithstanding the provisions of any other law, a person who is a member or employee of a statutory body is not to be found guilty of an offence or to be in breach of a statutory duty by providing information or a copy of a document to Commission if the person provides information or a copy of a document to the Commission in compliance with a requirement under this section. Compliance not a Breach of Duty

78. (1) The Commission may take and retain for as long as is necessary, possession of a document produced under this Part and the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable with a copy certified by the Commission to be a true copy. Certified Copies of Documents by Commission

(2) Notwithstanding the provisions of any other written law, all Courts and tribunals shall receive the certified copy in evidence as if it were the original.

(3) Until a certified copy is supplied, the Commission shall, at such times and places as the Commission thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from the document.

79. (1) The Commission shall maintain a record of all information, evidence or documents received pursuant to the directions given under Section 55(1) of this bill. Record and Publication of Information

(2) The Commission may publish information received in the course of exercising its powers and functions under this Part if it is satisfied that the publication is consistent with the objects of this Bill or a sector legislation provided that the Commission shall consider the commercial interests of the parties to whom the information relates before publishing the information.

80. (1) This section applies if information or a document is given by a person to the Commission when at the time the information or document is given, the person giving it states that it is of a confidential or commercially-sensitive nature. Restriction on Disclosure of Confidential Information

(2) The Commission shall not disclose the information or the contents of the document to any person unless:

(a) the Commission is of the opinion that:

(i) the disclosure of the information or document would not cause detriment to the person supplying it; or

(ii) although the disclosure of the information or document would cause detriment to the person supplying it, the public benefit in disclosing it outweighs that detriment; and

(b) the Commission is of the opinion, in relation to any other person who is aware of the information or the contents of the document and who might be detrimentally affected by the disclosure:

(i) that the disclosure of the information or document would not cause detriment to that person; or

(ii) that although the disclosure of the information or document would cause detriment to that person, the public benefit in disclosing it outweighs that detriment; and

(c) the Commission gives the person who supplied the information or document written notice:

(i) stating that the Commission wishes to disclose the information or contents of the document,

specifying the nature of the intended disclosure and setting out detailed reasons why the Commission wishes to make the disclosure;

(ii) stating the reasons in subsection (2)(a) of this section and setting out detailed reasons why it is of that opinion.

(d) if the Commission is aware that the person who supplied the information or document in turn received the information or document from another person and is aware of that other person's identity and address, the Commission gives that other person written notice:

(i) containing the details required by subsection (2)(c) of this section; and

(ii) stating that the Commission is of the opinion that subsection (2)(b) of this Section relates to him and setting out detailed reasons why it is of that opinion; and

(e) no Notice of Appeal is lodged in respect of any notice given under subsections (2)(c) or (d) of this section within the time permitted by section 72 of this Bill.

(3) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not less than N500,000.00.

(4) Subsection (2) of this section shall not prevent the Commission from:

(a) disclosing information or the contents of a document to -
(i) an employee employed under section 18 of this Bill;

(ii) a member of staff referred to in Section 18 of this Bill; or

(iii) a member of a unit, committee or panel acting under delegation by virtue of Section 17 of this Bill; or

(b) using information or a document for the purposes of an enquiry or investigation; or

(c) supplying the information or document to the members of any Appeal Panel hearing an Appeal in relation to the information or document.

(5) Where an Appeal is lodged under section 72 of this Bill and the Appeal -

(a) is withdrawn or dismissed, the Commission may disclose any information, or the contents of any document, that was the subject of the Appeal in the manner set out in the notice given under subsection (2)(c) of this section;

(b) is granted, the Commission may disclose anything that the Appeal Panel permits it to disclose under this Bill in the manner specified by the Appeal Panel.

(6) The Commission must not disclose to any person any document that it has obtained from any person or agency that is an exempt document under the Official Secrets Bill, Cap O3, LFN 2004 in the hands of the that person or agency.

(7) For the purpose of this Section, the disclosure of anything that is already in the public domain at the time the Commission wishes to disclose it cannot cause detriment to any person referred to in subsections (2)(a) or (2)(b) of this Section.

81. (1) The Commission must not disclose to any person any document that it has obtained from any person or agency that is an exempt document under the Official Secrets Act, Cap. O3, Laws of the Federation of Nigeria, 2004 in the hands of the person or agency.

Commission not to disclose exempt document.

(2) The provision of subsection (1) of this section does not prevent the Commission from doing anything

Specified in section 76 (4) of this Bill.

82. (1) An operator or service provider of any facility or service where required by the Commission, shall keep financial and business records in respect of any specific facility or service that are separate from any financial and business records for other aspects of any business conducted by the provider of prescribed services. Financial and Business Records

(a) the provision of channels for use by the respective modes of transport that are separate from financial and business records for other prescribed services; and

(b) prescribed services that are separate from any financial and business records for other aspects of any business conducted by the provider of prescribed services.

(2) The financial and business records shall be prepared and maintained in accordance with guidelines made by the Commission.

(3) The provider of such facilities or services shall make the financial and business records available to the Commission when required to do so by notice in writing given by the Commission.

(4) A requirement under subsection (3) of this section shall identify the information or document required and shall specify:

(a) when the requirement shall be complied with;

(b) in what form the information or copy of the document is to be given to the Commission; and

(c) that the requirement is made under this Section.

(5) A person who without lawful excuse fails to comply with any requirement made under this section commits an offence and is liable on conviction to a fine of not less than N500,000.00.

