

Nigeria: Trends in Freedom of Expression in the Telecommunications and the Internet Sector

1. Introduction

Nigeria, with a population of over 180 million people, is Africa's most populous nation and its largest Telecommunications market. The size of Nigeria's Telecoms market is best exemplified with the story of the MTN group, which before their entry (and Vodacom's refusal to enter) into the Nigerian market at the turn of the millennium, was behind Vodacom in reckoning as the leading Telecoms firm in their parent country South Africa. Now, MTN is easily the largest Telecoms company in South Africa and Africa with Nigeria alone accounting for a third of their revenue. Today, in addition to MTN, Nigeria has a diverse and competitive Telecoms market serving the teeming population having, as at August 2016 152,800,848 subscribers (mobile and fixed), giving a teledensity of 109.14%¹. Internet penetration in Nigeria for 2016 is put at 52%². Nigeria's Telecoms sector is regulated by the Nigerian Communications Commission (NCC).

2. Trends in Freedom of Expression in the Telecoms and the Internet Sector

As depicted in the 2015 Freedom House report³, Nigeria has been ranked as "partly free" in terms of Freedom of Expression on the Internet. With the introduction of the Global System of Global Communications (GSM) in Nigeria at the turn of the millennium and specifically with the growth of the Internet sector, Nigeria's Legislature began to enact legislation to govern the sector. A comprehensive list of legislation governing the Telecommunications and Internet sector can be accessed in pages 8-11 of Paradigm Initiative Nigeria's "Status of Internet Freedom in Nigeria 2016" report⁴. Of note also are policies of the Federal Government of Nigeria, particularly the Nigerian Communications Commission's (NCC) "Draft Lawful Interception of Communications Regulation" which provides a legal framework for the lawful interception of communications in Nigeria. This regulation gives unsupervised powers to the NCC for the interception and storage of data from Telecommunications companies. And recently, Nigeria's Cybercrime Act has been used as the basis for the arrest of bloggers⁵. Eight bloggers have to date arrested being using the Cybercrime Act.

The Nigerian government also has a history of mass surveillance of communications, and was one of the numerous African governments who were clients of Elbit Systems, a leading

¹ Nigeria Communications Commission Industry Overview (2016). <http://bit.ly/2e48Oka>

² Internet World Stats <http://bit.ly/2eojK1J>

³ Freedom House (2015). Freedom on the Net 2015, Nigeria Report. <http://bit.ly/2eyk11G>

⁴ State of the Nation: Status of Internet Freedom in Nigeria <http://bit.ly/2c44r6W>

⁵ Peter Nkanga (September 21, 2016). How Nigeria's Cybercrime law is being used to try to muzzle the Press. Committee to Protect Journalists. <http://bit.ly/2dDImOI>

manufacturer of Communications surveillance equipment.⁶ There has also been an increase in the government's budgetary allocation for communications surveillance as depicted in the sharp differences in the 2015 and 2016 budgetary allocation.

3. The interventions of Paradigm Initiative Nigeria (PIN)

Paradigm Initiative Nigeria (PIN), through its ICT Policy Office in Abuja, Nigeria's capital, has been at the forefront of the fight for Digital Rights in Nigeria. We have been at the frontlines defending Freedom of Expression in the Telecommunications and Internet sector through:

3.1 Advocacy and Litigation

In November 2015, a bill titled "Frivolous Petitions Bill 2015" was presented by a Senator for consideration for passage into law. This bill contained clauses which violated freedom of expression on social media; hence the bill was dubbed "anti-social media" bill. Through PIN's vigorous advocacy alongside other partners, this toxic bill was stepped down.

Similarly, PIN is currently challenging the constitutionality of sections 24 and 38 of the Cybercrime Act 2015, which are plainly inimical to freedom of expression on the Internet, to a greater degree than even the "Frivolous Petitions Bill" in the court of law. The suit has **been adjourned till December 2, 2016**. PIN has also worked with other partners in ensuring the release of bloggers arrested for exercising their right to freedom of expression on the Internet.

3.2 Training of Law enforcement Officials and security officials

In September, PIN conducted a training session on Digital rights in Uganda in collaboration with the Collaboration on International ICT Policy for East and Central Africa (CIPESA) and the UN Office for Human Rights. Also, PIN, in agreement with Nigeria's Ministry of Justice, is scheduled to conduct the training of Nigeria's law enforcement officials on the Cybercrime Act 2015 to ensure compliance to Human Rights standards during implementation. A lack of understanding of Cyberspace and how human rights apply had been clearly observed as a factor in the highhandedness observed in the handling of cybercrime cases by law enforcement, necessitating this intervention.

3.3 Research and reports

PIN periodically releases policy briefs and research reports which can be accessed on our website (<http://www.pinigeria.org>) on trends in ICT Policy in Nigeria and the world. Our "State of Internet Freedom in Nigeria" earlier mentioned in this report will be followed by "State of Internet Freedom in Africa" report to be released in December at the Internet Governance Forum in Mexico.

⁶ Elbit Systems (April 23, 2013). Elbit Systems Awarded a \$40 Million Contract to Supply a Country in Africa with the Wise Intelligence Technology (WiT[TM]) System <http://bit.ly/2epnzPT>

3.4 Digital Rights and Freedom Bill

As a consequence of our research and advocacy work revealing flaws and inadequacies in legislation touching on Freedom of expression in the Telecommunications and Internet sector, PIN in collaboration with partners drafted an innovative “Digital Rights and Freedom Bill” (HB. 490) which has passed through second reading in Nigeria’s Federal Legislature (a copy can be accessed via our website). If passed into law, this piece of legislation will secure the right of Nigerian citizens to freedom of expression on the Internet.

3.5 Internet Freedom Forum

PIN hosts an annual Internet Freedom Forum where conversations about Digital rights in Africa and beyond are held among multiple stakeholders including Internet freedom advocates, Government regulatory agencies, law enforcements agencies, academia, civil society, Internet companies and much more. The 2016 edition held in March while registration for the 2017 edition has commenced at <http://www.pinigeria.org/iff>.

4. CONCLUSION

Nigeria has made great strides in ensuring that the rights of citizens to exercise freedom of expression on the Internet. This has been made possible due to close collaboration of civil society, government and Internet businesses. Nigeria so far has been spared the Internet/Internet applications shutdowns experienced elsewhere on the continent partly as a result of this collaboration.