



**INNOVATIONS COVERED UNDER THE
VALUE ADDED SERVICES (VAS) LICENCE
FRAMEWORK IN NIGERIA**

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INTRODUCTION

Information Communication Technology (ICT) has, without a doubt, greatly impacted virtually every industry, and the communications industry is no exception. Services such as bulk short message service (SMS), online games, data services, telemarketing, text messages and media messages, all of which are often referred to as Value Added Services (“VAS”), now constitute a part of our daily lives.

The invasive nature and increase in the commercialisation of these VAS has increased the need for communications industry regulators in various countries to protect the privacy of consumers/subscribers and regulate VAS providers.

In Nigeria, the Nigerian Communications Commission (“NCC”) is the independent regulatory authority for the telecommunications industry. Its mandate, under the Nigerian Communications Act 2003 and the Wireless Telegraphy Act 1990, includes the regulation of VAS providers and operators. Pursuant to its powers and mandate, the NCC has published frameworks for the issuance and use of the VAS licence.

This article sets out the objectives of the VAS licence, the entities who are required to obtain the VAS licence and the services covered under the VAS licence in Nigeria.

THE VAS LICENCE AND ITS OBJECTIVES

VAS is defined, in the Value Added Services and Aggregator Framework (Amended) Regulation[1] (“VAS & Aggregator Framework”), as *“any network-based service other than voice conversation that is provided in the form of text, video, graphics, picture, multimedia or data for the purpose of conveying information or executable content either downloaded or accessed online and normally at extra cost.”*[2]

The inference drawn from this is that VAS constitutes all network-based services other than voice calls. It is pertinent to note that the VAS licence seeks to establish a structure to implement appropriate safeguards in relation to the use of mobile VAS to:[3]

[1] Published by the NCC in March 2018 and modified 13 April 2020.

[2] Page 24 of VAS & Aggregator Framework.

[3] Page 1 of the NCC’s Value Added Services and Aggregator Framework (Amended).

- Provide legal and regulatory framework for Value Added Services;
- Ensure that customers are sufficiently informed of the nature, prices, terms and conditions of Value Added Services at the point of sale, in advertising, and while using the services;
- Ensure that consumers/subscribers are educated about the conditions and terms of Value Added Services, for example right to privacy of the subscriber, no unsolicited messages, right to 'opt in' and 'opt out' of a service by a subscriber etc.;
- Ensure that customers can readily access an unsubscribe mechanism for each Value Added Service, to discontinue a service and avoid incurring further charges;
- Ensure that customers have a convenient, fair and efficient means of resolving complaints arising in respect of Value Added Services; and
- Encourage entry into the telecom industry by investors which promote competition that would guarantee better services for subscribers and additional revenue to the operators

ENTITIES REQUIRED TO OBTAIN THE VAS LICENCE

According to the NCC, a VAS Provider is “any person or organization that engages in the provision of value added mobile/fixed services, including premium rated services.”[4] In this regard, any company that is a VAS Provider is required to obtain a VAS Licence to be able to operate in Nigeria. The VAS Licence category is available to VAS providers, application providers[5] and VAS aggregators[6]. The aforementioned entities constitute three out of the four entities that bring VAS to the end user[7]. The fourth entity is the network operator[8] but the VAS licence category is not available to it. The NCC has also indicated that the VAS Provider can combine the role of the application providers and VAS aggregators and leverage on the infrastructure of the network operator to provide VAS.[9]

[4] Page 1 of NCC's License Framework for Value Added Services (“VAS Licence Framework”). Also note that the VAS providers usually has to sign a contract with a network operator enabling the provision of such services.

[5] Application providers host distribution of third party contents and applications, install hardware and software platforms for hosting applications and contents, among other related functions. See 1.6 of VAS & Aggregator Framework.

[6] Aggregators supply direct, simplified and secure connection to content and application providers for access to all network operators that have the capability to transmit VAS to end users.

[7] See page 1 of VAS Licence Framework.

[8] Network operators provide termination services to Aggregators and transmit requests for service from subscribers to content and application providers through aggregators. The NCC requires that a network operator must possess a Unified Service Access Service, Digital Mobile License or any other license issued by the NCC which enables transmission of VAS to end users.

