

REPORT ON THE COMMUNICATIONS SESSION OF THE NIGERIAN BAR ASSOCIATION SECTION ON BUSINESS LAW HELD ON 07 APRIL 2010.

Chairman: Mr. Paul Usoro, SAN
Chair, Communications Committee.

Facilitator: Mrs. Ibirobo Adekola
Director Legal Zain

Time: 3:05 – 5.48pm

The Session commenced about 1hr 05mins later than scheduled due to some logistic problems encountered as a result of the immediately preceding session. Five speakers were scheduled to present papers at the session however only four were present. .

The **First speaker** was Mr. Lanre Ajayi, Chairman, Nigerian Internet Group (“**NIG**”). He presented a paper on the topic “**An Overview and Outlook of the Nigerian Broadband Market**”. Mr. Ajayi commenced by examining the various definitions of Broadband. He identified two broad definitions – the technical definition which focuses on the speed of connection. This definition is used by the United States Federal Communications Commission (“**FCC**”), the Organisation for Economic Co-operation and Development (“**OECD**”) and the ITU-R Recommendation M.1801. The second type of definition is the user-centric, based on what the user can do using the broadband network.

He went on to highlight the various uses of Broadband which include email, work research product information, email, instant messaging, banking, medical information, among a host of others. He noted that although these activities could be done without the Broadband technology, Broadband increases the intensity and ease at which they can be done.

Using the United States of America (“**US**”) as a case study, he examined the rate of adoption of Broadband technology in other jurisdictions.. . He pointed out that the rate of adoption of Broadband in the US grew from 0% in June 2001 to 63% in April 2009 with approximately two – thirds of American adults having adopted broadband at their homes. He cited lack of relevance as the main reason for non-adoption by the outstanding percentage. He identified the various difficulties experienced by the latter percentage as a consequence of non-adoption of Broadband to include difficulty in getting a job without access to online postings and the ability to submit applications

online, lack of access by students to the same level of information as their connected peers, increasingly limited resources to gather current events information, etc.

For Nigeria, the broadband density is less than 1% when compared to telephone density of 50%. He identified the causes of this low percentage to be lack of adequate copper cable for Digital Subscriber Line (“**DSL**”), lack of effective IXPs as a result of proliferation of VSAT terminals whose hubs are located outside territories of the IXPs, lack of enthusiasm to roll out broadband services by the GSM operators as a result of fear that it may wipe out good returns on the voice service, monopoly on SAT 3 and lack of adequate national transmission backbone.

He examined the outlook of Nigeria broadband market which is divided into 3 phases:

- i. International backbone infrastructure
- ii. National backbone infrastructure
- iii. The last mile

He advocated for improvement of the international backbone infrastructure by the encouragement of alternatives to SAT3 for example Glo1, Main One and WASCE. In addition, the national backbone infrastructure should be improved by the encouragement of the rollout of national fiber optics transmission lines to backhaul the traffic from the terrestrial wireless network. He also stated the opportunities presented by NIGOMMSAT, RASCOM and other satellite initiatives should be optimized. For the last mile, he posited that there should be leverage on the latest terrestrial wireless technology to pursue aggressive rollout such as WIMAX, EVDO, etc.

He concluded by highlighting the benefits lawyers would get from broadband to include e-filing and legal resources and knowledgebase.

Mr. Lanre Ajayi’s presentation ended at 3.40pm.

The **Second Speaker**, Mr. Bruce Ayonote, Chief Executive Officer, Suburban Telecoms commenced his presentation at 3.50pm on the topic “**Critical Infrastructure Requirements for Effective Broadband Service Delivery**”. Mr. Ayonote began by briefly highlighting the way in which broadband works. He mentioned that Nigeria gets most of its broadband internet access via fibre and VSAT and explained the benefits of each technology in the area of availability, cost, quality, scalability, reliability and

broadband capability. He came to the conclusion that fibre provides the most economical solution for mass broadband adoption especially on the “Last Mile”. According to him, fibre optic cables have replaced copper, coaxial, radio and VSAT as the number one mode of high speed data transmission. He further highlighted the workings of a typical broadband delivery chain. The International fibre provides broadband connectivity through many countries across the globe. On reaching Nigeria, the International Fibre is connected to the various cities in Nigeria via domestic fibre. Fibre is then distributed through streets and other passage ways via a metropolitan network. The end user receives broadband access via last mile solutions. These stages he identified as the International Networks, the Domestic Networks, Metropolitan Network and the Last Mile.

