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 N10 million - 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

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**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. (a) 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 judex 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.

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**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 ascendency 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.
A BILL

FOR

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

Sponsored by Senator Muhammad Sanu Musa

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

PART 1 - AIMS, OBJECTIVES AND APPLICATION

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

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

PART 2 - PROHIBITION OF TRANSMISSION OF FALSE STATEMENTS OF FACT

3.- (1) A person must not do any act in or outside Nigeria in order to transmit in Nigeria a statement knowing or having reason to believe that-:
   (a) it is a false statement of fact; and
(b) the transmission of the statements in Nigeria is likely to—

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

(ii) be prejudicial to public health, public safety, public tranquility or public finances;

(iii) be prejudicial to the friendly relations of Nigeria with other countries;

(iv) influence the outcome of an election in any office in a general election or a referendum;

(v) incite feelings of enmity, hatred directed to a person or ill will between different groups of persons; or

(vi) diminish public confidence in the performance of any duty or function of, or in the exercise of any power by the Government.

(2) Subject to sub Clause (3), a person who contravenes sub Clause

(1) shall be guilty of an offence and shall be liable on conviction—

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

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

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

(a) to transmit in Nigeria the statements mentioned in sub Clause (1);

and

(b) for the purpose of accelerating such transmission, the who person is guilty of an offence under that sub Clause shall be liable on conviction—

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

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

(4) Sub Clause (1) does not apply to the doing of any act for the purpose of, or that is incidental to, the provision of—

(a) an internet intermediary service;

(b) a telecommunications service;

(c) a service of giving the public access to the internet; or
(d) a computing resource service.

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

(a) transmitting, by means of the bot, a false statement of fact in

Nigeria; or

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

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

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

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

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

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

(b) be prejudicial to public health, public safety, public tranquility,
or public finance;

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

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

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

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

(g) in the case of an individual, to a fine not exceeding N300,000 or
5. (1) A person who, whether in or outside Nigeria, solicits, receives or agrees to receive any financial or other material benefit as an inducement or reward for providing any service, knowing that the service is or will be used in the transmission of one or more false statements of fact in Nigeria, shall be guilty of an offence if the service is in fact used in such transmission.

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

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

(b) in any other case, to a fine not exceeding N300,000.

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

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

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

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

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

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

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

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

(h) in any other case, to a fine not exceeding N10 Million.
(4) Sub Clause (1) does not apply to any act carried out for the purpose of, or that is incidental to, the provision of-
(a) an internet intermediary service;
(b) a telecommunication service;
(c) a service of giving the public access to the internet; or
(d) a computing resource service.
(5) Where the Court convicts a person of an offence under sub Clause (1) the Court must in addition to imposing the punishment in Sub Clause (3) order the person to pay as penalty, a sum equal to the amount of any financial or material benefit received or in the opinion of the Court the value of any financial or material benefit.
(6) Sub Clause (5) does not apply if the Court determines that the value of the financial or other material benefit cannot be assessed.
(7) Where-
(a) a person charged with 2 or more offences under sub Clause (1) is convicted of one or more of those offences; and
(b) the other outstanding offences are taken into consideration by the Court, the Court may increase the penalty mentioned in sub Clause (3) by an amount not exceeding the total amount or value of the financial or other material benefit received for the offences so taken into consideration.

PART 3 - REGULATIONS DEALING WITH TRANSMISSION IN NIGERIA OF FALSE DECLARATIONS OF FACT
6-(1) The Law Enforcement Department may issue a Part 3 Regulation in the event of the following-
(a) that a false DECLARATION of fact (called in this Part the subject DECLARATION) has been or is being transmitted in Nigeria;
(b) the Law Enforcement Department is of the opinion that it is in the public interest to issue the Regulation.
(2) The Law Enforcement Department shall issue a Part 3 Regulation in relation to the subject DECLARATION even if it has been
7.- (1) A Correction Regulation is one issued to a person who transmitted the subject DECLARATION in Nigeria, requiring the person to transmit in Nigeria in the specified form and manner, to a specified person or description of persons (if any), and by the specified time, a notice (called in this Part a correction notice) that contains one or both of the following:

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

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

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

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

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

(i) the false DECLARATION of fact;

(ii) a substantially similar DECLARATION;

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

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

(5) In this Clause—

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

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

(i) an internet intermediary service;
(ii) a tele transmission service;

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

(iv) a computing resources service.

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

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

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

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

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

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

(5) In this Clause—

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

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

(c) a person does not transmit a DECLARATION in Nigeria merely by doing any act for the purpose of, or that is incidental to, the
9.- (1) A Part 3 Regulation may be issued to a person whether the person is in or outside Nigeria.

