

# FACTSHEET

## Protection from Internet Falsehoods, Manipulations and Other Related Matters Bill, 2019 (SB 132)

**Sponsor:** Senator Mohammed Sani Musa (Niger: APC)

**Status :** Second reading (Passed second reading on 20th November, 2019)

### BILL SCOPE

- Individuals, organisations, internet service providers, technology companies, the Nigeria Communications Commission (NCC).
- False statements communicated to one or more end-users in Nigeria through the internet and on social media platforms such as Facebook and Twitter, as well as SMS and MMS.
- Criminal sanctions and penalties for false statements.
- The Police or any other law enforcement agency (depending on the specific provision) are empowered to order removal or corrections of false statements against public interest published online, and as well, direct NCC to order internet service providers to block access to online sites and accounts that transmit same.

### SUMMARY OF PROVISIONS OF THE BILL

#### Part 1- Aims and Objectives

- To prevent transmission of false statements/declaration of facts in Nigeria and enable measures to be taken to counter the effects of such transmission- clause 1(a)
- To suppress the financing, promotion and other support of online locations that repeatedly transmit false statements/declaration of facts- clause 1(b)
- To enable measures to be taken to detect, control and safeguard against uncoordinated inauthentic behaviour and other misuses of online accounts and bots- clause 1(c)
- To enable measures to be taken to enhance disclosure of information concerning paid content direct towards a political end- clause 1(d)
- To sanction offenders- clause 1(e)

## Part 2 - Prohibition of transmission of false declarations of fact

- Bill extends to deliberate acts by any person within or outside Nigeria to transmit certain statement of facts in Nigeria- clause 3(1)
- Prohibited statement of facts includes:
  - False statements of fact; and
  - Statements that are likely to:
    - be prejudicial to the country's security, public health, public safety, public tranquillity or finances- clause 3(1)(b)(ii)
    - prejudice to Nigeria's relations with other countries- clause 3(1)(b)(iii)
    - influence the outcome of an election or referendum- clause 3 (1)(b)(iv)
    - incite feelings of enmity, hatred towards a person, or ill will between a group of persons; or clause 3(1)(b)(v)
    - diminish public confidence in the performance or exercise of any duty, function or power by the government- clause 3(1)(b)(vi)
- *A declaration of fact is a declaration, which a reasonable person seeing , hearing or otherwise perceiving would consider it to be fact, while a declaration is considered false if it is false or misleading, wholly or in part, on its own or in the context in which it appears. A declaration is transmitted if it is disseminated via the internet, MMS or SMS.*
- **Other prohibited offences**
  - Making or altering bots for transmission or enabling another's transmission of false statements of fact- clause 4(1)
    - Penalty - Fine not exceeding N200,000 fine or 3 years imprisonment or both- clause 4(2)(a)
  - Soliciting, receiving or agreeing to receive any financial or material benefit as inducement or reward to provide services for transmission of false declaration of fact- clause 5(1)
    - Penalty - for individuals - Fine not exceeding N150,000 or 2 years imprisonment or both- clause 5(2)(a)
    - for others - Fine not exceeding N500,000- clause 5(2)(b)
- **Penalty for transmitting false declarations i.e. making it available to one or more end users**
  - For individuals - Fine not exceeding N300,000 or 3 years imprisonment or both- clause 5(3)(g)
  - For others - Fine not exceeding N10million – clause 5(3)(h)
  - The same penalties exist where an inauthentic account or robot is used to accelerate such transmission.

- **Exemptions** - Acts for the purpose of or incidental to the provision of:
  - an internet intermediary service,
  - a tele transmission service,
  - a service providing public internet access; or
  - a computing resource service ( service that provides the use of any computer hardware or software to enhance the processing capability or storage capacity of a computer.)- clause 5(4)

### Part 3 - Regulations dealing with transmission of false declaration of fact

- Provides for a law enforcement department (defined as the Police in the Bill) to issue what is referred to as a "Part 3 Regulation." This could be a "*correction regulation*" or a "*stop transmission regulation*" where a false declaration of fact has been or is being transmitted in Nigeria and the Police is of the opinion that it is in public interest to issue such regulation.
- A **Correction Regulation** is one issued to a person who has transmitted a declaration to issue a correction notice stating that a declaration made by them is false or to specify where the stated fact may be found. The person may also be required to publish the correction in a newspaper or printed publication- clause 7
- A **Stop Transmission Regulation**, just like the name implies, requires a person who transmitted a false declaration of fact to stop transmitting the subject by a specified time, to transmit a correction notice or publish such correction in the newspaper or other printed publication- clause 8
- A person transmitting a false declaration maybe issued any of these two regulations whether or not they knew or had reason to believe the statement was false. Such person is also to bear any costs associated with compliance with such regulation e.g. newspaper publication.
- An appeal to the High Court against the order may be made, but only after the applicant has applied to the Police for a variation or cancellation and said request was refused- clause 13(1) and (2)

#### **Penalty for non-compliance with a Part 3 Regulation**

- For individuals, a fine not exceeding N 200,000 or 12 months imprisonment or both- clause 11(1)(a)
- In any other case, a fine not exceeding N 5million – clause 11(1)(b)
- That the person was acting under any law, contract or rule of professional conduct is not a defence to a criminal charge for non-compliance with a correction or stop transmission order- clause 11(2)(a). Also, that the person has applied to the court to vary or cancel a regulation is not a defence to a criminal charge- clause 11(2)(b)

### ***Access blocking order***

- The Police may issue an access blocking order directing the Nigerian Communications Commission (NCC) to order an internet service provider(ISP) to disable access by end-users in Nigeria to an online location where a false declaration is being transmitted. This applies to cases where there has been failure by a person to comply with a regulation to correct or stop the transmission- clause 12(3)
- ISPs that fail to comply can face criminal charges and be subject to a fine of up to N10million- clause 12(4)

### **Part 4 - Regulations for internet intermediaries and providers of mass media services**

- Internet intermediary service here refers to any person who provides services that:
  - allow end users access materials originating from 3rd parties on or via the internet;
  - translates such materials to end users on/through the internet; or
  - displays to end-users, an index of search results which links to content hosted or stored at another location- clause 35
- They include social network services, search engines services, content aggregation services, internet-based messaging services; and video-sharing services.
- Part 4 makes provision for any law enforcement agency (not restricted to Police) who feels that it is in public interest, to issue a Part 4 Regulation to internet intermediaries, whose platform has been used to spread false statements. They include:
  - A **Targeted Correction Regulation** i.e. a correction notice issued through their service to all end-users who accessed the particular statement or subject material via their service- clause 17
  - A **Disabling Regulation**, which requires that the internet intermediary disables end-users' access to the content- clause 18 and;
  - A **General Correction Regulation** directed to a prescribed internet intermediary to transmit a correction notice via its intermediary internet service- clause 19
- ***Penalty for non-compliance***
  - For individuals - Fine not exceeding N 300,000 or 12 months imprisonment or both- clause 22 (1)(a)
  - For others - Fine not exceeding N 5million – clause 22 (1)(b)
- Access blocking order can also be issued for internet intermediaries that fail to comply with issued regulations. This involves the law enforcement agency directing NCC to order an ISP to disable access to the online location where the statement

was published. The provider can incur fines between N 1million and N 10million for failure to comply- clause 23(3). An aggrieved party may apply to the High Court for redress, but only after a request for variation or cancellation of the order to the law enforcement agency has first been made.