PART XV - RESOLUTION OF DISPUTES

83. (1) The Commission shall have powers to resolve disputes between persons regarding any matter under this Bill, a sector legislation or subsidiary legislation. Power to Resolve Disputes

(2) An attempt shall first be made by the parties to resolve any dispute between them through negotiation before the involvement of the Commission.

(3) If one of the parties to the dispute has provided an undertaking that is relevant to the subject matter of the dispute and the Commission has registered the undertaking, the parties may adopt the conditions of the undertaking for the purposes of resolving the dispute.

84. (1) A party to a dispute may, in writing, notify the Commission of the dispute and the Commission may only resolve a dispute under this Part if it is notified in writing of the dispute and requested by either or both parties to intervene. Notification of Disputes

(2) The Commission may publish guidelines setting out the principles and procedures that it may take into account in resolving disputes or a class of disputes under this Part.

(3) Upon receipt of the notification of the dispute referred to in sub-section (1) of this section, the Commission shall, as soon as practicable, convene to resolve the dispute.

(4) The Commission shall convene to resolve a dispute if it is satisfied that:

(a) an agreement will not be reached, or may not be reached within a reasonable time;

(b) the notification of the dispute is not trivial, frivolous or vexatious; and

(c) the resolution of the dispute would promote the objects of this Bill, or its subsidiary legislations.

85. (1) Subject to the objects of this Bill and sector legislation and any guidelines issued by the Commission under this Part, the Commission may resolve the dispute in such manner including Alternative Dispute Resolution processes and upon such terms and conditions as it may deem fit.

Resolution of Disputes by Commission

(2) In carrying out its functions under subsection (1) of this section, the Commission shall always be guided by the objective of establishing a sustained dispute-resolution process that is fair, just, economical and effective which shall not be bound by technicalities, legal form or rules of evidence and shall at all times act according to the ethics of justice and fair play and the merits of each case.

(3) The Commission shall state in writing the terms and reasons for a determination under this Part and shall provide the parties to the dispute with a copy of its decision as soon as practicable.

(4) The costs of the Commission in making a determination under this Part shall be borne by the non-prevailing party to the dispute or in a manner as may be determined by the Commission.

86. (1) The Commission shall register all decisions it makes under this Part.

Register of Decisions

(2) The Register shall contain:

(a) the names of the parties to the dispute;

(b) a general description of the matter; and

(c) the date of the decision,but not the terms and reasons for the decision.

87. (1) The decision of the Commission shall be binding on the parties and the Commission may direct a party to a dispute to abide by the decision of the Commission in that dispute.

Enforcement of Commission's Decisions

(2) A breach or contravention of any decision made by the Commission under this Part shall be deemed to be an offence under this Bill.

(3) The Commission may make such other orders or directives as it may deem fit for the purposes of the enforcement of its decisions.

PART XV - REVIEW OF DECISIONS

88. Any decisions taken by the Commission on any matter brought before it shall be the subject of records which shall be kept by the Commission and such records or part thereof shall, when required for publication or other disclosure, be made available.

General Records of Decisions

89. (1) A person who is aggrieved or whose interest is adversely affected by any decision of the Commission made pursuant to the exercise of its functions and powers under this Bill or sector legislation may request in writing to the Commission for a statement of the reasons for the decision.

Request for Statement of Reasons

(2) The Commission shall, upon such written request by an aggrieved person, provide a copy of a statement of reasons for the decision and any relevant information taken into account in making the decision.

(3) The Commission is not required to publish, or to disclose to the aggrieved person, a statement of reasons or a part of a statement of reasons if the publication or disclosure would:

(a) disclose a matter that is, in the reasonable opinion of the Commission, of a confidential character;

(b) be likely to prejudice the fair trial of a person; or

(c) involve the unreasonable disclosure of personal information about any person.

(4) In this Part, "decision" includes any action, order, report or direction.

90. (1) An aggrieved person may at any time within but not later than thirty days after the date of receipt of the Commission's statement of reasons specified in section 84 (2) of this Bill, request the Commission in writing for a review of the Commission's decision and specify therein the reasons and basis for his request. Review of Decision by Commission

(2) Subject to subsection (4) of this section, upon receipt of the aggrieved person's written submissions the Commission shall meet to review its decision taking into consideration the submissions of the aggrieved person under subsection (1) of this section.

(3) In carrying out the review of its decision under this Part, the Commission may use and exercise any of its powers under this Bill, sector legislations and their subsidiary legislations.

(4) The Commission shall within sixty days of making the request under subsection (1) of this section conclude its review of the decision and inform the aggrieved person in writing of its final decision thereon and the reasons.

(5) During the period for the consideration or review of a decision of the Commission and before the communication of a final decision thereof, the Commission may make such interim orders or directives as it deems necessary as regards the decision under consideration and the aggrieved person.

91. (1) Subject to Section 70 of this Bill and subsections (2) and (3) of this Section, an aggrieved person may apply to the Court for a judicial review of the Commission's decision or other action. Judicial Review of Decision

(2) The decision or direction of the Commission that is the subject matter of an application for judicial review shall subsist and remain binding and valid until it is expressly reversed in a final judgment or Order of the Court unless the applicant files an application to stay the Commission's decision pending the determination of the judicial review in Court.

(3) A person shall not apply to the Court for a judicial review unless that person has first exhausted the provisions of Section 70 under this Part.

PART XVI — RIGHT OF APPEAL

92. (1) A person who is aggrieved by a determination of the Commission may appeal against the determination in accordance with the provisions of this Section. Right of appeal.

(2) Any person who is aggrieved or not satisfied with a decision of the Commission may apply to the Court for the determination of the matter without prejudice to the right of that person to apply to a relevant Tribunal.