He highlighted the issues and challenges encountered under the various networks mentioned above. For the International network for which 95% of international communications traffic is routed via undersea cables, the issues and challenges include Funding, Cable Landing Rights, Incumbent, Marine Right of Way (ROW), IRU Licensing and Operation and Maintenance. For Domestic Networks, the issues and challenges are limited national contiguous ROW options, limited redundancy options, lack of standard operations and procedures, large bureaucracies and red tape through the system, security, theft and community concerns in some areas, fibre cut due to construction work and vandalism, poor management of ROW by municipalities; no national standards for deployment, etc. The Metropolitan Network poses issues and concerns over multiple permits and tax requirement from different agencies, poor utility supply such as power, community issues, operation and maintenance support, competent human resources, fibre cuts due to construction work and vandalism, etc. Issues and challenges presented by the last mile include ROW, Sites, Collocation, security: theft and vandalism, community issues, supporting infrastructure, equipment, regulatory incentives, operation and maintenance support, funding, low cost computing, enabling law to protect intellectual property rights, etc.

He concluded by suggesting the following best practices which will go a long way to accelerate the penetration of broadband in Nigeria:

- i. Standardization and planning of facilities for utilities and fibre installations in urban development.
- ii. Collaboration Guidelines

- iii. Regulatory Incentives
- iv. Government intervention in the areas of theft, vandalism and community concerns
- v. Major consideration should be given to utilities and infrastructure which is a significant cost item in Broadband deployment
- vi. Introduction of Lawful Interception Monitoring (LIM) in order to reduce the opportunity for misuse of the broadband.
- vii. Availability of local content
- viii. Security
- ix. Pricing and product bundling – broadband service providers should come out with innovating pricing model suiting to different customers segment and should bundle multiple services such as voice, IPTV, etc., to make broadband connection attractive to the users.

Mr. Ayonote concluded his presentation at 4.18pm.

The **Third Speaker** was Mrs. Ijeoma Abazie, Chief Corporate Affairs Officer, Multilinks Telkom and she began her presentation at 4.25pm. Mrs. Abazie, speaking on the topic ***“Prospects of the Broadband Market: An Operator’s Perspective”*** commenced by highlighting the communication requirements for the future as mobility, bandwidth, ubiquity, convenience, portability and synergy. These requirements are satisfied by broadband. Giving a brief background on wireless broadband in Nigeria, she mentioned that that the growth of fixed voice and broadband growth was hampered by fixed incumbent NITEL financial and shareholding woes. As such, only 60,000 PSTN (Public Switch Telephony Network) lines in service as at the end of 2009 compared to over 60million mobile lines (less than 5% households penetration rate in the second quarter of 2009).

According to her, Africa passed the 9million broadband subscription marked in the fourth quarter of 2009 and over 50% of the connections are made via wireless technologies like EV-DO, HSPA and WiMAX. South Africa shared 31% of the market at the end of 2009 while Nigeria and Egypt are the rising markets and are expected to host the largest number of subscriptions by 2014. She mentioned further that the mobile broadband market grew by nearly 400% year on year to 360,000 in mid-2009. The huge potential for mobile broadband access was due to non-existent fixed

services; so that mobile broadband operators are now the largest ISP. This growth is fuelled by increased competition and coverage.

She examined the key components for an end to end broadband service. She mentioned that wireless technologies and devices are the first components. An extensive Fibre backbone is required for National Transport of the broadband technology. In addition, International Connectivity forms another key component for an end to end broadband service. She highlighted the major cables to become operational over the next two years to include GLO – 1, Main One Cable, WASCE Cable, Africa Coast to Europe (ACE), Europe-India Gateway (EIG), satellite systems and terrestrial telecommunications links.