## Part 5 - Declaration of Online Locations

- Online locations where three or more different false statements have been transmitted, may be declared as a "declared online location" by the law enforcement agency (Police). This will require that the owner or operator of such online location informs its end-users that its platform is the subject of such declaration- clause 27
- **Penalty for non-compliance**
  - For individuals, a fine not exceeding N 500,000 or 3 months imprisonment or both-clause 27 (6)(a)
  - In any other case, a fine not exceeding N 5million – clause 27(6)(b)
- Access to the declared online location may also be suspended- clause 27(8)
- Restrictions are also placed on transmitting paid content or digital advertising on such platforms- clause 28, 29 and 32.
- The Police may make regulations necessary for implementing this law- clause 34

## SALIENT ISSUES RAISED BY THE BILL

- **Restricts the constitutional right to freedom of expression-** One of the core tenets of any democratic society is the ability of its citizens to speak freely and express oneself within the bounds of the law without fear of reprisals. This Bill by its content seeks to limit this right on undefined grounds such as "public health, public safety, public tranquility, friendly relations with other countries or its potential to influence the outcome of an election or diminish public confidence in the performance of any duty or function of the Government or State" without any further elaboration under the Bill nor its interpretation clause which is questionable. In addition while the Bill presents itself as solely targeting false statements of fact, this ambiguous language, can be construed to limit expressions containing opinions, criticisms, satires, and parodies, which are healthy to any democracy and in upholding the responsibility and accountability of Government to the people. In Nigeria, freedom of expression is protected under section 39 of the 1999 Constitution which provides limited circumstances for its abrogation.

Section 39 of the 1999 Constitution (as amended) is replicated below:

39. (1) *Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.*
- (2) *Without prejudice to the generality of subsection (1) of this section,*

*every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions: Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever.*

(3) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society –

*(a) for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or*

*(b) imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law.*

Beyond this, Nigeria is bound by International instruments such as Article 19 of the International Covenant on Civil and Political Rights (ICCPR) which affirms the right of every individual the freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of borders. This Bill seeks to limit this inalienable right and expand circumstances in which it may be abrogated.

- **Censorship-** Closely related to the first point is the potential for the closing down of space for expression. This Bill extends its application beyond individuals to "internet intermediary services" such as social network services, search engines services, content aggregation services, internet-based messaging services, and video-sharing services as well as tele-transmission services, computing resource services, technology companies and the Nigeria Communications Commission (NCC) among others. This limits the avenues through which individuals and organisations can express healthy criticism and opinion required in any democratic society and furthermore allows for executive overreach. Beyond this, it could have an impact on technology driven business emanating from Nigeria and outside the country with punitive measures being put in place for receiving financial or material benefit as an inducement or reward for providing a service that can be used for the transmission of false statements (Clause 5).
- **Prescribes offences already captured under existing law-** Scrutiny of the Bill and a further review of existing legislation show that key offences that the Bill seeks to curb are already identified in these existing legislation. These include:
  - **Transmission of false statements of fact** (Clause 3(1)(a) and clause 4(1)(a) - This is already covered by section 373 of the Criminal Code and section 289 of the Penal Code that deal with defamation.
  - *Transmission of statements likely to incite feelings of enmity, hatred directed at a*

*person or ill will between different groups* (Clause 3(1)(b)(v) and clause 4(3)(e) - This is captured under section 24 (b) and section 26 of the Cyber Crime Act 2015 that deals with cyberstalking and racist and xenophobic offences respectively.

Any attempts to further legislate on these issues could therefore be seen as superfluous.

- **Access to Justice**- The Bill provides that where the Police find that there is a false declaration of fact, it may issue a Regulation. This touches on an individual's right to a fair hearing as contained in section 36 of the 1999 Constitution. Considering that this Bill would be adding to the criminal jurisprudence in Nigeria, persons who feel that their rights have been violated ought to be given their day in Court before punitive action is taken. This is particularly so as a regulation in this instance is a punitive measure and since the first stage of recourse is not an independent, impartial system but the Police itself. The Bill only allows affected persons to seek judicial redress after first applying to the Police for a variance or cancellation of the order.

Under Clause 13 of the Bill, persons to whom a Part 3 Regulation applies (that is a **Correction Regulation** or a **Stop Transmission Regulation**) can appeal to the High Court only after first applying to the Law Enforcement Department to vary or cancel the Part 3 Regulation who must have refused the application in whole or part. This is a loophole that can easily be exploited to deny access to justice in an event that Law Enforcement **decide to remain silent** on an issue by **technically neither refusing the application in whole or in part**. The gravity of this situation is further exacerbated by the absence of a time frame for law enforcement to vary or cancel an application under the Bill.

The same principle is applicable to persons whom a Part 4 Regulation applies (that is a **Targeted Correction Regulation, a Disabling Regulation** or a **General Correction Regulation**) as they are prevented from appealing to the High Court without first applying to the Law Enforcement Department to vary or cancel the Part 4 Regulations in whole or in part.

The "infallibility" of a Part 3 and Part 4 Regulation is also highlighted under clauses 13(6), 15(3), 24(7) which stress its continued enforceability regardless of whether an application to Law Enforcement/the Courts has been made for a variation/cancellation.

It is noteworthy that the contents of clause 13(7) and 24(8) only allow the Regulation to be stayed pending the determination of an appeal in the event where there is a prima facie case that it is technically impossible to comply with a Part 3 or Part 4 Regulation. While providing a very limited ground for staying the Regulation, it is our observation that the Bill is silent on what constitutes a "technical impossibility". Furthermore, our adversarial court system is not designed for swift action which could lead to a sustained violation of an individual's right.