(3) Any person aggrieved by the decision of the Commission on non-competition issues may appeal to the Federal High Court.

(4) The only ground for an Appeal is that the determination:

(a) was not made in accordance with the law;
(b) is unreasonable having regard to all the relevant circumstances;

(c) there has been bias; or

(d) the determination is based wholly or partly on an error of fact in a material respect.

(5) "Determination" under this Section includes direction, order, decisions or requirements made by the Commission under this Bill.

PART XVII - REGISTER AND UNDERTAKINGS

93. (1) The Commission shall maintain a Register of all matters that are required to be registered under this Bill, a sector legislation or subsidiary legislation. Register

(2) The Commission may, at its discretion, summarise the contents of a material for inclusion in the register and exclude aspects of the material if it considers such exclusion necessary and justified.

94. (1) A person may, on payment of the prescribed fee, if any, to be determined by the Commission: Access to Register by Public

(a) inspect the Register; and

(b) make a copy of or take extracts from the Register.

(2) If a person requests that a copy be provided in an electronic medium, the Commission may provide the relevant information:

(a) on a data processing device; or

(b) by way of electronic transmission.

(3) The Commission shall from time to time publish Guidelines in regard to its various Registers giving details of the Registers and indicating access processes and procedures for members of the public.

95. (1) A party to a written agreement who is subject to this Bill or a sector legislation shall apply to the Commission for the registration of the Agreement, if this Bill requires such registration. Registration of Agreements

(2) The Commission shall register the written agreement if the Commission is satisfied that the agreement is consistent with:

(a) the objects and provisions of this Bill or a sector legislation; and

(b) any relevant instrument under this Bill or a sector legislation.

96. (1) The Commission shall maintain a Register of all agreements required to be registered under this Bill, in accordance with the provisions of this Part. Register of Agreements

(2) The Register shall contain:

(a) the names of the parties to the agreement;

(b) a general description of the subject of the agreement; and

(c) the date of the agreement but not the terms and conditions of the agreement.

PART XVIII - REGULATIONS AND GUIDELINES

97. The Commission may make and publish regulations and guidelines in respect of any matter or thing required or permitted by this Bill to be prescribed or which in the opinion of the Commission is necessary or convenient to be prescribed for carrying out or giving effect to this Bill. Commission's Regulations and Guidelines

PART XIX — OFFENCES AND JURISDICTION

98. A person who contravenes or fails to comply with any provision of this Bill, sector legislation or subsidiary legislation or any regulation made under this Bill, commits an offence. Offences by Persons

99. If a person or corporate body commits an offence under this Bill and its subsidiary legislations, a person who at the time of the commission of the offence was a director, chief executive officer, manager, Offences by persons or

secretary or other similar officer of the company or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the company or was assisting in such management:

corporate bodies.

(a) may be charged severally or jointly in the same proceedings with the company; and

(b) if the company is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves:

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he had taken all reasonable precautions and exercised due diligence.

100. (1) A person who contravenes any provision of this Bill or any regulation made under this Bill, where no specific penalty is prescribed in this Bill or its subsidiary legislation, shall:

General offences and penalties.

(a) as a first offender, be liable to a fine not less than ₦500,000.00 or to imprisonment for a term not less than one (1) year or to both such fine and imprisonment; and

(b) for subsequent convictions, be liable to a fine not less than ₦1,500,000.00 or to imprisonment for a term not less than three (3) years or to both such fine and imprisonment.

(2) The Commission may by regulations make further provisions for offences and penalties and for the adjustment of fines and penalties imposed under this Bill and its subsidiary legislations in order to reflect prevailing economic realities and such shall become effective upon publication in the Federal Gazette.

101. 99. A Commissioner or any employee or a member of a committee or panel acting under a delegation under section 18 of this Bill is not personally liable for anything done or omitted to be done in good faith:

Personal liability.

(a) in the exercise of a power or the performance of a function under this Bill or any relevant legislation; or

(b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function under this Bill or any relevant legislation.

102. 100. (1) A person must not disclose any confidential or commercially-sensitive information obtained during the exercise of a power or the performance of a function under, or in connection with, this Bill or any relevant legislation.

Disclosure of information is an offence.

(2) A person must not use any such information to obtain directly or indirectly any pecuniary or other advantage for himself or any other person.

(3) Any person who without lawful excuse contravenes subsections (1) and (2) of this section commits an offence and on conviction is liable to a fine of not less than ₦500,000.00.

(4) A person may disclose or use such information if:

(a) the disclosure or use is made in the exercise of a power or the performance of a function under, or in connection with, this Bill or any relevant legislation; or

(b) the person has the consent of the person who supplied the information; or

(c) the disclosure or use is made in legal proceedings at the direction of a Court; or

(d) the information is in the public domain at the time it is disclosed or used.

(5) Subsection (4) of this section shall not interfere with any rights which another person may have with regard to the disclosure or use of the information.

103. The Commission may apply to the Court for an injunction or declaration or both in respect of an order or direction served by the Commission under this Bill and its subsidiary legislations. Enforcement orders.

104. No proceedings may be brought in respect of a determination or direction other than on the grounds that: Proceedings against Commission.

(a) there was no power to make the determination or direction; or

(b) that the procedural requirements in relation to the making of the determination or direction have not been complied with.

105. (1) Subject to the provisions of this Bill, the provisions of the Public Officers Protection Act, Cap P41, 2004 shall apply in relation to any suit or action instituted against an official or employee of the Commission in any Court. Limitation of suits against the Commission

(2) Notwithstanding the provisions of any other law, no Suit shall lie against the Commission or a Commissioner, or employee of the Commission for any act or omission done in pursuance or execution of this Bill or a sector legislation, or be instituted in any court, unless it is commenced:

(a) within three months next after the act, neglect or default complained of; or

(b) in case of a continuation of damage or injury, within six months next after the ceasing thereof.

