

ARTICLE SERIES

THE REGULATION OF COURIER AND LOGISTIC COMPANIES IN NIGERIA.



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INTRODUCTION

The Minister of Communications and the Digital Economy, Dr Isa Ali Ibrahim Pantami (the “Minister”) in accordance with Section 62 of the Nigerian Postal Services Act, 2004 (“NIPOST Act”) approved the new guidelines for the regulation of the Courier and Logistics sector (“the Sector”) in Nigeria in July 2020[1]. According to the Ministry of Communications and the Digital Economy, the Courier and Logistics Services (Operations) Regulations 2020 (the “Regulations”) is the regulatory framework needed to enhance the operations of courier and logistics services in Nigeria[2]. In this article, we examine the current state of the Sector and consider the regulatory regime.

BRIEF BACKGROUND OF THE COURIER AND LOGISTICS SECTOR

Dalsey, Hillblom, and Lynn International GmbH, (DHL) is regarded as the courier service that struck oil in Nigeria, starting deliveries to the country as far back as 1978[3]. DHL opened the floodgates for courier services to make deliveries from foreign countries to Nigeria but it did not focus on delivery within the country. This gap created a market for domestic transportation companies such as Associated Bus Co PLC (ABC Transport) and God is Good Motors (GIG), to use their coach buses to haul goods within Nigeria, alongside their passengers.


With the growth of consumerism, the introduction of e-commerce, and the advent of online vendors, courier services had to evolve into entities that could make quick deliveries. This meant that they had to change their preferred vehicle for haulage, from buses and coaches to tricycles (a.k.a “Keke”) and motorcycles (a.k.a “Okadas”) since they can manoeuvre around traffic jams and get to their destinations promptly. The introduction of these smaller vehicles created a more accessible Sector for smaller players in Nigeria especially since the regulatory body, the Nigerian Postal Service (“NIPOST”), was regulating only companies in the Sector with huge profit margins such as DHL, ABC, and GIG.



[1] <https://www.vanguardngr.com/2020/07/tg-approves-new-guidelines-for-courier-logistics-operations/>. Accessed 9 November 2020.

[2] <https://www.financialtechnologyafrica.com/2020/07/29/nipost-reworks-regulations-for-operations-of-courier-and-logistics-services-in-nigeria/>. Accessed 9 November 2020.

[3] <https://parcel.dhl.co.uk/parcel-delivery-to-nigeria/#:-:text=The%20connection%20between%20DHL%20and,is%20made%20in%20good%20time>. Accessed 9 November 2020.



Also, the lack of regulatory roadblocks allowed more access and caused the Sector to swell with new players who were focused on providing services to individuals and Micro Small and Medium Enterprises (MSMEs). The success of these new MSME-oriented couriers and logistic services created a bubble[4] which pushed the big players in the transport industry to adopt the use of tricycles and motorcycles to effect delivery to individuals and MSMEs as well.

Subsequently, the ban on commercial motorcycles in Lagos, which was announced in January 2020[5], created a larger Sector as most of the commercial ride providers such as Gokada and Max.ng, had to pivot into delivery services to stay afloat. Steamrollers in the Sector such as GIG used the ban as an opportunity to acquire logistic and courier service platforms like 1st Ride[6].

Furthermore, entities that needed to deliver items to customers as the final leg of a transaction, such as Jumia Foods[7], partnered with commercial motorcycle platforms to effect delivery.

The constant evolution of the landscape of the Sector created an obvious need for the Sector to be regulated.

THE NEW REGULATIONS

The Regulations apply to licensed Courier and Logistics service operators as well as companies seeking a licence to operate Courier and/or Logistics services in Nigeria[8].

The Regulations provide the following definitions for courier and logistics:

Courier: “door-to-door time-sensitive and secured service and includes delivery of documents parcel, merchandise, cargo whose total weight is not less than 0.5 KG and not more than 50KG”

Logistics: “services which include haulage, conveyance, dispatch or delivery of items or goods weighing not less than 50kg”[9].

The objective of the Regulations is to “provide a regulatory framework for effective and efficient Courier and Logistic Services licensing processes and procedures and the regulation of the Courier and Logistics industry in Nigeria”[10].

[4] A bubble is an economic cycle that is characterised by the rapid escalation of market value, particularly in the price of assets.

[5] <https://techpoint.africa/2020/02/04/okada-ban-burning-questions/>. Accessed 9 November 2020.

[6] <https://techpoint.africa/2020/02/18/gig-logistics-partner-oride/>. Accessed 9 November 2020.

[7] <https://techcabal.com/2020/06/18/in-nigeria-jumia-foods-order-volume-is-growing-by-30-mom/>. Accessed 9 November 2020.