- **Extra-territorial jurisdiction**- Several provisions of the Bill are extra-territorial in principle as they are applicable to persons irrespective of whether they are within or outside Nigeria. This is in conflict with Nigeria's obligations under Article 19 of ICCPR highlighted above and could violate the rights of persons who are not subject to Nigerian Law. These provisions include **clause 3** (prohibiting the transmission of false



statements of facts by a person), **clause 4** (making or altering a bot for the purposes of transmitting a false statement or enabling another person to transmit by means of the bot a false statement), **clause 5** (soliciting or receiving or agreeing to receive a financial or material benefit for transmitting false statements of facts in Nigeria, **the Part 3 Regulation** (clause 9) and **Part 4 Regulation** (clause 20(2)) that can be issued by the Law Enforcement Department to defaulters of the law irrespective of their country of residence.

This could be problematic as it is a basic principle of law that legislation should be implementable. How then with respect to a State's power of sovereignty, is it possible for Nigeria to enforce these provisions in the absence of a bi-lateral agreement with the country where the person resides? This should be re-examined in view of its perfunctory nature.

- **Interpretation of "False Statement of Fact"**- The Bill makes several references to a "false statement of fact", which is neither explained nor defined. This then means that the spectrum for considering what falls under this umbrella is wide and could make it difficult for an individual or organization to know if they have contravened the provisions of this Bill. It however states that declaration of fact "is a declaration which a reasonable person seeing, hearing or otherwise perceiving it would consider a representation of fact". By this definition, the reasonable person test as applied could be problematic. It raises the question of who indeed is a reasonable person in this context and raises the possibility that a real fact could be identified as false on the basis that it is not apparent to a reasonable person.
- **Punitive Financial Measures**- The Bill places the financial costs of complying with a Regulation on the person who is issued a Part 4 Regulation (clause 20(5)) or against the author of a false declaration, (clause 20 (6)). It is also silent on the event where issuing the Regulation maliciously or negligently causes financial/ other costs to an individual, internet intermediary service, a declared online location/ digital advertising intermediary or any other case.
- **The Police as Enforcer**- The Bill puts forward the Nigeria Police Force as the institution in charge of implementing this law. It gives the Police arbitrary powers to decide what constitutes false statements and the medium for their regulation. With the Police, being representative of government, this contradicts one of the principles of natural justice that no one should be a judge in his own case (*nemo iudex in causa sua*). Furthermore, it is widely acknowledged that the Nigeria Police Force is bedeviled with numerous issues regarding its operations, management and adherence to human rights principles. With these in view, giving additional powers to the Police may be putting further stress on an already burdened system.

## CONCLUSION

The Bill has huge ramifications that could threaten the fabric of Nigeria's democracy and the achievement of its outlined fundamental objectives that are aided by the deployment of technology such as social media tools which facilitate citizen participation and engagement with their elected representatives in the 21st century. This law would be a threat to human



rights and legislates on existing issues that law already covers. Legislation that should be passed by the National Assembly should work in furtherance of fundamental rights and not as a tool to limit the remits of the said rights. It could lead to the repression of freedom of expression in a democratic setting; creating an ascendancy of the government as the only source of information.

PLAC is urging the Committee on Judiciary, Human Rights and Legal matters to discountenance the Protection from Internet Falsehoods, Manipulations and other Related Matters Bill (SB.132) in light of its threat to constitutionally recognised freedoms.

[SB. 132]

C 769

**A BILL**

**FOR**

AN ACT TO MAKE PROVISIONS FOR THE PROTECTION FROM INTERNET FALSEHOODS AND MANIPULATIONS AND FOR RELATED MATTERS

*Sponsored by Senator Muhammad Sani Musa*

[ ] - Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

PART 1 - AIMS, OBJECTIVES AND APPLICATION

- 1           1. The Aims and objectives of this Act:
- 2           (a) to prevent the transmission of false statements/declaration of
- 3 facts in Nigeria and to enable measures to be taken to counter the effects of
- 4 such transmission;
- 5           (b) to suppress the financing, promotion and other support of
- 6 online locations that repeatedly transmit false statements/declaration of
- 7 facts in Nigeria;
- 8           (c) to enable measures to be taken to detect, control and safeguard
- 9 against coordinated inauthentic behaviour and other misuses of online
- 10 accounts and bots;
- 11           (d) to enable measures to be taken to enhance disclosure of
- 12 information concerning paid content directed towards a political end; and
- 13           (e) to sanction offenders.

Aims and Objectives

- 14           2. The provisions of this Act shall apply throughout the Federal
- 15 Republic of Nigeria

Application

PART 2 - PROHIBITION OF TRANSMISSION OF FALSE STATEMENTS OF FACT

- 18           3.-(1) A person must not do any act in or outside Nigeria in order to
- 19 transmit in Nigeria a statements knowing or having reason to believe that-
- 20           (a) it is a false statements of fact; and

Transmission of false statements of fact

- 1 (b) the transmission of the statements in Nigeria is likely to-
- 2 (i) be prejudicial to the security of Nigeria or any part of Nigeria;
- 3 (ii) be prejudicial to public health, public safety, public tranquility or
- 4 public finances;
- 5 (iii) be prejudicial to the friendly relations of Nigeria with other
- 6 countries;
- 7 (iv) influence the outcome of an election to any office in a general
- 8 election or a referendum;
- 9 (v) incite feelings of enmity, hatred directed to a person or ill will
- 10 between different groups of persons; or
- 11 (vi) diminish public confidence in the performance of any duty or
- 12 function of, or in the exercise of any power by the Government.
- 13 (2) Subject to sub Clause (3), a person who contravenes sub Clause
- 14 (1) shall be guilty of an offence and shall be liable on conviction-
- 15 (a) in the case of an individual, to a fine not exceeding N300,000 or to
- 16 imprisonment for a term not exceeding 3 years or to both; or
- 17 (b) in any other case, to a fine not exceeding N10 Million.
- 18 (3) Where an inauthentic online account or a bot is used-
- 19 (a) to transmit in Nigeria the statements mentioned in sub Clause (1);
- 20 and
- 21 (b) for the purpose of accelerating such transmission, the who person
- 22 is guilty of an offence under that sub Clause shall be liable on conviction-
- 23 (c) in the case of an individual, to a fine not exceeding N300,000 or to
- 24 imprisonment for a term not exceeding 3 years or to both; or
- 25 (d) in any other case, to a fine not exceeding N10 Million.
- 26 (4) Sub Clause (1) does not apply to the doing of any act for the
- 27 purpose of, or that is incidental to, the provision of-
- 28 (a) an internet intermediary service;
- 29 (b) a teletransmission service;
- 30 (c) a service of giving the public access to the internet; or

1 (d) a computing resource service.