106. (1) In an action or a suit against the Commission, no execution or attachment process in any nature thereof shall be issued against the Commission unless not less than 3 months' notice of the intention to execute or attach has been given to the Commission. Restriction on execution against the Commission.

(2) Any sum of money which may by the judgment of any court be awarded against the Commission shall, subject to any direction given by the court, where no notice of appeal against the said judgment has been given, be paid from the fund of the Commission.

PART XX — MISCELLANEOUS

107. (1) A provision in any legislation or subsidiary legislation of any regulated transport sector which refers to a multi-sector transport regulator or any regulator or regulatory agency with functions powers to regulate that sector or do anything in that regard shall be a reference to the Commission and the Commission shall assume any duties, functions and powers so granted. Legislations of a Regulated Transport Sector

(2) Notwithstanding anything in any other enactment all regulatory functions and powers contained in those enactments and vested in a Minister which conflict with any functions and powers of the Commission are hereby vested in the Commission.

(3) Upon the Commencement of this Bill, the Nigerian Shippers Council as the interim economic regulator for the ports and its relevant and qualified staff shall together with such number of persons employed by such other Legacy Agency as may be required by the Commission shall be transferred to the Commission and be deemed to form the initial staffing of the Commission in line with the provisions contained in under this Bill.

(4) The service rendered by an employee transferred pursuant to sub-paragraph (1) of this paragraph to the Commission shall be deemed to be service with the Commission for the purpose of determining employment related entitlements as specified in the relevant laws of employment in Nigeria.

(5) Until such time as conditions of service are drawn up by the Commission:

(a) the terms and conditions of service applicable to employees of the Legacy Agency shall continue to

apply to every person transferred to the Commission as if every such person were still in the service of the Agency; and

(b) the Commission shall continue to contribute towards any pension scheme to which the Agency was contributing in respect of persons in the employ of the Agency prior to the transfer date.

(6) Nothing in this paragraph shall operate so as to prevent any employee of the Commission from resigning or being dismissed from service.

(7) Nothing in this paragraph shall operate so as to create an entitlement for any employee of the Legacy Agency to become an employee of the Commission.

(8) All assets, funds, resources and other movable and immovable property which, immediately before the commencement of this Bill, vested in and belonging to the Nigerian Shippers Council and other Legacy Agency established under the repealed Bill shall by virtue of this Bill and without further assurance be vested in the Commission established under this Bill.

(9) The statutory functions, rights, interest, obligations and liabilities of any Legacy Agency established before the commencement of this Bill, which existed under any contract, rights of way, concessions or instrument shall by virtue of this Bill be deemed to have been assigned to, transferred or vested in the Commission.

(10) Notwithstanding the enactment and operation of this Bill in relation to the relevant regulated transport sector, any licenses, permits, granted or in force at the commencement of this Bill in relation to the production or supply of any goods, services or facilities by any person in the regulated transport sector, provided that such shall remain valid and in operation until they are amended revoked, annulled or otherwise replaced by anything done under this Bill.

(11) Every rule, regulation, requirement, certificate, appointment, notice, direction, decision, authorization, consent, application, request or thing made, issued, given or done under the existing legislations within any regulated transport sector if in force at the commencement of this Bill, continue to be in force and have effect as if made, issued, given or done under this Bill until such a time that anything done under this Bill amends, overrides, revokes or replaces it in any manner.

(12) The Minister may after the commencement of this Bill, by order published in the Gazette, make additional saving or transitional provisions in order to give better effect to the objectives of this section.

108. (1) On the commencement of this Bill, the Nigerian Shippers' Council, established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004 shall cease to exist and all properties, rights, liabilities, functions and powers thereto shall by virtue of this section be vested in the Commission. Transitional provisions.

(2) Subject to subsection (3) of this section, any act, or matter made or done by the - Nigerian Shippers' Council, established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004; before the commencement of subsection (1) of this section shall continue to have effect as if it was done by the Commission.

(3) The provisions of this Bill shall have effect with respect to matters arising from the transfer by this section to the Commission of the Staff, properties, rights, liabilities, functions and powers of the Nigerian Shippers' Council, established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004; and with respect to the other matters mentioned in the Third Schedule to this Bill.

109. (1) Any provision of any existing laws with respect to the economic, safety and standards regulation of the regulated transport industry in Nigeria in whatever form that is inconsistent with the provisions of this Bill is hereby repealed in so far as it affects matters under this Bill and in particular as set out in the Fourth Schedule to this Bill. Repeals and Consequential Amendments.

(2) Upon the Commencement of this Bill, the Nigerian Shippers' Council as the interim economic regulator for the ports and its relevant and qualified staff shall together with such number of persons employed by such other Legacy Agency as may be required by the Commission shall be transferred to the Commission and be deemed to form the initial staffing of the Commission in line with the provisions contained under this Bill.

(3) The provisions of the Utilities Charges Commission Act, Cap U17 Laws of the Federation of Nigeria, 2004 shall not apply to anything done by the Commission pursuant to the provisions of this Bill.