[8] Regulation 8 (1)

[9] Regulation 12


[10] Regulation 1

To achieve this objective, the new regulation provides for the following categories of licences:

CATEGORY	LICENCE FEE (N)	RENEWAL FEE (N)	SCOPE OF LICENCE
INTERNATIONAL COURIER LICENCE	20,000,000	8,000,000	LOGISTICS SERVICES ACROSS INTERNATIONAL BORDERS
NATIONAL COURIER LICENCE	10,000,000	4,000,000	LOGISTICS SERVICES NATIONWIDE
REGIONAL COURIER LICENCE	5,000,000	2,000,000	LOGISTICS SERVICES WITHIN A GEO-POLITICAL ZONE IN NIGERIA E.G. SOUTH-WEST GEO-POLITICAL ZONE
STATE COURIER LICENCE	2,000,000	800,000	LOGISTICS SERVICES WITHIN A STATE
MUNICIPAL COURIER LICENCE	1,000,000	400,000	LOGISTICS SERVICES WITHIN A PARTICULAR CITY
SPECIAL SME COURIER LICENCE	250,000	100,000	FOR LOGISTICS SERVICES THAT OPERATE WITHIN A PARTICULAR CITY AND HAVING NOT MORE THAN 5 MOTORBIKES/MOTORCYCLES

[11]

[11] Regulation 2



To be licensed under the Regulations, the entity seeking a licence shall:

1 Pay a mandatory inspection and administrative fee which will be determined from time to time and levied by the Minister on the recommendation of the Postmaster-General and this shall be a pre-condition for the grant of such licence[12];

2. Apply to the Minister through the Postmaster-General for a grant of a licence to operate Courier and Logistics Services in the manner specified in FORM A in the First Schedule to the Regulations;

3. The application shall be accompanied by documents such as; Evidence of Payment for the specific category of Licence as may be prescribed by the Minister from time to time, Evidence of Leasehold Interest in Real Property, a Business Plan amongst other documents.

4. The applicant shall also submit evidence that all existing regulations relating to Expatriate Quota[13] have been complied with, where non-Nigerians are to be employed by the applicant company; and

5. A Courier and Logistics Services (operations) Manual which shall contain a list of prohibited or restricted courier/Logistics articles and items, transit and delivery times, information on products, services, tariffs, vehicles and warehouse or storage facilities, and other relevant information[14].

Upon receiving an application for a grant of licence, the Postmaster General can recommend the applicant to the Minister for a licence to be granted. The Minister, if he is satisfied from all the evidence and information supplied to him that the applicant is suitable to operate a Courier and Logistics Services, will grant a licence as specified in Form B in the Second Schedule of the Regulations[15].

According to the Regulations, the timeline for determining whether the application will be granted or refused is within 30 days of receipt of the application[16]. If a licence is granted it shall be valid for one year and may be renewed not later than 3 (three) months before the expiration of the licence.


[12] Regulation 4.

[13] Expatriate Quota is a permit given to a company to enable it engage a foreigner as an employee or director

[14] Regulation 3 (2)-(4)

[15] Regulation 3 (5)

[16] Regulation 3 (6)



Failure to renew a licence within the stipulated timeframe will attract a penalty of 50% (fifty percent) of the prescribed renewal fee in addition to the renewal fee[17]. The procedure for renewal is the same procedure that was used to obtain the licence.

If the Minister believes that from all evidence and information supplied, a company is not suitable to operate in the Sector or public interest supersedes the company's application, the company shall not be licensed[18].

The Regulations also re-emphasises that the Courier and Logistics Regulatory Department under NIPOST shall carry out the full intent of the Regulations.

The Regulations set a benchmark for courier and logistics services which they must maintain to operate under the new regime[19]. The Regulation also requires that an operator in the courier and logistics Sector will contribute a sum equal to 2% of its total annual revenue to the Postal Fund for the development of postal services in rural and underserved areas according to the NIPOST Act[20].

[17] Regulation 3 (7)

[18] Regulation 2(3)

[19] Regulation 8 (4)

[20] Regulation 8 (5)

[21] Regulation 8 (6)

[22] Regulation 9


[23] Regulations 10 (2)

[24] Regulations 10 (3)

Furthermore, the Minister can request any licensed courier and/or logistics service through the Postmaster General to effect free delivery for Universal Postal Service obligations or any Social Service Delivery for the interest of the Nation[21].

ETHICAL BENCHMARKS

There are ethical benchmarks an operator must meet under the Regulations, such as establishing a clear procedure for handling and resolving complaints from customers within thirty days of such complaint and maintaining a Customer Care unit to handle complaints [22]. Non-compliance with these ethical benchmarks or the whole Regulation shall constitute a ground for the revocation of the licence or a refusal to renew[23]. The Regulation also provides that a false declaration by an applicant in the process of obtaining a licence shall constitute a ground for revocation of a licence, refusal to renew a licence, and even rejection of an application for a licence[24].