2 4.-(1) A person must not, whether in or outside Nigeria, make or  
3 alter a bot with the intention of-

4 (a) transmitting, by means of the bot, a false statements of fact in  
5 Nigeria; or

6 (b) enabling any other person to transmit, by means of the bot, a  
7 false statements of fact in Nigeria.

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

10 (a) in the case of an individual, to a fine not exceeding N200,000 or  
11 to imprisonment for a term not exceeding 3 years or to both; or

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

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

15 (a) be prejudicial to the security of Nigeria or any part of Nigeria;

16 (b) be prejudicial to public health, public safety, public tranquility  
17 or public finances;

18 (c) be prejudicial to the friendly relations of Nigeria with other  
19 countries;

20 (d) influence the outcome of an election to the office of President, a  
21 general election of Members of Parliament, a by election of a Member of  
22 Parliament, or a referendum;

23 (e) incite feelings of enmity, hatred towards a person or ill will  
24 between different groups of persons; or

25 (f) diminish public confidence in the performance of any duty or  
26 function of, or in the exercise of any power by the Government, an Organ of  
27 State, a statutory board, or a part of the Government, an Organ of State or a  
28 statutory board, the person who is guilty of an offence under that sub Clause  
29 shall be liable on conviction-

30 (g) in the case of an individual, to a fine not exceeding N300,000 or

Making or  
altering  
bots for  
transmission of  
false statements  
of fact



Providing services  
for transmission  
of false statements  
of facts in  
Nigeria

1 to imprisonment for a term not exceeding 3 years or to both; or

2 5.-(1) A person who, whether in or outside Nigeria, solicits, receives  
3 or agrees to receive any financial or other material benefit as an inducement or  
4 reward for providing any service, knowing that the service is or will be used in  
5 the transmission of one or more false statements of fact in Nigeria, shall be  
6 guilty of an offence if the service is in fact used in such transmission.

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

9 (a) in the case of any individual, to a fine not exceeding N150,000 or  
10 to imprisonment for a term not exceeding 2 years or to both; or

11 (b) in any other case, to a fine not exceeding N500,000.

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

14 (a) be prejudicial to the security of Nigeria or any part of Nigeria;

15 (b) be prejudicial to public health, public safety, public tranquility or  
16 public finances;

17 (c) be prejudicial to the friendly relations of Nigeria with other  
18 countries;

19 (d) influence the outcome of any election to any office in a general  
20 election in Nigeria;

21 (e) incite feelings of enmity, hatred towards a person or ill will  
22 between different groups of persons; or

23 (f) diminish public confidence in the performance of any duty or  
24 function of, or in the exercise of any power by the Government, an Organ of  
25 State, a statutory board, or a part of the Government, an Organ of State or a  
26 statutory board, the person who is guilty of an offence under that sub Clause  
27 shall be liable on conviction;

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

30 (h) in any other case, to a fine not exceeding N10 Million.

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

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

7 (5) Where the Court convicts a person of an offence under sub  
8 Clause (1) the Court must in addition to imposing the punishment in Sub  
9 Clause or (3) order the person to pay as penalty, a sum equal to the amount of  
10 any financial or material benefit received or in the opinion of the Court the  
11 value of such financial or material benefit.

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

14 (7) Where-

15 (a) a person charged with 2 or more offences under sub Clause (1)  
16 is convicted of one or more of those offences; and

17 (b) the other outstanding offences are taken into consideration by  
18 the Court, the Court may increase the penalty mentioned in sub Clause (5) by  
19 an amount not exceeding the total amount or value of the financial or other  
20 material benefit received for the offences so taken into consideration.

21 PART 3 - REGULATIONS DEALING WITH TRANSMISSION IN NIGERIA OF  
22 FALSE DECLARATIONS OF FACT

23 6.-(1) The Law Enforcement Department may issue a Part 3  
24 Regulation in the event of the following-

25 (a) that a false DECLARATION of fact (called in this Part the  
26 subject (DECLARATION) has been or is being transmitted in Nigeria;

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

29 (3) The Law Enforcement Department shall issue a Part 3  
30 Regulation in relation to the subject DECLARATION even if it has been

Conditions for  
issuance of Part  
3 Regulations

Correction  
Regulation

1 amended or has ceased to be transmitted in Nigeria.

2 7.-(1) A Correction Regulation is one issued to a person who  
3 transmitted the subject DECLARATION in Nigeria, requiring the person to  
4 transmit in Nigeria in the specified form and manner, to a specified person or  
5 description of persons (if any), and by the specified time, a notice (called in this  
6 Part a correction notice) that contains one or both of the following:

7 (a) a DECLARATION, in such terms as may be specified, that the  
8 subject DECLARATION is false, or that the specified material contains a false  
9 DECLARATION of fact;

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

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

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

16 (a) to transmit in Nigeria the correction notice by placing it in the  
17 specified proximity to every copy of the following that is transmitted by the  
18 person in Nigeria:

19 (i) the false DECLARATION of fact;

20 (ii) a substantially similar DECLARATION;

21 (b) to publish the correction notice in the specified manner in a  
22 specified newspaper or other printed publication of Nigeria.

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

26 (5) In this Clause-

27 (a) "specified" means specified in the Correction Regulation; and

28 (b) a person does not transmit a DECLARATION in Nigeria merely  
29 by doing any act for the purpose of, or that is incidental to, the provision of-

30 (i) an internet intermediary service;



- 1 (ii) a teletransmission service;
- 2 (iii) a service of giving the public access to the internet; or
- 3 (iv) a computing resource service.

4 8.-(1) A Stop Transmission Regulation is one issued to a person  
5 who transmitted the subject DECLARATION in Nigeria, requiring the  
6 person to stop transmitting in Nigeria the subject DECLARATION by the  
7 specified time.

Stop Transmiss  
Regulation

8 (2) A Stop Transmission Regulation may also require the person to  
9 whom it is ~~is~~

10 (3) issued to stop transmitting any DECLARATION that is  
11 substantially similar to the subject DECLARATION.

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

14 (a) to transmit in Nigeria a correction notice in the specified form  
15 and manner, to a specified person or description of persons (if any), and  
16 by the specified time;

17 (b) to publish a correction notice in the specified manner in a  
18 specified newspaper or other printed publication of Nigeria.