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

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

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

(a) different Regulation;

(b) different parts of a Regulation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12.-(1) This Clause applies where—

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

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

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

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

(4) An internet access service provider that does not comply with
1. Any access blocking order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ₦10 million for each day during any part of which the order is not fully complied with, up to a total of ₦5 million.

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

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

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

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

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

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

8. (a) the person did not transmit in Nigeria the subject DECLARATION;

9. (b) the subject DECLARATION is not a DECLARATION of fact, or is a true DECLARATION of fact;

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

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

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

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

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

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

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

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

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

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

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

(5) Clause 14 applies in relation to a notice cancelling a Part 3 Regulation under this Clause as it applies in relation to the original Part 3 Regulation.
PART 4 - REGULATION FOR INTERNET INTERMEDIARIES AND PROVIDERS

OF MASS MEDIA SERVICES

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

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

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

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

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

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

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

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

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

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

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

(2) Where the internet intermediary mentioned in sub Clause (1) is
a prescribed internet intermediary, the Disabling Regulation may also
require the internet intermediary to do one or both of the following:
(a) to disable access by end users of the service in Nigeria to
identical copies of the subject material provided on, or through the internet
intermediary service;
(b) to transmit a correction notice by any means to a specified
description of end users in Nigeria.
(3) Once a Disabling Regulation has been issued, the Law Enforcement Department must publish a notice of that fact in the Gazette as soon as possible.

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

(5) In this Clause-

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

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

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

(a) a prescribed internet intermediary;

(b) such other person as may be prescribed.

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

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

(b) if the Regulation is issued to a person mentioned in sub Clause (1)(b), to give a correction notice to a specified person or description of persons, by the specified means and by the specified time.

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

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

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

(3) A Part 4 Regulation must identify in sufficient detail the subject material and the subject DECLARATION.
(4) A Part 4 Regulation or Remedial Order remains in effect until the date it expires (if any), it is set aside or it is cancelled.

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

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

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

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

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

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

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

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

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

(2) It is not a defence to a charge under sub clause (1) that-
(a) the person is subject to a duty under any written law, any rule of
law, any contract or any rule of professional conduct, that prevents the person
from complying with any part of a Part 4 Regulation or Remedial Order or
restricts the person in such compliance, or
(b) the person has applied to vary or cancel the Regulation or Order or
has appealed to the High Court against the Regulation.

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

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

(a) the state of the act available to give effect to the Regulation or
Order;
(b) the cost of complying with the Regulation or Order relative to the
means available to the person; and
(c) any other relevant factor.

23.-(1) this clause applies where-

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

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

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

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

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

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

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

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

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

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

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

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

(b) the subject DECLARATION is not a DECLARATION of fact,
or is a true DECLARATION of fact;
(c) it is not technically possible to comply with the Regulation.

(6) The High Court may only set aside a Part 4 Regulation on an appeal by a person who transmitted in Nigeria the subject matter, on the ground that the subject DECLARATION is not a DECLARATION of fact, or is a true fact.

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

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

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

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

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

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

(2) The Law Enforcement Department may vary or cancel the Regulation or Order under sub-Clause (1).
(a) on the Law Enforcement Department's own initiative provided there is a prima facie reason necessitating this variation or cancellation; or
(b) on an application by-
   (i) the person to whom the Regulation or Order is issued; or
   (ii) a person who transmitted in Nigeria the subject material.
(3) A Part 4 Regulation or Remedial Order remains in effect despite any application made to the Law Enforcement Department for its variation or cancellation.

PART 5 - DECLARATION OF ONLINE LOCATIONS

27.- (1) The Law Enforcement Department may declare an online location as DECLARED online location if all of the following conditions are satisfied:
   (a) 3 or more different DECLARATIONS that are the subject of one or more active Part 3 regulation or Part 4 regulation, or both, have been or are being transmitted in Nigeria on the online location;
   (b) at least 3 of those DECLARATIONS had first been transmitted in Nigeria on the online location within 6 months before the date the DECLARATION is made.
(2) For the purpose of sub Clause (1)(a), a DECLARATION is different from another if it is different in a material particular from that other DECLARATION.
(3) A DECLARATION:
   (a) must contain the Universal Resource Locator (URL), domain name, or any other unique identifier of the online location;
   (b) must reproduce the relevant regulation;
   (c) must state the date the DECLARATION comes into effect;
   (d) must state the date of the DECLARATION's expiry or a formula by which that date may be worked out, which must not be later than 2 years after the date in paragraph (c);
   (e) may state the time on that date the DECLARATION is to expire
or a formula by which that time may be worked out;

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

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

(4) A DECLARATION expires-

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

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

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

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

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

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

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

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

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

(b) in any other case, to a fine not exceeding N3 Million.

