

Report on Legislations, Regulations, Directives, Orders, Policies, Strategies and Announcements Impacting the Information Technology Ecosystem.





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This Report is based on actual monitoring using openly available information. This report spanned events from Q1 2020 to Q4 2021. It chronicles diverse policy decisions that have impacted the technology (ICT) sector in Nigeria, whether disruptive, enabling, or crippling. This Report is not exhaustive and was curated to cover select policy trends, decisions, and directives across the Nigerian digital economy.

All information provided in the Report is based on public data, our regulatory intelligence effort, and information available at the time of this report's publication.

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Editor's Note

The Nigerian tech sector has witnessed unprecedented growth in the past few years. A quick expansion and growth across the sector have brought with it newer challenges for innovators, investors, and regulators. As capital steadily flows into Nigerian tech startups and companies, new frontiers of technology are being explored, and nascent markets created. With these developments, regulators and public stakeholders have naturally picked interest in the country's booming tech ecosystem as they seek to manage the positive and/or negative implications of the new markets and opportunities created.

As innovation and regulation will likely interrelate more in the near future, it is important to bridge the information gap on what tech policy is like in Nigeria and a possible outlook for what policy directions may look like in the near future.

This 2021 State of Tech Policy Report aims to dive into the tech policy framework in Nigeria. It examines the key enablers, ongoing reforms, and updates affecting the nation's tech sector. The report also highlights some disturbing trends that are crippling the advancement of the tech sector in Nigeria and how they impact the tech ventures operating in Nigeria.

This Report engaged key tech ecosystem stakeholders such as startup founders, investors, and regulators to get the general temperature on current regulatory trends as well as garner views on what the future of regulations may look like. Based on the industry-wide surveys, the Report recommends policy reforms and action points for respective stakeholders to create a better regulatory terrain for the tech sector.

I believe the importance of this Report is underscored by the recent trends like increased regulatory and investment activity in the tech space between 2020 and 2021. The growing interest in the Nigerian tech market marks an era where new entrants would need a 'North Star' that would serve as a compass to understand the regulatory terrain and outlook in Nigeria. I am honoured by the trust that the Tech Hive Team, wonderfully led by Deji Sarumi and Ridwan Oloyede, have placed in me to review the first edition of this landmark reference document which would prove pivotal to the future of technology regulation and investment in Nigeria.

Legal Journalist at Nigerian Regulations

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Stakeholder Foreword

Regardless of the outcome and effect of current regulatory developments, there is a growing awareness among stakeholders and operators in the tech ecosystem. Innovators and investors are beginning to understand that they need to engage with regulators a lot more seriously in creating their market-faced solutions. In the past, we have had challenges where ecosystem operators were more focused on disrupting sectors and industries without bearing in mind the overall impact which such displacements may have on the economy, which is where the regulators come in.

The disruptive nature of tech innovation and its impact around the globe and specifically in Nigeria shows a growing need for more open communication between the regulators on the one hand and innovators on the other hand. While technology may easily disrupt sectors and industries, regulators are saddled with the responsibility of managing the impact of displacement created by such innovations. Therefore, regulators need more information and transparency from innovators in order to create innovation-driven regulations and policies.

In the past year, there have been concerted efforts in making sure that existing policies, strategies and plans are utilized in a way in which the tech ecosystem will positively feel their impact. A number of policies created through the Ministry of Communication and the Digital Economy, the National Information Technology Development Agency, and other government agencies show the government's intent to create a sustainable environment for the tech sector.

One of the key highlights is the Nigeria Startup Bill which is championed by the Presidency and members of Nigeria's tech ecosystem. With this Bill, we hope to address pertinent issues affecting tech startups and tech-enabled companies. These include the lack of an enabling environment and regulatory uncertainty. The Bill will drive collaboration between the public and private sectors to draft and pass laws that are clear and consistent, as well as address the interests of all stakeholders involved. The Bill has scaled various formulation stages and hopefully, it's only a matter of time till it gets passed into law.