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

22 (5) In this Clause-

23 (a) "specified" means specified in the Stop Transmission  
24 Regulation;

25 (b) "stop transmitting", in relation to a DECLARATION, means  
26 taking the necessary steps to ensure that the DECLARATION is no longer  
27 available on or through the internet to end users in Nigeria, including (if  
28 necessary) the removal of the DECLARATION from an online location; and

29 (c) a person does not transmit a DECLARATION in Nigeria  
30 merely by doing any act for the purpose of, or that is incidental to, the

1 provision of-

2 (i) an internet intermediary service;

3 (ii) a teletransmission service;

4 (iii) a service of giving the public access to the internet; or

5 (iv) a computing resource service.

Provisions  
applicable to all  
Part 3 Regulation

6 9.-(1) A Part 3 Regulation may be issued to a person whether the  
7 person is in or outside Nigeria.

8 (2) A Part 3 Regulation may require the person to whom it is issued to  
9 do an Act in or outside Nigeria.

10 (3) A Part 3 Regulation must identify the subject DECLARATION in  
11 sufficient detail.

12 (4) A Part 3 Regulation must comply with such form, manner and  
13 *order* other as may be prescribed (if any), and for this purpose different requirements  
14 may be prescribed for-

15 (a) different Regulation;

16 (b) different parts of a Regulation;

17 (c) different persons or descriptions of persons to whom a Regulation  
18 is to be issued; and

19 (d) different circumstances under which a Regulation is to be issued.

20 (5) A Part 3 Regulation remains in effect until the date it expires (if  
21 any), or it is set aside under Clause 15 or cancelled under Clause 17.

22 (6) A person issued a Part 3 Regulation is responsible for the costs of  
23 complying with the Regulation.

Service of Part  
3 Regulation

24 10. A Part 3 Regulation may be served by such means (including  
25 electronic means) as may be prescribed-

26 (a) on the person to whom it is issued; or

27 (b) on a person in Nigeria that the person to whom the Part 3  
28 Regulation is issued has appointed to accept service on the person's behalf.

Non-compliance  
with Part 3  
Regulation an  
offence

29 11.-(1) A person to whom a Part 3 Regulation is issued and served and  
30 who, without reasonable excuse, fails to comply with the Regulation whether

1 in or outside Nigeria, shall be guilty of an offence and shall be liable on  
2 conviction-

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

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

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

7 (a) the person is subject to a duty under any written law, any rule of  
8 law, any contract or any rule of professional conduct, that prevents the  
9 person from complying with any part of a Part 3 Regulation or restricts the  
10 person in such compliance; or

11 (b) The person has applied under Clause 19 to vary or cancel the  
12 Part 3 Regulation or has appealed to the High Court against the Regulation.

13 (2) No civil or criminal liability is incurred by the person or an  
14 officer, employee or agent of the person, for doing or omitting to do any act,  
15 if the act is done or omitted to be done with reasonable care and in good faith  
16 and for the purpose of complying with or giving effect to the Part 3  
17 Regulation.

18 12.-(1) This Clause applies where-

19 (a) a person fails to comply with a Part 3 Regulation;

20 (b) the subject DECLARATION is being transmitted in Nigeria by  
21 the person on an online location; and

22 (c) the Law Enforcement Department is satisfied that one or more  
23 end users in Nigeria have used or are using the services of an internet access  
24 service provider to access that online location.

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

30 (4) An internet access service provider that does not comply with

Access Blocking  
Order



1 any access blocking order shall be guilty of an offence and shall be liable on  
2 conviction to a fine not exceeding N10 Million for each day during any part of  
3 which that order is not fully complied with, up to a total of N5 Million.

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

Appeals to the  
High Court

8 13.-(1) A person to whom a Part 3 Regulation is issued may appeal to  
9 the High Court against the Regulation.

10 (2) No appeal may be made to the High Court by any person unless  
11 the person has first applied to the Law Enforcement Department to vary or  
12 cancel the Part 3 Regulation and the Law Enforcement Department refused the  
13 application whether in whole or in part.

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

16 (4) The High Court must hear and determine any such appeal and may  
17 either confirm the Part 3 Regulation or set it aside.

18 (5) The High Court may only set aside a Part 3 Regulation on any of  
19 the following grounds on an appeal:

20 (a) the person did not transmit in Nigeria the subject  
21 DECLARATION;

22 (b) the subject DECLARATION is not a DECLARATION of fact, or  
23 is a true DECLARATION of fact;

24 (c) it is not technically possible to comply with the Regulation.

25 (6) A Part 3 Regulation that is the subject of an appeal under sub  
26 Clause (1) remains in effect despite the appeal, and only ceases to have effect if  
27 it is set aside by the High Court or the Court of Appeal on appeal from the High  
28 Court, or if it expires or is cancelled by the Law Enforcement Department.

29 (7) In spite of sub Clause (6), if the appellant establishes a prima facie  
30 case that it is technically impossible to comply with the Part 3 Regulation, the

1 High Court may direct that the Regulation be stayed pending determination  
2 of the appeal.

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

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

Other causes of  
action not affected

13 15.-(1) The Law Enforcement Department may vary or cancel the  
14 Part 3 Regulation, by serving a written notice on the person to whom the  
15 Regulation is issued.

Variation or  
cancellation of  
Part 3 Regulation

16 (2) The Law Enforcement Department may vary or cancel the Part  
17 3 Regulation under sub Clause (1)-

18 (a) on the Law Enforcement Department's own initiative provided  
19 there is overwhelming sufficing evidence necessitating this variation or  
20 cancellation;

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

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

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

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

1 PART 4 - REGULATION FOR INTERNET INTERMEDIARIES AND PROVIDERS  
2 OF MASS MEDIA SERVICES

Conditions for  
issue of Part 4  
Regulation

3 16.-(1) Any Law Enforcement Department may issue a Part 4  
4 Regulation if all of the following conditions are satisfied:

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

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

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

Targeted  
Correction  
Regulation

13 17.-(1) A Targeted Correction Regulation is one issued to the internet  
14 intermediary that provided the internet intermediary service by means of which  
15 the subject material has been or is being transmitted in Nigeria, requiring it to  
16 transmit by means of that service to all end users in Nigeria who access the  
17 subject material by means of that service at any time after a specified time, a  
18 notice (called in this Part a correction notice) that contains one or both of the  
19 following:

20 (a) a DECLARATION, in such terms as may be specified, that the  
21 subject DECLARATION is false, or that the subject material contains or  
22 consists of a false DECLARATION of fact;

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

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

28 (a) transmit the correction notice by means of the internet  
29 intermediary service to all end users in Nigeria who access identical copies of



1 the subject material by means of that service at any time after the specified  
2 time;

3 (b) transmit the correction notice by any means and by a specified  
4 time, to all end users in Nigeria that it knows had accessed the subject  
5 material or identical copies of the subject material (or both) by means of that  
6 service at any time before the specified time mentioned in sub Clause (1);

7 (c) if the internet intermediary disables access by end users in  
8 Nigeria to the subject material at any time after the Regulation is issued and  
9 before it expires or is set aside or cancelled,  
10 transmit the correction notice by means of the internet intermediary service  
11 to a specified description of end users in Nigeria.