She highlighted the prospect of broadband in Nigeria as E – Commerce, E – Agriculture, E – Fishing, E – Banking, E – Health, E – Education, etc. she further stated the need for more effective public private sector partnership and the Government, through the Regulator (NCC) to promote the provision of broad band services. In this respect, she identified projects which were already embarked on by the NCC viz the Wire Nigeria (WIN) project, the State Accelerated Broadband Initiative (SABI) and the Rural Broadband Initiative (RUBI)

Mrs. Abazie further highlighted the challenges of accelerating the delivery of quality broadband services in Nigeria. They include:

- i. Inadequacy of fibre transmission infrastructure particularly given the development of NITEL
- ii. Persistent damage to operators' existing fibre infrastructure due to ongoing extensive road construction works, sabotage and vandalism due to community agitations, demands and activities of area boys.
- iii. Need for support from Government and its agencies and contractors curbing the recklessness of the road construction companies and the Legislature at Federal and State levels.
- iv. Need to expedite the harmonization of the Computer Security and Protection Bill (Executive Bill) and Computer Security and Critical Information Infrastructure Protection Bill 2006 to ensure that telecoms infrastructure, equipment and installations are accorded status of "critical national infrastructure".

Her presentation ended at 4.45pm

The last paper of the session which commenced at 4.55pm was presented by Ms. Josephine Amuwa, Director, Legal & Regulatory Services, Nigerian Communications Commission on the topic ***“Policy and Regulatory Imperatives for Efficient Broadband Services”***. Ms. Amuwa, looking at the issue of broadband internet access from a regulator’s perspective commenced her presentation by giving an overview of broadband as a high speed data transmission in which a single cable can carry a large amount of data at once. This speed is determined by the International Telecommunications Union (ITU) as between 1.5Mbit/s to 2Mbit/s. However, some country regulators have slight variations in the megabits that constitute broadband. She highlighted the common types of broadband technology to include Cable Modems, DSL Modems, Fibre, Wireless and Satellite.

She noted the status and importance of Broadband technology. According to her Broadband is a key accelerator of socio-economic activities in the areas of public safety, national security, tele-medicine, e-Government, e-Education, e-Commerce, etc. She added that there are over 1billion broadband subscription globally with 15.6million subscribers in sub-Saharan Africa. According to World Bank findings, there has been 10% increase in broadband penetration which has culminated in about 1.38% acceleration in economic growth.

She went on to highlight the Policy Initiatives by NCC in relation to broadband. She mentioned that the review of the National Telecommunications Policy (NTP) in 1999, which led to the enactment of the Nigerian Communications Act (NCA), 2003, was seen as a catalyst to the revolution in ICT in Nigeria. Nevertheless, the laudable scorecard of the Nigerian telecommunications industry, she admitted, has been low on broadband. To address this lacuna, the NCC applies a 2-prong approach – specific programme/project based initiatives and general/regulatory initiatives. The specific programme and project based initiatives include

- i. Public Private Partnership – State Accelerated Broadband Initiative (SABI) Project, Wire Nigeria (WIN) Program
- ii. USPF Initiatives
- iii. Multinational and Multilateral support initiatives – NEPAD ICT Broadband Infrastructure Network, ECOWAS Broadband Network, World Bank Regional Communications Infrastructure Network)

- iv. Licensing process – Submarine Cable – Main One, ACE. GLO 1, SAT 2, SAT3/WASCE, 3G License, ISP License.

She identified the challenges to broadband initiatives in Nigeria to include lack of infrastructure, level of literacy, language barrier/limited local content, convergence, high cost of connection and CPE, etc. She concluded by making the following recommendations:

1. The need for defined broadband policy
2. Removal or reduction of barriers to entry
3. Definition of universal service for broadband provisioning and set targets
4. Linking of incentives (subsidy) to targets.
5. Review of the National Telecommunications Policy with special focus on broadband
6. The need to speed up the deployment of broadband in order to bring high-speed data services to homes and businesses in Nigeria.

Ms. Josephine Amuwa's presentation came to an end at 5.15pm.

At the end of the presentation by the speakers, the audience was given ample opportunity for interaction and questions to the speakers. The session came to an end at 5.48pm.

Rachel Akpan

Paul Usoro & Co.