Where a person granted a licence under the NIPOST Act is convicted of any criminal offence under any enactment, law, or regulation, it shall constitute a ground for rejection of an application or revocation of a licence[25]. Also, failure to renew a licence within three months before expiration may even constitute a ground for revocation of the licence[26]. If an operator continues to provide services after deregistration or during a suspension, the entity shall pay a fine equivalent to the initial fee for the category of licence paid for and an additional fine of N25,000 (twenty-five thousand Naira only) for each day after the suspension or deregistration[27].

Finally, if an entity acquires or maintains a controlling interest in another licensee and it is discovered that practices that may reduce competition in the Sector may occur between the entities or anti-competitive practices are already being carried out by the entities, such practices will be a ground for revocation of a licence[28].

Further Requirements

An interesting requirement that still seems to be valid is the Courier Regulatory Departments (“CRD”) requirements for operators of courier services only. The CRD is a specialised arm of the Nigerian Postal Service that is saddled with the responsibility of the development of the courier industry[29]. The CRD has a list of information that is meant to be submitted alongside an application for a licence or an application for the renewal of a licence[30]. It also has a procedure for the registration of a courier company[31] and the renewal of a licence given by the CRD[32].

At the state level, if the Company intends to operate within Lagos State, and use its own branded vehicles, the Lagos State Structure for Signage and Advertisement Agency (LASAA) requires all persons who intend to use branded vehicles to apply and obtain a permit for that purpose.

[25] Regulations 10 (4)

[26] Regulations 10 (5)

[27] Regulations 10 (6)

[28] Regulations 10 (6)

[29] <http://crd.nipost.gov.ng/>. Accessed 10 November 2020.

[30] <http://crd.nipost.gov.ng/Requirements.aspx>. Accessed 10 November 2020.

[31] <http://crd.nipost.gov.ng/Registration.aspx>. Accessed 10 November 2020.

[32] <http://crd.nipost.gov.ng/Renewal.aspx>. Accessed 10 November 2020.

The two recognised types of branding are:

1. Partial branding – This is the display of the name of a business, address of the business, phone numbers, and contact details of the business without showing the image/picture of the products associated with the company.

2. Full branding – This involves partial branding in addition to the display of any image that represents the product or service marketed by an organisation.


Also, companies that intend to use branded vehicles in Lagos State, must have a Mobile Advert Permit which allows signage and branding on vehicles for advertisement in the State. An application for a Mobile Advert Permit is to be submitted at any of LASAA's offices with the following accompanying documents:

- Duly completed mobile advert form;
- Photomontage or photograph of the vehicle showing its registration number;
- A copy of the vehicle's licence; and
- Evidence of payment of permit fees.

The applicable fees for obtaining a mobile advert permit are as follows:



VEHICLE CATEGORY	FULL /WRAP AROUND	PARTIAL
TRUCK/TRAILER	N49,900	N9,900
COASTER/CIVILIAN	N49,900	N9,900
BUS/PICK-UP	N39,900	N7,900
SUV	N39,900	N7,900
CAR	N19,900	N3,900
MOTORCYCLE	N19,900	N1,900
TRICYCLE	N19,900	N1,900
BICYCLE	N19,900	N1,900
PUSHCART	N19,900	N1,900




In practice, if the Company will be operating with motorcycles in Lagos State, it must:

1. Register the motorcycles with the state and local government; and
2. Ensure that the riders have a rider's card issued by the Lagos State Motor Vehicle Administration Agency (MVAA).

CONCLUSION

The introduction of the Regulations seems to have raised more issues in the Sector, the first being whether the CRD requirements which existed before the Regulations are still applicable. With no official announcement from the Ministry of Communications and the Digital Economy, it appears that requirements for obtaining a licence under the Regulations and the requirements of the CRD will run concurrently until clarifications are made by the Ministry.

Another issue brought to the fore by various stakeholders in the Sector is that the amount stipulated for licensing and renewal fees is exorbitant for the current players in the Sector. Many courier and logistic operators are MSMEs who cannot afford the licensing and renewal fees and they see the fees as a barrier to their operations.



Following public outrage on the fees, the Minister gave an address on the fees stating that they were not approved by the Federal Government and are therefore invalid[33]. Since then, there has been no official communication regarding the fees payable for obtaining licences and renewals.

Although the Regulations are surrounded by issues, the Sector in Nigeria was a grey area when it came to rules and regulations. The creation and application of the Regulations will no doubt create a Sector that consumers can trust and hopefully, the Regulations will serve as the beginning of a better courier and logistics sector in Nigeria.

[33] <https://www.premiumtimesng.com/news/more-news/405047-niposts-new-charges-on-courier-services-not-approved-by-fg-minister.html>. Accessed 10 November 2020.



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