12 (3) In this Clause-

13 (a) "specified" means specified in the Targeted Correction  
14 Regulation; and

15 (b) an end user who accesses a part of any material is taken to  
16 access the material.

17 18.-(1) A Disabling Regulation is one issued to the internet  
18 intermediary that provided the internet intermediary service by means of  
19 which the subject material has been or is being transmitted in Nigeria,  
20 requiring it to disable access by end users in Nigeria to the subject material  
21 provided on or through the service that consists of or contains the subject  
22 DECLARATION, by the specified time.

Disabling  
Regulation

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

26 (a) to disable access by end users of the service in Nigeria to  
27 identical copies of the subject material provided on or through the internet  
28 intermediary service;

29 (b) to transmit a correction notice by any means to a specified  
30 description of end users in Nigeria.



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

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

7 ~~(5)~~ (5) In this Clause-

8 (a) "specified" means specified in the Disabling Regulation; and

9 (b) an end user who accesses a part of any material is taken to access  
10 the material.

General  
Correction  
Regulation

11 19.-(1) A General Correction Regulation is one issued to one of the  
12 following persons to carry out an act mentioned in sub Clause (2):

13 (a) a prescribed internet intermediary;

14 (b) such other person as may be prescribed.

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

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

20 (b) if the Regulation is issued to a person mentioned in sub Clause  
21 (1)(b), to give a correction notice to a specified person or description of  
22 persons, by the specified means ~~and~~ <sup>at</sup> by the specified time.

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

Provision  
applicable to all  
Part 4 Regulations  
and Remedial  
Orders

25 20.-(1) A Part 4 Regulation or Remedial Order may be issued to a  
26 person whether the person is in or outside Nigeria.

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

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

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

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

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

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

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

Service of Part  
4 Regulation and  
Remedial Orders

17 (a) on the person to whom it is issued; or

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

21 22.-(1) A person to whom a Part 4 Regulation or Remedial Order is  
22 issued and served and who, without reasonable excuse, fails to comply with  
23 the Regulation or Order whether in or outside Nigeria, shall be guilty of an  
24 offence and shall be liable on conviction-

Non-compliance  
with Part 4  
Regulation or  
Remedial Order  
an offence

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

27 (b) in any other case, to a fine not exceeding N5 Million, and, in the  
28 case of a continuing offence, to a further fine not exceeding N10 Million for  
29 every day or part of a day during which the offence continues after.

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

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

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

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

12 (4) In determining whether a person charged with an offence under  
13 sub Clause (1) has a reasonable excuse for failing to comply with a Part  
14 4 Regulation or Remedial Order, the court must consider-

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

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

19 © any other relevant factor.

Access locking  
Order

20 23.-(1) this clause applies where-

21 (a) a person that is an internet intermediary fails to comply with a Part  
22 4 Regulation or Remedial Order;

23 (b) the subject material is being transmitted in Nigeria on an online  
24 location; and

25 (c) the Law Enforcement Department is satisfied that one or more end  
26 users in Nigeria have used or are using the services of an internet access service  
27 provider to access that online location.

28 (2) Law Enforcement Department may direct the NCC to order the  
29 internet access service provider to take reasonable steps to disable access by  
30 end users in Nigeria to the online location (called in this Clause an access



1 blocking order), and the NCC must give the internet access service provider  
2 an access blocking order.

3 (3) An internet access service provider that does not comply with  
4 an access blocking order shall be guilty of an offence and shall be liable on  
5 conviction to a fine not exceeding N1 Million for each day during any part of  
6 which that order is not fully complied with, up to a total of N10 Million.

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

11 24.-(1) The following persons may appeal to the High Court  
12 against any Part 4 Regulation: Appeals to High  
Court

13 (a) the person to whom the Regulation is issued;

14 (b) a person who transmitted in Nigeria the subject material.

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

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

20 (4) The High Court must hear and determine any such appeal and  
21 may either confirm the Part 4 Regulation or set it aside.

22 (5) The High Court may only set aside a Part 4 Regulation on any of  
23 the following grounds on an appeal by the person to whom the Regulation is  
24 issued:

25 (a) in the case of a Targeted Correction Regulation or a Disabling  
26 Regulation; the subject material was not transmitted in Nigeria, or was not  
27 transmitted in Nigeria by means of any internet intermediary service  
28 provided by the person;

29 (b) the subject DECLARATION is not a DECLARATION of fact,  
30 or is a true DECLARATION of fact;

1 (c) it is not technically possible to comply with the Regulation.

2 (6) The High Court may only set aside a Part 4 Regulation on an  
3 appeal by a person who transmitted in Nigeria the subject material, on the  
4 ground that the subject <sup>DECLARATION</sup>DECLARATION is not a DECLARATION of fact, or is  
5 a <sup>DECLARATION</sup>tru<sup>of</sup> fact.

6 (7) A Part 4 Regulation that is the subject of an appeal under sub  
7 Clause (1) remains in effect despite the appeal, and only ceases to have effect if  
8 it is set <sup>aside</sup>aside by the High Court or the Court of Appeal on appeal from the High  
9 Court, or if it expires or is cancelled.

10 (8) If the appellant (being the person to whom the Part 4 Regulation is  
11 issued) establishes a prima facie case that it is technically impossible to comply  
12 with the Part 4 Regulation, the High Court may direct that the Regulation be  
13 stayed pending determination of the appeal.

14 (9) There is such further right of appeal from a decision of the High  
15 Court under this Clause as exists in the case of a decision made by that Court in  
16 the exercise of its original civil jurisdiction.

17 (10) Rules of Court may provide for the manner in which and the time  
18 within which an appeal under sub Clause (1) may be made and the procedure  
19 for an application to stay a Part 4 Regulation appealed against.

Other causes of  
action not affected

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

Variation or  
cancellation of  
Part 4 Regulation  
or Remedial  
Order

26 26.-(1) The Law Enforcement Department may at any time vary or  
27 cancel the Part 4 Regulation or Remedial Order, by serving a written notice on  
28 the Person to whom the Regulation or Order is issued.