(4) The Federal Highways Act, Cap. F13, Laws of the Federation of Nigeria, 2004 is amended as follows:

(a) in section 2 :

(i) in subsection (2) by inserting the words "at the tariff rate approved by the National Transport Commission " immediately after the words "subsection (1) of this section";

(ii) in subsection (3) by inserting the words "at the tariff rate approved by the National Transport Commission" immediately after the words "category of vehicles"; and

(iii) by inserting the following as new subsection (4) thereof:

(5) Notwithstanding the provisions of this Bill, the Authority charged with the responsibility for Federal Highways shall obtain a licence from the National Transport Commission and shall operate under the economic regulation and oversight powers of the National Transport Commission;

(iv) in subsection (5) by inserting the words "and the National Transport Commission Act, 2016" immediately after the words "this Bill".

110. In this Bill unless the context otherwise requires: Interpretation

"Access" means the making available of transport services and facilities by one licensee to another, by a licensee to another lawful user for the purpose of providing services, and includes access to physical infrastructure including terminals, stations, tunnels, bridges, sidings, jetties, hangers, route and cargo handling equipment;

"Agreement" means an agreement, whether formal or informal, written, express or implied;

"appeal" means an appeal under Section 72 of this Bill;

"Authorities" means the relevant Government Agencies;

"cargo" includes any substance or article and any container or other item used to contain any substance or article;

"Chairman" means a Commissioner who is appointed to chair the Commission of the National Transport Commission and includes any acting Chairman of the Commission;

"Commissioner" means any person appointed under section 9 of this Bill;

"Consolidated Revenue Fund" means the Fund established by section 80 of the Constitution of the Federal Republic of Nigeria 1999 (as amended);

"Chief Executive" means the Chief Executive of the National Transport Commission and includes any person acting in that capacity;

"Commission" means the National Transport Commission established under the National Transport Commission Bill 2018;

"concession" means an arrangement between a Government Agency and a third party to provide transport service(s) or operate transport facilities in accordance with the empowering legislation and ;

"concessioned" or "concessionaire" must be interpreted accordingly;

"Council" means the Federal Executive Council of the Federal Republic of Nigeria;

"Concessionaire" means a holder of a concession or grant approved by a Government Agency to provide transport related services or to operate a transport facility under the concession agreement;

"Consumer" or "User" means any person who uses transport services or facilities;

"Court" means Federal High Court of Nigeria;

"Directives" means a directive issued by the Commission under Part VII of this Bill;

"Economic Regulation" means the exercise by the Government through the Commission, both directly or indirectly, of control and influence over suppliers of services to consumers and covers both privately and publicly owned suppliers and seeks to protect the interests of public consumers;

"Empowering Instrument" unless otherwise specified in this Bill means:

(a) the relevant transport sector legislation;

(b) a Regulation made under Section 3 of this Bill.

"Equipment" or "Facility" includes any equipment or apparatus or facility , machinery or system used or intended to be used for the provision of transport services and facilities;

"Exclusive Economic Zone" has the meaning given to it under the Exclusive Economic Zone Act, Cap E17, LFN 2004;

"Federal Government" means the Government of the Federal Republic of Nigeria;

"ICRC" means Infrastructure Concession Regulatory Commission;

"Instrument" includes a directive, determination or declaration;

"Land Transport" includes rail and road transportation modes;

"Legacy Agency" shall mean and include any agency, parastatal, or department of the Federal Government which existed before the commencement of this Bill, with powers and functions which include economic regulation and/or safety supervision, whenever the functions and powers of such an agency, parastatal or department falls within the scope of the functions and powers of the Commission and such functions or powers are substantially transferred to the Commission; provided that the agency, parastatal or department ceases to exist by virtue of a repeal or amendment to its Bill, and is declared by the President to be deemed as a "Legacy Agency";

"Licence" means an authorization from the Commission to provide a transport service or operate a port, inland waterways services or road facility, issued under this Bill and "licensed" must be interpreted accordingly;

"Licensee" means a holder of a licence or undertakes activities which are subject to a licence granted under this Bill;

"Licenced Service Provider" means a person licenced to provide a transport service or operate a port, rail, road or waterways facility;

"Marine Transport" means maritime transport and inland waterways;

"Maritime Transport" includes shipping, ports, and all forms of transportation services in Nigerian waters;

"Minister" means the Federal Minister for the time being charged with the responsibility for transportation;

"Ministry" means the Federal Ministry for the time being charged with the responsibility for maritime, rail and road transports respectively;

"Nigerian Waters" shall include inland waters, territorial waters or waters of the Exclusive Economic zone (respectively, together or any combination thereof);

"Operator" means a person who is responsible for the management and operations of jetties, port terminals, stations any transport facility, for aviation, maritime, rail, road or any land transport facilities pursuant to a valid concession or licence or other permit;

"owner" means the legal or beneficial owner;

"person" includes a natural or corporate body or partnership and where an individual is required to represent a corporate body or partnership in any circumstance pursuant to this Bill or its subsidiary legislation it shall be sufficient if in the case of a —
(a) corporate body, it is represented by its competent officer, and

(b) partnership, it is represented by a partner in the partnership or a competent employee of the partnership;

"port" means any place in Nigeria, navigable river or channel, inland waterways, or any such water leading into such place having facilities for ships or other vessels to moor and load or discharge including seaports, offshore cargo handling facilities, inland ports, inland dry ports, container freight stations, harbour, berths, jetties, pontoons or buoys and wharves within Nigerian waters;

"Premises" includes houses, buildings, structures, lands, tenements, easements and hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority;

"Prescribe" means a rule, direction, or order laid down, approved or given by this Bill, sector legislation, subsidiary legislation or regulations or any relevant legislation;

"Prescribed Agency" means a person, body or agency which:

(a) has functions or powers under relevant safety, standard, health, environment or social legislation applying to a regulated transport industry; or

(b) is prescribed by the enabling legislation for the purposes of this Bill.