In conclusion, we need to see the tech ecosystem not as a fighting ground, but as a level-playing field. While we agree that innovation may be a frontrunner for regulation, that only works when there's a common ground between all stakeholders. Otherwise, operators will see their innovations as being disruptive while regulators will only see displacement, leading to both sides being at loggerheads. Thus, engaging with and learning from one another is crucial to the future of the digital economy ecosystem.

This is why I applaud the essence of this Report from Tech Hive and Ikigai Initiative which presents us with a clear snapshot of what has transpired in the tech policy space, the current happenings, and an outlook of the coming future for investors, regulators, and innovators alike.

Thank you.

Senior Special Assistant (Digital Transformation) to the President, Nigeria Lead, Nigeria Startup Bill

Saretin Juobadia

From the Chief Fixer's Desk

Ilt is not news that the tech ecosystem holds the promise for the future. Thus, I'm delighted to present you with "The State of Tech Policy in Nigeria Report." The Report provides a comprehensive overview of legislation, rules, directives, orders, policies, initiatives, and announcements affecting Nigeria's tech ecosystem from the first quarter of 2020 through the fourth quarter of 2021.

Legislation and policy discussions have a monumental impact on each and every one of us who has a stake in the continuous development and success of the tech ecosystem. The Report tracks and highlights changes and trends whether past, present or even prospective trends that have or may impact the tech ecosystem.

The Report was developed to encourage the expansion of Nigeria's tech ecosystem and discourage the enactment of regulations that restrict or hamper it while also boosting the ecosystem's enablers. It functions as a one-stop shop to learn about the latest developments across various sectors in the technology industry and keep track of the pending regulations in the legislature. There has never been a more accurate time for this Report. It is important that as the technology space keeps advancing at a rapid pace, our laws and policies must stop merely playing catch up and rather function to promote innovation and harness the ever-growing benefits of the tech ecosystem whilst protecting the rights of people. This Report promises to provide readers with an insight into the direction and path our laws must follow to build a progressive tech ecosystem.

A key takeaway from the Report is the vital recommendations to the government and stakeholders to facilitate growth and promote sustainable development. With the right legislation, policies, and best practices in place, Nigeria can truly establish itself as Africa's tech leader in both investments and a conducive environment for business activities.

I hope you find the Report as insightful and enlightening as I do. I must commend the work and efforts of the Editor, Jesutooni Ajiboye, all the Analysts from Tech Hive Advisory, and Ikigai Nation as well as our ecosystem operators and stakeholders who provide perspectives and insights thereby making this Report more detailed and comprehensive.

Chief Fixer, Tech Hive Advisory Director, Ikigai Innovation Initiative

About Tech Hive

Tech Hive Advisory Limited ("Tech Hive") is a technology policy advisory and research firm that provides support services to private and public organisations regarding the intersection between technology, business, and law. We focus on how emerging and disruptive technologies are altering and influencing the traditional way of doing things while acting as an innovation partner to our clients.

Our experience and capability extend across Research, Policy Advisory and Intelligence, Privacy and Data Protection, Data Ethics, Cybersecurity, Start-Up Advisory, and Digital Health. We ensure our advice serves our clients well by having an excellent understanding not only of their business but of the markets in which they operate through accurate policy and legislative development tracking and intelligence.

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About Ikigai

Ikigai Innovation Initiative is a non-profit organisation set up with the vision of becoming the one-stop centre for technology policy in Africa. We promulgate diverse research on technology policy and legal frameworks across Africa. We also engage relevant stakeholders around the intersection of law, business and technology and advocate for better policies for the ecosystem at large. Being a research and advocacy centre focused on emerging technologies, policy and research, we often work and collaborate with leading research institutes, academia, organisations, civil society, and individuals on policy affecting technology. We also publish and contribute to whitepapers, reports, policy briefs, infographics, guides and guidance, academic journals and publications.