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

1 (a) on the Law Enforcement Department's own initiative provided  
2 there is a prima facie reason necessitating this variation or cancellation; or

3 (b) on an application by-

4 (i) the person to whom the Regulation or Order is issued; or

5 (ii) a person who transmitted in Nigeria the subject material.

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

9 PART 5 - DECLARATION OF ONLINE LOCATIONS

10 27.-(1) The Law Enforcement Department may declare an online  
11 location as DECLARED online location if all of the following conditions  
12 are satisfied:

Declared Online  
Locations

13 (a) 3 or more different DECLARATIONS that are the subject of one  
14 or more active Part 3 regulation or Part 4 regulation, or both, have been or are  
15 being transmitted in Nigeria on the online location;

16 (b) at least 3 of those DECLARATIONS had first been transmitted  
17 in Nigeria on the online location within 6 months before the date the  
18 DECLARATION is made.

19 (2) For the purpose of sub Clause (1)(a), a DECLARATION is  
20 different from another if it is different in a material particular from that other  
21 DECLARATION.

22 (3) A DECLARATION-

23 (a) must contain the Universal Resource Locator (URL), domain  
24 name, or any other unique identifier of the online location;

25 (b) must reproduce the relevant regulation;

26 (c) must state the date the DECLARATION comes into effect;

27 (d) must state the date of the DECLARATION's expiry or a  
28 formula by which that date may be worked out, which must not be later than  
29 2 years after the date in paragraph (c);

30 (e) may state the time on that date the DECLARATION is to expire



1 or a formula by which that time may be worked out;

2 (f) may require the owner or operator of the online location  
3 DECLARATION (whether or not he or she is in or outside Nigeria) to transmit  
4 in the specified manner in Nigeria to end user who accesses the online location,  
5 a notice in the specified terms that the online location is the subject of a  
6 DECLARATION; and

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

8 (4) A DECLARATION expires-

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

11 (b) on the date it is cancelled or set aside, whichever is earlier.

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

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

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

17 and

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

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

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

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

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

28 (7) It is a defence to a charge under sub Clause (6) for the accused to  
29 prove that the accused did not know and had no reason to believe that a  
30 DECLARATION was made in relation to the online location.



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

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

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

7 (b) on an application by-

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

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

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

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

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

16 (i) For the purposes of sub Clause (1)-

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

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

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

24 (ii) a sub directory of a website,

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

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

1 online location.

Access Blocking  
Order 2 28.-(1) This Clause applies where-

3 (a) <sup>transmitted</sup> paid content included on a DECLARED online location is  
4 transmit in Nigeria after a prescribed period starting on the date the  
5 DECLARATION concerned came into effect; and

6 (b) the Law Enforcement Department is satisfied that after the date  
7 the DECLARATION came into effect, one or more end users in Nigeria have  
8 used or are using the services of an internet access service provider to access  
9 the DECLARED online location.

10 (2) This Clause also applies where-

11 (a) the owner or operator of a DECLARED online location did not  
12 comply with a requirement mentioned in Clause 27(3)(f) that is specified in the  
13 DECLARATION concerned; and

14 (b) the Law Enforcement Department is satisfied that after the date  
15 the DECLARATION came into effect, one or more end users in Nigeria have  
16 used or are using the services of an internet access service provider to access  
17 the DECLARED online location.

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

23 (4) An internet access service provider that fails to comply with an  
24 access blocking order shall be guilty of an offence and shall be liable on  
25 conviction to a fine not exceeding <sup>\*</sup>Million for each day during any part of  
26 which that order is not fully complied with, up to a total of N10 Million.

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

1                   29.-(1) This Clause applies where-

2                   (a) paid content included on a DECLARED online location is  
3 transmitted in Nigeria after a prescribed period starting on the date the  
4 DECLARATION concerned came into effect;

Order to internet  
intermediary to  
disable access  
to declared online  
location

5                   (b) the Law Enforcement Department is satisfied that after the date  
6 the DECLARATION came into effect, one or more end users in Nigeria  
7 have used or are using the services of an internet intermediary to access the  
8 DECLARED online location; and

9                   (c) the internet intermediary has control over access by end users in  
10 any place to the DECLARED online location.

11                   (2) This Clause also applies where:

12                   (a) the owner or operator of a DECLARED online location did not  
13 comply with a requirement that is specified in the DECLARATION  
14 concerned;

15                   (b) the Law Enforcement Department is satisfied that after the date  
16 the DECLARATION came into effect, one or more end users in Nigeria  
17 have used or are using the services of an internet intermediary to access the  
18 DECLARED online location; and

19                   (c) the internet intermediary has control over access by end users  
20 in any place to the DECLARED online location.

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

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

28                   (6) An internet intermediary that fails to comply with an order of  
29 the Competent Authority under sub Clause (3) whether in or outside Nigeria,  
30 shall be guilty of an offence and shall be liable on conviction to a fine not

1 exceeding N1Million for each day during any part of which that order is not  
2 fully complied with, up to a total of N10 Million.

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

Appeals to  
High Court

7 30.-(1) The following persons may appeal to the high court against a  
8 DECLARATION:

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

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

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

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

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

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

26 (8) There is such further right of appeal from a decision of the High  
27 Court under this Clause as exists in the case of a decision made by that Court in  
28 the exercise of its original civil jurisdiction.

29 (9) Rules of Court may provide for the manner in which and the time  
30 within which an appeal under sub Clause (1) may be made.



1           31.-(1) A person who, whether in or outside Nigeria, solicits,  
2 receives or agrees to receive any financial or other material benefit as an  
3 inducement or reward for operating a DECLARED online location shall be  
4 guilty of an offence and shall be liable on conviction:

Deriving benefit  
from operating  
Declared Online  
Location

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

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

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

11           (a) any consideration for the sale of advertising space on the online  
12 location; or

13           (b) any consideration for access to any part of the online location.

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

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

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

26           32.-(1) A service provider must take reasonable steps (both in and  
27 Outside Nigeria) to ensure that after a prescribed period starting on the date  
28 the DECLARATION comes into effect, any paid content that it includes or  
29 causes to be included on a DECLARED online location is not transmitted in  
30 Nigeria on the DECLARED online location.

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

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

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

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

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

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

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

21 (6) In any proceeding for an offence under sub Clause (1), (2) or (3), it  
22 is; not a defense for the accused to show that:

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

25 (b) the paid content was transmitted in Nigeria by its inclusion on any  
26 online location through an automatic process without the accused choosing  
27 where the paid content is transmitted, except as an automatic response to the  
28 request of a person.