(7) It is a defence to a charge under sub Clause (6) for the accused to prove that the accused did not know and had no reason to believe that a DECLARATION was made in relation to the online location.
(8) The Law Enforcement Department may at any time suspend a DECLARATION for such period as the Law Enforcement Department may determine, or vary or cancel a DECLARATION.

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

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

(b) on an application by-

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

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

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

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

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

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

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

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

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

(ii) a sub directory of a website,

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

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

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

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

(2) This Clause also applies where-

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

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

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

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

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

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

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

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

(2) This Clause also applies where:

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

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

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

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

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

(6) An internet intermediary that fails to comply with an order of the Competent Authority under sub Clause (3) whether in or outside Nigeria, shall be guilty of an offence and shall be liable on conviction to a fine not
39.-(1) The following persons may appeal to the High Court against a DECLARATION:

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

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

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

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

(5) The High Court may only set aside a DECLARATION on the ground that, at the time of making the DECLARATION, the condition specified was not satisfied.

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

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

(9) Rules of Court may provide for the manner in which and the time within which an appeal under sub-Clauses (1) may be made.
31.- (1) A person who, whether in or outside Nigeria, solicits, receives or agrees to receive any financial or other material benefit as an inducement or reward for operating a DECLARED online location shall be guilty of an offence and shall be liable on conviction:

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

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

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

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

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

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

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

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

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

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

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

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

(b) in any other case, to a fine not exceeding N$5 Million

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

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

(a) the accused did not act in question at the Regulation of another person; or

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

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

offence in Nigeria on a Declared Online Location.

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

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

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

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

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

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

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

"Law Enforcement Department" means The Nigeria Police Force;

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

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

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

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

(b) none of which is an inauthentic online account or is controlled
by a bot;
Correction Regulation means a Regulation issued under Clause 7;
"DECLARATION" means a DECLARATION made under Clause 27;
"DECLARED online location" means an online location that is the subject of a DECLARATION that is in effect;
"digital advertising intermediary" means any person who, in the ordinary course of business, facilitates the transmission of paid content in any place by acting as the link or part of the link between-
(a) the owners or operators of online locations; and
(b) advertisers and service providers, by means of an internet based service,

Examples

Examples of digital advertising intermediaries are persons who provide any of the following by means of an internet based service:
(a) advertising exchange;
(b) demand side platform;
(c) supply side platform.

"Disabling Regulation" means a Regulation issued under Clause 18;
"General Correction Regulation" means a Regulation issued under Clause 19;
"NCC" means the Nigerian Communications Commission established by the Nigerian Communications Commission Act 2003;
"inauthentic online account" means an online account that is controlled by a person other than the person represented (whether by its user profile, unique identifier or other information) as its holder, and the representation is made for the purpose of misleading and users in Nigeria of any internet intermediary service as to the holder’s identity;
"internet intermediary" means a person who provides any internet intermediary service;
"internet intermediary service" means-
(a) a service that allows end users to access materials originating from third parties on or through the internet;
(b) a service of transmitting such materials to end users on or through the internet; or

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

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

(e) a computing resource service;

Examples

Examples of Internet intermediary services are:

(a) social networking services;

(b) search engine services;

(c) content aggregation services;

(d) internet-based messaging services; and

(e) video sharing services.

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

Examples

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

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

"online account" means an account created with an Internet intermediary for the use of an Internet intermediary service;

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

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

"Part 3 Regulation" means a Correction Regulation or a Stop Transmission Regulation;
Protection from Internet Falsehoods, Manipulations and Other Related Matters Bill, 2019

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

2. "prescribed digital advertising intermediary" means a digital advertising intermediary, or a class of digital advertising intermediaries, prescribed by Regulation made under Clause 62;

3. "prescribed internet intermediary" means an internet intermediary, or a class of internet intermediaries;

4. "Remedial Order" means an order made under Clause 21;

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

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

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

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

9. "Targeted Correction Regulation" means a Regulation issued under Clause 17;

10. "Teletransmission service" means any transmission, emission or reception of signs, signal, writing, images, sounds or intelligence of any nature wire radio visual or other electro-magnetic systems

(2) In this Act-

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

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

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

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

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

(a) the internet; or

(b) MMS or SMS.

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

Meaning of “Public Interest”.

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

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

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

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

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

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

(f) to prevent a diminution of public confidence in the performance of any duty or function of, or in the exercise of any power by the Government.
This Bill may be cited as the Protection from Internet Falsehoods, 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.
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.