Our researchers work closely with government, stakeholders and ecosystem players, placing evidence and academic intuition at the heart of policymaking. We bring together the latest insights, evidence and commentary from our researchers with our one-stop-shop vision for policy by connecting policymakers, decision-makers, and practitioners with our industry-leading research. We also deliver evidence-based policy that meets the grand challenges facing society by advocating for social justice in the face of technology; sensitization of the public on technology policies that impact their rights and lives and promoting digital rights and digital ethics.

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Table of Abbreviations

Abbreviation Definition

AGF Attorney General of the Federation

Al Artificial Intelligence

ALTON Association of Licensed Telecoms Operators of Nigeria

API Application Programming Interface
APP Agriculture Promotion Policy
BDCs Bureau de Change companies

BOFIA Banks and Other Financial Institutions Act

BVN Bank Verification Number
CAC Corporate Affairs Commission

CBN Central Bank of Nigeria

CERRT Computer Emergency Response and Readiness Team

CGTA Capital Gains Tax Act
CITA Companies Income Tax Act
DEC Data Ethics Commission

DPPF Director of Public Prosecution of the Federation

DLT Distributed Ledger Technology
DMS Device Management System
DPIA Data Protection Impact Assessment

DPO Data Protection Officer

ECOWAS Economic Community of West African States
EFCC Economic and Financial Crimes Commission

EGRP Economic Recovery and Growth Plan FIRS Federal Inland Revenue Service

FCCPC Federal Competition and Consumer Protection Commission

FG Federal Government
FTC Federal Trade Commission

FX Foreign Exchange

GDP Gross Domestic Product
GPS Global Positioning System

ICPC Independent Corrupt Practices Commission ICT Information and Communications Technology

ID Identity

IP Intellectual Property

ITU International Telecommunications Union INTERPOL International Criminal Police Organisation

IXP Internet Exchange Point

IXPN Internet Exchange Point of Nigeria

JICA Japan International Cooperation Agency

ISP Internet Service Provider

MDAs Ministries, Departments and Agencies MFWA Media Foundation for West Africa

MIT-REAP Massachusetts Institute of Technology Regional Entrepreneurship

Acceleration Program

MMS Mobile Money Service
MRA Media Rights Agenda
MTN Mobile Telephone Network
MVNO Mobile Virtual Network Operator

NAFDAC National Agency for Food & Drug Administration & Control

NAICOM National Insurance Commission

NASENI National Agency for Science and Engineering Infrastructure

NASD National Association of Securities Dealers

NBA Nigerian Bar Association

NBC National Broadcasting Commission

NBS National Bureau of Statistics

NCAIR National Centre for Artificial Intelligence & Robotics

NCC Nigerian Communications Commission

NCC-CSIRT Nigerian Communications Commission Cyber Security Incident Response Team (CSIRT).

NCDC Nigeria Centre for Disease Control

NCPS National Cybersecurity Policy and Strategy

NDAS Nigeria Digital Agriculture Strategy

NDEPS Nigeria Digital Economy Policy and Strategy
NDLEA National Drug Law Enforcement Agency
NDPR Nigeria Data Protection Regulations
NGO Non-Governmental Organisation
NHRC National Human Rights Commission
NIFC Nigerian International Financial Centre
NIGCOMSAT Nigerian Communications Satellite

NIMC National Identity Management Commission

NIN National Identification Number

NIPOST Nigerian Postal Service

NITDA National Information Technology Development Agency

NOA National Orientation Agency

NODITS Nigeria Office for Developing the Indigenous Telecom Sector

NPC Nigerian Press Council
NSE Nigerian Stock Exchange

NSTC National Science & Technology Council

NUJ Nigerian Union of Journalists

OIIE Office for ICT Innovation and Entrepreneurship

OTC Over-the-Counter
OTT Over-the-Top

OSIWA Open Society Initiative For West Africa:
PCN Pharmaceutical Council of Nigeria

PKI Public Key Infrastructure
PITA Personal Income Tax Act
PSB Payment Service Bank