Prohibition on  
providing financial  
support to Declared  
Online Locations

29 33.-(1) A person must not, whether in or outside Nigeria, expend or  
30 apply any property knowing or having reason to believe that the expenditure or

1 application supports, helps or promotes the transmission of false declaration  
2 of fact in Nigeria on a Declared Online Location.

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

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

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

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

11 (4) In this Clause, "property" means money and all other property,  
12 movable or immovable, including things in action and other intangible or  
13 incorporeal property.

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

17 35. In this Act, unless the context otherwise requires- Interpretation

18 "Law Enforcement Department" means a The Nigeria Police Force;

19 "bot" means a computer program made or altered for the purpose of running  
20 automated tasks;

21 "computing resource service" means a service that provides the use of any  
22 computer hardware or software to enhance the processing capability or  
23 storage capacity of a computer;

24 "coordinated inauthentic behaviour" means any coordinated activity carried  
25 out using 2 or more online accounts, in order to mislead end users in Nigeria  
26 of any internet intermediary service as to any matter, but excludes any  
27 activity carried out using online accounts-

28 (a) that are controlled by the same person; and

29 (b) none of which is an inauthentic online account or is controlled  
30 by a bot;



- 1 Correction Regulation" means a Regulation issued under Clause 7;
- 2 "DECLARATION" means a DECLARATION made under Clause 27;
- 3 "DECLARED online location" means an online location that is the subject of a
- 4 DECLARATION that is in effect;
- 5 "digital advertising intermediary" means any person who, in the ordinary
- 6 course of business, facilitates the transmission of paid content in any place by
- 7 acting as the link or part of the link between-
- 8 (a) the owners or operators of online locations; and
- 9 (b) advertisers and service providers, by means of an internet based
- 10 service;

11 *Examples*

- 12 Examples of digital advertising intermediaries are persons who provide any of
- 13 the following by means of an internet based service:
- 14 (a) advertising exchange;
- 15 (b) demand side platform;
- 16 (c) supply side platform.
- 17 "Disabling Regulation" means a Regulation issued under Clause 18;
- 18 "General Correction Regulation" means a Regulation issued under Clause 19;
- 19 "NCC" means the Nigerian Communications Commission established by the
- 20 Nigerian Communications Commission Act 2003;
- 21 "inauthentic online account" means an online account that is controlled by a
- 22 person other than the person represented (whether by its user profile, unique
- 23 identifier or other information) as its holder, and the representation is made for
- 24 the purpose of misleading end users in Nigeria of any internet intermediary
- 25 service as to the holder's identity;
- 26 "internet intermediary" means a person who provides any internet
- 27 intermediary service;
- 28 "internet intermediary service" means-
- 29 (a) a service that allows end users to access materials originating from
- 30 third parties on or through the internet;

1 (b) a service of transmitting such materials to end users on or  
2 through the internet; or

3 (c) a service of displaying, to an end user who uses the service to  
4 make an online search, an index of search results, each of which links that  
5 end user to content hosted or stored at a location which is separate from the  
6 location of the index of search results, but excludes any act done for the  
7 purpose of, or that is incidental to, the provision of;

8 (d) a service of giving the public access to the internet; or

9 (e) a computing resource service;

10 *Examples*

11 Examples of internet intermediary services are-

12 (a) social networking services;

13 (b) search engine services;

14 (c) content aggregation services;

15 (d) internet based messaging services; and

16 (e) video sharing services.

17 "material" means anything that consists of or contains a DECLARATION;

18 *Examples*

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

21 "MMS" means a system that enables the transmission, through a mobile  
22 network, of multimedia messages;

23 "online account" means an account created with an internet intermediary for  
24 the use of an internet intermediary service;

25 "online location" means any website, web page, chat room or forum, or any  
26 other thing that is hosted on a computer;

27 "paid content" means any DECLARATION that is transmitted in any place for  
28 consideration;

29 "Part 3 Regulation" means a Correction Regulation or a Stop Transmission  
30 Regulation;

1 "Part 4 Regulation" means a Targeted Correction Regulation, a Disabling  
2 Regulation or a General Correction Regulation;

3 "prescribed digital advertising intermediary" means a digital advertising  
4 intermediary, or a class of digital advertising intermediaries; prescribed by  
5 Regulation made under Clause 62;

6 "prescribed internet intermediary" means an internet intermediary; or a class of  
7 internet intermediaries;

8 "Remedial Order" means an order made under Clause 21;

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

12 "SMS" means a system that enables the transmission, through a mobile  
13 network, of text messages;

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

17 "Stop Transmission Regulation" means a Regulation issued under Clause 8;

18 "Targeted Correction Regulation" means a Regulation issued under Clause 17

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

22 (2) In this Act-

23 (a) a DECLARATION of fact is a DECLARATION which a  
24 reasonable person seeing, hearing or otherwise perceiving it would consider to  
25 be a representation of fact; and

26 (b) a DECLARATION is false if it is false or misleading, whether  
27 wholly or in part, and whether on its own or in the context in which it appears.

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

30 (a) whether any DECLARATION may be included or excluded on the



1 online location;

2 (b) where to place any DECLARATION on the online location.

3 *Meaning of "transmit"*

4 3.-(1) In this Act other than in Part 2, a DECLARATION or  
5 material is transmitted in Nigeria if it is made available to one or more end  
6 users in Nigeria on or through the internet.

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

9 (a) the internet; or

10 (b) MMS or SMS.

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

14 *Meaning of "Public Interest"*

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

18 (a) in the interest of the security of Nigeria or any part of Nigeria;

19 (b) to protect public health or public finances, or to secure public  
20 safety or public tranquility;

21 (c) in the interest of friendly relations of Nigeria with other  
22 countries;

23 (d) to prevent any influence of the outcome of a general election to  
24 any Office;

25 (e) to prevent incitement of feelings of enmity, hatred or ill will  
26 between different groups of persons; or

27 (f) to prevent a diminution of public confidence in the performance  
28 of any duty or function of, or in the exercise of any power by the  
29 Government.



Short title           1           36. This Bill may be cited as the Protection from Internet Falsehoods,  
                          2           Manipulations and Other-Related Matters Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to prevent Falsehoods and Manipulations in Internet transmission and correspondences in Nigeria. To suppress falsehoods and manipulations and counter the effects of such communications and transmissions and to sanction offenders with a view to encouraging and enhancing transparency by Social Media Platforms using the internet correspondences.



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### **About PLAC**

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.