"prescribed tariff" means tariff specified in this Bill;

"prescribed services" means the services specified in this Bill;

"President" means the President of the Federal Republic of Nigeria;

"publication" of any information by the Commission pursuant to this Bill or its subsidiary legislation, except otherwise specified in any particular section of this Bill, shall be deemed as sufficiently effected if it is posted at the Commission's website and published in at least one widely circulating national

newspapers;

"publication" of any information by a licensee pursuant to this Bill or its subsidiary legislation, except otherwise specified in any particular section of this Bill, shall be deemed as sufficiently effected if it is:

a) officially sent to the Commission; and

(b) made publicly and readily available to any member of the public at the licensee's offices that deal with or relate howsoever with its consumers, and

(c) if the Commission so directs, published in at least one national newspaper;

"register" means any one of the registers established or maintained by the Commission for the purposes of this Bill;

"regulations" means regulations made pursuant to this Bill;

"Property" means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

"Regulated Transport Sector" means aviation, marine or maritime transport services including ports and inland waterways, land transport including road and rail and any other transport sector which provides a regulated service facilities and:

(a) is operating under a relevant legislation which is specified by that legislation as a regulated transport industry; or

(b) is declared by an Order under Section 3 of this Bill to be a regulated transport sector.
"Regulated service" means any service supplied or offered for supply in a regulated transport sector and includes services which the Commission declares to be such services under section 3 of this Bill;

"roads" means federal trunk roads, roads and bridges owned by the Federal Government including:

(a) land acquired or existing as a Federal road or highway pursuant to any legislation, subsidiary legislation, declaration or order; or

(b) Federal trunk roads within the context of item 63 of part 1 of the second schedule to the Constitution of the Federal Republic of Nigeria 1999 (as amended) which are used for or interstate transportation and commerce.

"services" shall include the provision and/or use facilities;

"Tariffs" or "Charges" or "Rates" include port fees, station fees, terminal dues, Ports & Harbours dues and charges, goods dues and pilotage dues, fees and other charges levied by transport service operators;

"Terminal" means infrastructure, cargo-handling equipment, sheds and other land-based structures used for the loading, storage and discharge of cargo or the embarkation and disembarkation of passengers;

"Terminal Infrastructure" means terminal buildings, workshops, substations, surfacing, rail sidings and other structures required for terminal operations including water, lights, power, sewerage, telecommunications and similar services within terminal boundaries;

"Terminal Operations" means services provided at a port, airport, air strip, rail or road terminal or station including cargo handling, storing and delivery of cargo to vessels, aircraft, rail and vehicles, handling of passengers howsoever and services related thereto;

"This bill" means the National Transport Commission Bill, 2018, as amended from time to time and includes the regulations made under this Bill;

"Road Transport" means Federal roads and all types of transportation services on Federal road network;

"Transport Services" means any services including stevedoring, cargo handling, terminal or jetty operations, vehicle tug services, floating crane services, berthing or landing services, fire - fighting, security, radio and radar services, waste disposal, repair facilities and any other services including the carriage or storage of cargo and carriage of passengers or any transportation within a port, station, terminal, within a regulated transport sector;

"Transport facilities" means terminal or infrastructure and other facilities for the handling, storage and transportation of goods and passengers within a regulated transport sector;

"Transport service provider" includes any private person or Government Agency engaged in providing transport services within a regulated transport sector and shall include an Operator.

11|1. This Bill may be cited as the National Transport Commission Bill, 2018. Short title

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

Proceedings of the Commission

1. Subject to the provision of this Bill and section 26 of the Interpretation Act, the Commission may make standing orders regulating its proceedings or that of any of its Committees.

2. The Chairman shall preside at all meetings of the Commission and in his absence; the Members present at that meeting shall appoint one of their numbers to preside at the meeting.

3. The quorum for any meeting of the Commission shall be a simple majority of the Members present at the meeting of the Commission.

4. (1) The Commission shall meet to transact its business pursuant to this Bill whenever it is summoned by the Chairman or by notice given to him signed by not less than four (4) members of the Commission specifying, amongst others, an agenda for the meeting;

(2) The Chairman shall summon a meeting of the Commission and the meeting shall be held within fourteen (14) days from the date on which the notice was served on him to discuss the items specified in the notice Provided that the Commission shall for the purposes of this Bill meet not less than four (4) times in each calendar year.

5. A member of the Commission who directly or indirectly has an interest of a personal nature including financial interests in any matter being deliberated upon by the Commission, or is personally interested in any contract made or proposed to be made by the Commission shall, so soon after the facts of the matter of his interests have come to his knowledge disclose his interest and the nature thereof at a meeting of the Commission.

6. A disclosure under paragraph 5 of this Schedule shall be recorded in the Minutes of meetings of the Commission and the member concerned —

(a) shall not, after the disclosure, take part in any deliberation or decision of the Commission or vote howsoever on the matter; and

(b) shall be excluded for the purpose of constituting a quorum of any meeting of the Commission for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

Committees

7. (1) Subject to its standing orders, the Commission may appoint such number of standing or ad hoc committees as it

thinks fit to consider and report on any matter with which the Commission is concerned.

(2) A Committee appointed under this section shall:

(a) consist of such number of persons who may not necessarily be members of the Commission as may be determined by the Commission, provided that the appointment of a non-Commission member as a Committee member shall be subject to such terms as would be indicated in his letter of appointment; and

(b) presided over by a member of the Commission.

(3) The quorum of any Committee set up by the Commission shall be as may be determined from time to time by the Commission.