PSHC Payments Service Holding Company

PSP Payment Service Provider

Q Quarter

QR Quick Response RoW Right of Way

SARS Special Anti-Robbery Squad

SEC Securities and Exchange Commission
SEP Significant Economic Presence

SERAP Socio-Economic Rights and Accountability Project

SIM Subscriber Identity/Identification Module SME Small and Medium-Sized Enterprise

SMP Strategic Management Plan
SON Standards Organisation of Nigeria
SRAP Strategic Roadmap and Action Plan
TET ACT Tertiary Education Trust Fund Act

TSA Treasury Single Account
USD United States Dollars
VAT Value Added Tax
VPN Virtual Private Network

WIPO World Intellectual Property Office

WNO WIPO Nigeria Office

Table of Contents

Disclaimer - Usage of	
Report	i
Objective	ii
Editor's Note.	iii
Stakeholders Foreword	iv
From the Chief Fixer's Desk.	V
About Tech Hive	vi
About Ikigai	vi
Contributors	Vii
Table of Abbreviations	viii
Executive Summary	1
Introduction	3
PART 1 Sectors in Focus & Updates	4
PART 2	
Legislative & Policy Challenges for the Tech Ecosystem	
Recommendations: Sector Specific and General	
2022 Tech Ecosystem Outlook: Predictions	40
PART 3	
Stakeholder Insights	
Conclusion	47
Annexures	48
Proposed Bills and Policies.	

Executive Summary

Technological growth has exploded globally over the past two decades, with more creativity still being driven by the industry to date. Emerging markets like Nigeria are not an exception as startups and creatives have hopped on the innovation-driven by technology for sectors like health, education, finance, media, and entertainment to create more value and wealth for society. In recent statistics gathered, the contribution of the information and communications technology (ICT) sector to Nigeria's GDP has been remarkable - in some instances, outperforming the contribution of other key sectors such as energy, power, and manufacturing to the economy¹. According to an NBS report, in the second quarter of 2020, the tech sector contributed 17.83% to Nigeria's GDP, higher than the contribution of the sector in the previous quarter of 2019, which stood at 14.55%. This steady development has made the Nigerian ICT sector attractive to investors and stakeholders. It has inspired a new means of livelihood for citizens and potential actors – locally and internationally. The deployment of venture capital funding and investments into Nigerian startups has picked up steam, with most reports highlighting a cumulative investment of \$1.37 billion in 2021, as of the time of this Report².

The impact of technology on Nigeria's growth and development requires enabling policies and a framework that would form the foundation for unlocking transformational innovation. Hence, there is an urgent need to ensure that this sector has flexible and practical policies and the necessary infrastructure. This Report explores the intersection of events in the information technology ecosystem and the business, regulatory and political factors essential for the development of the ecosystem. The report also delves into the legislative actions that potentially impact the tech ecosystem, tracking proposed legislation before the federal and state legislatures and giving a brief analysis on the expectations of the outcome of such Bills if they become law.

Our findings show that alongside several Bills in the Nigeria National Assembly that could enable the ecosystem to perform optimally, there are also policies formulated by respective regulators and public stakeholders which could promote innovation and drive the nation to more growth and development.

In brief, this Report finds that digital identity systems in Nigeria are becoming more integrated with the directive on the mandatory linkage of National Identification Number ("NIN") and SIM card registration by the Ministry of Communication and Digital Economy, and a review of the current framework for Bank Verification Number ("BVN") by the Central Bank of Nigeria ("CBN"). In addition, there have been critical developments in Nigeria's fintech sector with the introduction of a new licensing regime for payments companies within Nigeria under the supervision of the CBN and a new licensing regime for wealthtech companies within Nigeria under the supervision of the Securities and Exchange Commission ("SEC"). Other key regulatory developments in Nigeria's financial technology sector include regulatory framework or guidelines for QR Code payments, open banking, payments service banks, andmobile money services.

^{1. &#}x27;e-Conomy Africa 2020 - Africa's \$180 billion internet economy future' Google and IFC, a member of the World Bank Group, p. 16

^{2. &#}x27;The Big Deal Substack accessed 29 November 2021

^{*}The ICT Sector as defined by the Nigeria Bureau of Statistics includes telecommunication services, arts and entertainment.

