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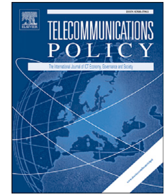

Institutions and consumers: Assertion of ordinary consumer interest in the Nigerian digital mobile telecommunications market

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ABSTRACT

This study on evaluation of the affirmation of ordinary consumer interest in the digital mobile telecommunications market in Nigeria situates within the broader perspective of the public interest and in the context of policy failure (what happens after adopting policy?). It focuses on aspects of compliance, monitoring, and enforcement of policy objective relating to ordinary consumer interest, areas that receive inadequate attention in policy literature.

The study is conducted using the new institutional economics framework. It adapts and extends the Saleth and Dinar (1999) institution decomposition model to deconstruct the mobile institution into four major components: policy, law, administration and enforcement for analytical purposes. Using document analysis, supplemented by semi-structured interviews, the study provides insights into how the regulatory framework engages with the ordinary consumer and the implications this has for the delivery of the policy objective of protecting ordinary consumer interest.

The main findings reveal that (1) due to weak institutional structures, the regulator and mobile service providers do not hold ordinary consumer's interest at levels consistent with policy and law (2) there is no special intervention to make basic mobile services accessible and affordable for low-income ordinary consumers and (3) the pervasive violation of consumer interest persists due to laxity in enforcement of existing rules.

The public interest in telecommunications policy has so far benefitted mobile companies in Nigeria rather than ordinary consumers. The existing policy failure, as discussed in this case study, can provide inspiration for rethinking the place of the ordinary consumer.

1. Introduction

In 2001, the Nigerian telecommunications sector was fully liberalised with the opening up of the mobile segment to competition by issuing mobile licences to MTN and AIRTEL; subsequently, GLOBACOM and ETISALAT joined in 2003 and 2008 respectively. These four providers offer services in the 900/1800/2100 MHz spectrum bands. Prior to the liberalisation of the sector, the existing telecommunications facilities (fixed/fixed wireless) were grossly inefficient and problematic due to inadequate facilities and poor infrastructural development (Okonjo-Iweala, 2012; Ukodie, 2006).

Today, Nigeria has the largest mobile market in Africa and is one of the fastest growing in the world, contributing 9.8% of the nation's US$568.5bn GDP (Ajanakuon, 2016; World Bank, 2015). The active subscriber lines/penetration increased exponentially from 25,000 lines/0.025% in 2001 to 152.8 million lines/109.1% in August 2016 (NCC, n.d.-h)). Mobile telephony (GSM) is the preferred means of

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communication in Nigeria, accounting for 99.5% of total telephone subscriptions (NCC, n.d.-f). For most ordinary consumers, their first access to telecommunications has been through the mobile.

This impressive growth has not been without challenges. First, it brought with it the 'hydra-headed challenge' of poor quality of service partly because (1) the growth in active subscription arising from the huge suppressed demand outstripped mobile infrastructural deployment (Okonjo-Iweala, 2012) and (2) the Commission focused solely on infrastructural acquisition and "was not concerned about quality of service" (NCC Annual Report, 2012:12; 2009:12). Hence, despite the success story there has been growing consumer dissatisfaction largely due to poor quality of service, illegal airtime deductions, high prices, unsolicited messaging, and inefficient customer care services (Admin, 2016; Akinsuyi, 2014; Guardian Editor, 2016; NCC, 2005; Ndibe, 2013; Okonji, 2012).

This paper objective is to investigate how the key players define/implement the policy on ordinary consumer interest and protection. The study question is, **if and how have the legislators, regulators and market players in Nigeria defined the ordinary consumer interest in the field of mobile communications?**

The next section of this study presents the conceptual framework and institution decomposition model. Section 3 gives the methodological approach. Thereafter, section 4 presents the empirical research findings with simultaneous discussion. Section 5 concludes the paper.