(4) A decision of a Committee of the Commission shall be of no effect until it is confirmed and/or ratified by the Commission.

Miscellaneous

8. The fixing of the seal of the Commission shall be authenticated by the signature of the Secretary and that of the Chairman or any other Commissioner generally or specifically authorised by the Commission to act for that purpose.

9. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under Seal may be made or executed on behalf of the Commission, by any person generally or specially authorised by the Commission to act for that purpose.

10. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Commission shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

11. Subject to the other provisions of this Bill and Schedule thereto, the validity of any proceedings of the Commission or of any of its Committees shall not be affected by:

(a) any vacancy in the membership of the Commission, or Committee; or

(b) any defect in the appointment of a member of the Commission or Committee; or

(c) reason that any person not entitled to do so took part in the proceedings of the Commission or Committee.

12. No Member of the Commission or the Commission's Committee shall be personally liable for any act or omission done or made in good faith while engaged on the business of the Commission.

13. Within the first twelve months from the commencement of this Bill, the Commission shall adopt a Code of Conduct prescribing standards of behaviour to be observed by the members and employees of the Commission in the performance of their duties. A copy of its Code of Conduct shall be displayed in its offices and shall be binding on the Commission and its employees. The Code of Conduct may be amended from time to time by the Commission.

SECOND SCHEDULE

CONFLICT OF INTERESTS

1. Subject to the provisions of this Schedule, no member or staff of the Commission shall have a direct or indirect financial interest or investment in any part of the regulated Nigerian transport sector or is engaged in any activity whether for remuneration or otherwise for the benefit of any party involved in any business related to the regulated transport sector in Nigeria throughout the tenure of his office or employment with the Commission unless such an interest is formally disclosed to the President and the President is satisfied that the interest or activity is passive and will not interfere with the person's impartial discharge of his duties.

2. A person who holds the office of a Commissioner, for a period of two years after he ceases to be a Commissioner for any reason whatsoever, shall not acquire, hold, or maintain, directly or indirectly, any interest, office, employment, or consultancy

arrangements either for remuneration or otherwise, connected with any part of the regulated transport sector in Nigeria or engage in any activity (whether for remuneration or otherwise) for the benefit of any party involved in any business related to the regulated transport sector in Nigeria; and if such a person acquires any such interest involuntarily or by way of succession or testamentary disposition, he shall divest himself from such interest within a period of three months of such interest being acquired.

3. Subject to section 4 hereof, each member or staff of the Commission shall on an annual basis present a written declaration affirming the non-existence of any such interest as is specified in section 1 and shall pledge to disclose and inform the Commission of any such relationship or interest that arises or is likely to arise during his tenure or employment with the Commission.

4. All appointed members of the Commission and staff of the Commission after the commencement of this Bill shall be entitled to a maximum of 6 (six) months from their respective dates of appointments within which to divest themselves of their direct or indirect financial interests or investments, if any, in any part of the regulated transport sector in Nigeria.

5. Each member or staff of the Commission shall declare on appointment or at the commencement of employment and annually thereafter, for as long as he serves the Commission, any interest or investment that he:

(a) knowingly has; or

(b) knows any member of his immediate family to have, in any aspect of regulated the Nigerian transport sector.

6. A member or employee of the Commission shall be considered to have a conflict of interest for the purposes of this Bill, if he has or acquires any pecuniary or other interest that could conflict with the proper performance by that person of his duties or functions as a member or employee of the Commission.

7. A member or employee of the Commission shall be deemed to have breached the conflict of interest rules of the Commission if:-

(a) he fails without reasonable cause to make declaration of his interests as required; or

(b) he knowingly makes a declaration false or misleading in material particulars thereby affecting the decision of the Commission In any of the circumstances above, that person shall be guilty of an offence under this Bill, the effect of which may include the termination of his appointment or employment.

8. Where a member or staff of the Commission contravenes the provisions of sections 1, 2 and 3 of this Schedule, or gives false information under section 5 of this Schedule, he shall be liable, on conviction, to the payment of a fine not less than N5,000,000.00 or imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

9. Subject to section 8 of this Schedule, the Commission may from time to time waive the application of the prohibitions specified in sections 1 and 2 of this Schedule to any member or staff of the Commission if the Commission upon receiving such declaration from such member of staff determines that the financial interest of the relevant person is not of a material nature or is minimal.

10. The Commission in determining whether or not the interest of a member or staff of the Commission is minimal or not of a material nature, shall consider factors including but not limited to the following:
(a) the revenue, investments, profits and managerial efforts of the relevant company or other entity in regard to its transport activities compared with other aspects of the company's or such entity's businesses;

(b) the extent to which the Commission regulates and oversees the activity of such company or entity;

(c) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

(d) the perceptions held or likely to be held by the public regarding the relevant person's financial interest or investment in that company or other entity.

11. The Commission may at any time review and reverse its determination under section 7 of this Schedule and direct the application of the prohibitions contained in this Schedule to the affected member or staff of the Commission. The Commission shall not be under any obligation to disclose the reasons or basis for its review to the affected member or staff.

12. In any case in which the Commission exercises the waiver authority or the review thereof as specified in Sections 6 and 8 of this Schedule, the Commission shall so soon thereafter publish the details thereof. Such publication shall include information regarding the identity of the person who has been granted the waiver or whose waiver grant has been reviewed, the position held by such person and the nature of the financial interests which are the subject of the waiver or review thereof.

13. For the purposes of this Schedule:
"company" shall include partnerships and undertakings howsoever defined;
"immediate family" shall mean a person's spouse, a partner living with that person as if they were married to each other and children who are under the age of 18.