[9] It is important to note that the NCC has stated in the VAS Licence regulation that the VAS licence category is not available to network operators.

HIGHLIGHT OF THE FRAMEWORK FOR VAS

The structural framework for VAS has been stated by the NCC to consist of four broad segments with the following corresponding market players:[10]

- i. Segment 1 - Network operators: They provide the final link to the subscriber for the purpose of delivering VAS to the end user.
- ii. Segment 2 - Aggregators: These entities provide a concentration point in order to limit the number of devices that will be directly connected to the operators.
- iii. Segment 3 - Content and application service providers: They are the only players that will be allowed by the NCC to pool, host and distribute content and applications using their own in-house software and hardware platforms.
- iv. Segment 4 - Developers of content, applications and platforms:

These entities have been described by the NCC as “unlicensed, freelance creators of content and applications or those who have franchise on such value added services but who are not licensed to distribute such services”[11]. However, they do not need a licence from the NCC to market their products, other than simple registration.

SERVICES COVERED UNDER THE VAS LICENCE

Specifically, the classes of services recognised as VAS by the NCC are stated as follows:[12]

- i. Information services/content: news, updates, data, quiz, games, ringtones, video streaming, alerts, product information, call center and database access;
- ii. Interactive services/ applications: charting, contest participation, e-voting, e-government, text –to-win, polls and surveys, coupons, on-line games, promotions, prepaid calling card service, call directory, location-based services; and

[10]Chapter 1 of VAS & Aggregator Framework.

[11] They also do not need a licence from NCC to market their products, other than simple registration. See 1.1b of VAS & Aggregator Framework

[12] See page 24 of VAS & Aggregator Framework.

iii. Commerce: e-banking, mobile money, e-health, telemarketing, e-ticketing.

As a result of the daily virtual development of new services, the NCC has reiterated that the list of VAS set out in the preceding paragraph is not exhaustive. The NCC's broad definition of VAS as "any network-based service other than voice conversation..." clearly buttresses this stance. Furthermore, the NCC in an earlier-published regulation titled "License Framework for Value Added Services"[13] ("VAS Licence Framework") set out certain services and technological innovations envisaged to fall under the VAS licence category.[14] The said services (which can be said to be covered under the classes listed in the preceding paragraph) were stated to include:

i.) Text messages, picture messages, ring tones, graphics, games, mobile internet sites, videos, multimedia etc.;

ii.) All services using or needing short codes;

iii.) Call center services;

iv.) Call directory services;

v.) Prepaid calling card; and

vi.) Special numbering services.

Similarly, the NCC in its VAS Licence Framework stated that certain services which it expects VAS providers to render include: [15]:

i.) **Entertainment:** Premium rate messages, subscription service for TV and radio polling, games, chat, quizzes;

ii.) **Marketing:** Premium billed contest, subscription services, group functions, incentives and promotions;


iii.) **Advertising:** Drive purchases to target markets, create affinity groups and ongoing communications of new products using broadcast - television, radio - or print - online, newspaper, magazine;

iv.) **Commerce:** Transaction fees for the redemption of coupons, point of sale purchases and micro payments; subscriber rate plans;

[13] Published 29 November 2011 and modifies 13 April 2018.

[14] See page 4 of VAS Licence Framework

[15] See page 2 of VAS Licence Framework



v.) **Some form of mobile Value Added Service** such as text messages, picture messages, ring tones, graphics, games, mobile internet sites, videos, multimedia, call directory and call centre services.

EXCEPTION

It is germane to note that the NCC has clarified that, as it relates to mobile banking services, the provisions of its VAS licence framework does not currently apply. This is because entities providing such services are directly licensed by the Central Bank of Nigeria.[16]

CONCLUSION

Although, the NCC has stated that the services listed in its regulations to be covered under the VAS licence are not exhaustive, it is preferable for stakeholders to err on the side of caution by referring to the services specifically mentioned by the NCC as the current guide on what services are covered under the NCC's VAS licence, pending the inclusion of other services in NCC's VAS regulations.

Also, entities intending to provide VAS in Nigeria should seek assistance from their solicitors in order to comply with NCC's mandatory requirement of acquisition of a VAS licence.

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