2. Conceptual framework and institution decomposition model

According to the International Telecommunication Union (ITU), in conditions of perfect competition there is no need for regulation (ITU, 09). However, in practice competition is present only to a limited degree (Baldwin & Cave, 1999). Moreover, even under perfect competition there may be need for ex-post regulation if only to set standards and address infringements in the ever changing telecommunications market landscape. This implies, therefore, that regulation is always necessary to sustain competition at a high level and thereby improve market efficiency (Gaffinkin, 2005; Michalis, 2007).

New Institutional Economics (NIE) endorses this position. According to Spiller (2012) the differentiation of the NIE approach, from neo-classical and other approaches to regulation lies in NIE's interest in institutional structure, institutional interactions, and the performance of regulation. Central to NIE is that institutions matter; they influence economic change. Institution is defined as "the rules of the game in a society or, more formally, the humanly devised constraints that shape human interactions" (North, 1990:3; 1991:97), organisations are the actors/players in the game. In other words, acceptable solutions can be achieved by establishing institutions to define the rules of the game along with the appropriate enforcement mechanisms, which facilitate to alter pay-offs and engender compliance (North, 1993).

The neo-classical economics, for long, provided conceptual framework in telecommunications policy studies. Its analysis usually involves comparing market outcome with theoretical benchmark of perfect competition (static mode of analysis of regulation). This abstraction has been strongly criticised because it fails to address the real world situation. NIE builds on, extends and optimises the gaps in the neoclassical approach. For instance, 1) NIE modified the neoclassical assumption of scarcity and competition by suggesting that competition does not present optimal solution in all economic settings, 2). NIE rejects neoclassical assumptions that individuals have complete information that results in their acting in a rational manner (unbounded rationality) and proposes that individuals are limited in their capability to access and assess information and the realities on ground, and 3). NIE also rejects the assumption of a frictionless market with transactions that are instantaneous and costless (zero transaction costs) and asserts that transaction costs are involved in the setting up and operation of markets (North, 2005).

Three analytical tools of NIE guide this study, namely: transaction costs, agency, and property rights. Transaction cost for ordinary consumer includes cost of accessing telecommunication services, accessing/assessing information, time and effort to contact the Commission's/services providers' customer contact centres, switching costs, etc. On the Commission's part, it includes rule making cost and the cost of monitoring and enforcement because the proper functioning of institution, with reference to the transaction cost, depends on the costliness of enforcement (North, 1990; 2005).

In practice, enforcement of rules is carried out by agents who may not always act in the best interest of the principal because the agents may have "incentives to further their interests at the expense of their principals" (Jain, 2001:78). Agency problems arise between the Nigerian Legislature (principal) and the Commission (agent) if the latter acts in a manner that is not transparent or difficult to monitor or if the politicians/service providers capture the Commission, or alternatively, if the Legislature lacks the control mechanisms to effectively monitor the Commission (Jensen & Meckling, 1976). Similarly, Agency problems may arise between the Commission (as principal) and the service providers (as agents).

In a broad sense, regulation defines property rights (North, 2005). Property rights include the roll out obligations of service providers as well as several incentives-disincentives embedded in the licenses and Consumer Codes/Regulations.

NIE is suitable for this study because it takes into consideration the significant influence of both the institution and the prevailing extra-institutional factors (e.g. culture). However, analysis of regulations, apart from being complex, may not yield useful results because of the dynamic nature of the problems for analysis. Hence, Bickenback, Kumkar, and Soltwedel (1999:50) recommend "that future analysis should focus on institutional aspects within the process of regulation". Consequently, this strategy is realised by adapting Saleth and Dinar (1999) model. This study seeks to extend Saleth and Dinar (1999) model by introducing enforcement as the fourth component of the mobile institution. In this way, this study seeks to fill a gap in literature, to ascertain the contribution of each of these four components of the mobile institution – policy, law, administration and enforcement and to facilitate analysis of the definition/ protection of the ordinary consumer interest, in section 4.

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