THIRD SCHEDULE

Section 1 (2) (a) (b)

TRANSITIONAL AND SAVINGS PROVISIONS RELATING TO THE COMMISSION

Transfer of Property and Undertakings from the Abolished Nigerian Shippers' Council to the National Transport Commission

1. On the commencement of this Bill, the Nigerian Shippers' Council, established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004 shall cease to exist.

2. All Assets, Properties, Rights, Debts, Liabilities, Obligations, Functions and Power that immediately before the commencement date of this Bill, were vested in the Nigerian Shippers' Council shall by virtue of this section be vested in the Commission as specified in the transition plan under this Bill.

3. Subject to section (4) of this schedule, any act, or matter made or done by the Nigerian Shippers' Council, pursuant to the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004; before the commencement of section (1) of this schedule shall continue to have effect as if it was done by the Commission.

4. The provisions of this Bill shall have effect with respect to matters arising from the transfer by this section, to the Commission, of all Staff, Assets, Properties, Rights, Debts, Liabilities, Obligations, Functions and Powers of the Nigerian Shippers' Council, established by the Nigerian Shippers' Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004; and with respect to the other matters mentioned in the Third Schedule to this Bill.

5. The National Transport Commission is a substitute party as applicable to any proceedings pending before any Court or Tribunal to which the abolished Nigerian Shippers' Council was a party immediately before the commencement date.

6. The National Transport Commission is a substitute party to any contract or arrangement as applicable, entered into by or on behalf of the abolished Nigerian Shippers' Council and in force immediately before the commencement date. and

7. Any recourse, reference and or record of, to the abolished Nigerian Shippers' Council in any Act, Order In-Council, Rule, Regulation, Order, Agreement, Instrument, Deed, Documents and/or other Legislations, in so far as it relates to any period after the commencement date and if not inconsistent with the context or subject matter shall be construed as a reference to the National Transport Commission.

Allocation of Property Subject to Encumbrances

8. Unless an allocation statement under this schedule or under the transition plan otherwise provides, where under this schedule, property and rights vest in the National Transport Commission or liabilities become the liabilities of the Commission-

(a) the property and rights so vested shall be subject to the encumbrances (if any) to which they were subject immediately before so vesting; and

(b) the rights to which the abolished Nigerian Shippers' Council were entitled in respect of those liabilities immediately before they ceased to be liabilities of the abolished Nigerian Shippers' Council shall vest in the Commission.

Nigerian Shippers' Council Instrument

9. Each instrument relating to the abolished Nigerian Shippers' Council's property continues to have effect according to its tenure and after the commencement date as if a reference in the instrument to the abolished Nigerian Shippers' Council were a reference to the Commission.

Taxes

10. No duty or other tax is chargeable under any Act or in respect of anything done under this Bill or in respect of any Act or transaction entered into or an instrument made, executed, lodged or given for the purpose of or connected with the transfer of property, rights or liabilities of the Nigerian Shippers' Council.

Transfer of Employees of the abolished Nigerian Shippers' Council to the Commission and the terms of Employment under the Commission

11. Upon the commencement of this Bill, Staff of the abolished Nigerian Shippers' Council shall be deemed to be the Staff of the Commission.

12. A transferred employee is to be regarded as:

(a) being in continuous service in his new position with effect on and from the commencement date;

(b) having the same terms and conditions as those that apply to the person in relation to his employment with the defunct Nigerian Shippers' Council immediately before the commencement date;

(c) having accrued an entitlement to benefits in connection with the employment with the Commission that is equivalent to the entitlement that the person had accrued as an employee of the defunct Nigerian Shippers' Council, immediately before the commencement date;

(d) the service of transferred employee with the Commission is to be regarded for all purposes as having been continuous with the service of the transferred employee immediately before the commencement date as an employee of the defunct Nigerian Shippers' Council;

(e) no transferred employee of the defunct Nigerian Shippers' Council shall be made to enjoy rights and privileges that are less than the ones hitherto as enjoyed as employees of the Nigerian Shippers Council.

13. The superannuation entitlements of any person who is a transferred employee are deemed not to be affected by that person becoming a transferred employee; and

14. Nothing in this paragraph prevents:

(a) any of the terms and conditions of employment of a transferred employee from being altered by or under any law, award or agreement with effect from any time after the commencement date; or

(b) a transferred employee from resigning or being dismissed at any time after the commencement date in accordance with the existing terms and conditions of his employment with the Commission.

FOURTH SCHEDULE

Section 5

PRESCRIBED AGENCIES

For the purpose of this schedule, prescribed agencies means those agencies providing prescribed services in the regulated

transport industry in Nigeria within the meaning of section 26 of this Bill and shall include but not limited to the following Agencies:

(a) Nigerian Railway Authority (NRA);

(b) Federal Road Safety Commission (FRSC);

(c) Federal Roads Maintenance Agency (FERMA);

(d) Nigerian Ports Authority (NPA);

(e) National Inland Waterways Authority (NIWA); and

(f) Other Agencies providing transport service of whatsoever nature in the regulated transport industry in Nigeria.

EXPLANATORY MEMORANDUM

(This Memorandum does not form part of this Bill but is intended to explain its purport)

This Bill seeks to establish the National Transport Commission as an effective, impartial and independent regulatory authority in the transport sector, promote the implementation of the national transport policy and provide for an efficient economic and safety regulation of the transport sector, and for matters connected therewith.

THIS BILL WAS ADOPTED BY THE SENATE ON WEDNESDAY, 6TH JUNE, 2018