Moreover, some concerning developments have impacted the freedom of speech, access to information, and press freedom within Nigeria. These developments include the suspension of Twitter by the Federal Government, which affected individuals and SMEs; the introduction of Bills seeking to restrict press freedom; and an increasing inclination towards controlling information and social media platforms by regulators. Furthermore, the suspension of bike ride-hailing services in Lagos State with an executive order, the restriction on protesters' bank accounts, court orders obtained to block the bank accounts of some startups, among other regulatory actions, signals a restive environment.

Furthermore, increased cases of police brutality, which culminated in the #ENDSars protests continue to be a grave concern impacting technological innovation and development in Nigeria; in many cases, reported police brutality incidents are closely linked with youths, the most active demographic driving the creation and adoption of tech innovation in Nigeria.

Finally, there is progress in developing legal frameworks for sectors such as data protection, intellectual property, and startups generally by the National and State House of Assemblies. However, about 54% of the Bills cited in this Report are yet to proceed beyond the First Reading stage before different state and federal legislative chambers, which indicates a need for improvement in the speedy review of laws that improve overall tech policy in Nigeria. More innovation-friendly regulations from key stakeholders such as the CBN, NCC, and SEC are expected to increase the number of innovative offerings by Nigerian startups.

These are some of the findings from the Report:

- Of all the regulators, the CBN introduced the highest number of regulations within the period under review;
- The National Information Technology Development Agency ("NITDA") sanctioned three organisations within the period under review for violation of the data protection regulation;
- The Federal Government has demonstrated increased interest in regulating digital contents and platforms;
- The Federal Competition and Consumer Protection Commission ("FCCPC") has shown interest in extending the exercise of its regulatory powers over consumer rights on digital services;
- There is an increase in the appetite of state governments to regulate digital services;
- More than half of the proposed laws before the National Assembly have not progressed beyond the first reading;
- In a decision by the Court of Appeal, data protection right has been recognised as a subset of the right to privacy protected under the constitution;
- Notable proposed legislation was introduced to regulate the health sector to increase access to patient health records for care delivery;
- There is an ongoing process by the Federal Government to deepen the harmonisation of digital identity databases;
- The telecommunication sector was designated as a critical national information infrastructure, and plans were developed to encourage the adoption of broadband services; and
- Disturbing trends such as the restriction of ride-hailing platforms in Lagos and the CBN's limitations on cryptocurrency were equally reported.

Introduction

The burgeoning technology ecosystem in Nigeria is getting a lot of attention, partly due to the number of startups and high-growth companies emerging onto the scene. The volume of <u>investment</u> that Nigerian startups have attracted has been on the rise in the past few years compared to other African countries, which continued even amidst crackdowns and restrictive policies from regulators.

Given its large, young, and entrepreneurial population, digital entrepreneurship can become a driver of economic transformation in Nigeria and set the country on a new growth trajectory. Nigeria is home to several high-growth digital companies that provide hopeful examples of the country's potential digital strength. Lagos, one of the 36 States in Nigeria, is an example of an active ecosystem with dynamic incubators, venture capital companies, and digital startups.

Digital technologies are <u>projected</u> to be a significant driver of productivity, with successful economies depending on more digitally skilled workers than has previously been the case. Generally, effective regulations and policies can be a key <u>variable</u> in driving the growth and adoption of digital technologies. As a case study, Nigeria has created some regulations and policies that served as vehicles for innovative development and technology adoption. For instance, the country's financial technology sector has recorded key advances through innovation-friendly regulations driven by stakeholders like the Central Bank of Nigeria and the Securities and Exchange Commission. However, on the other hand, the benefits of digital technologies may be hampered where regulators introduce poor thought-out policies and stifle regulations. Using Nigeria as a case study, an example of this was the Executive Order from the Lagos State Government, just at the start of 2020 imposing a ban on the operations of motorcycling within the State; a move which may have effectively <u>hampered</u> the growth projection of certain ride-hailing startups.

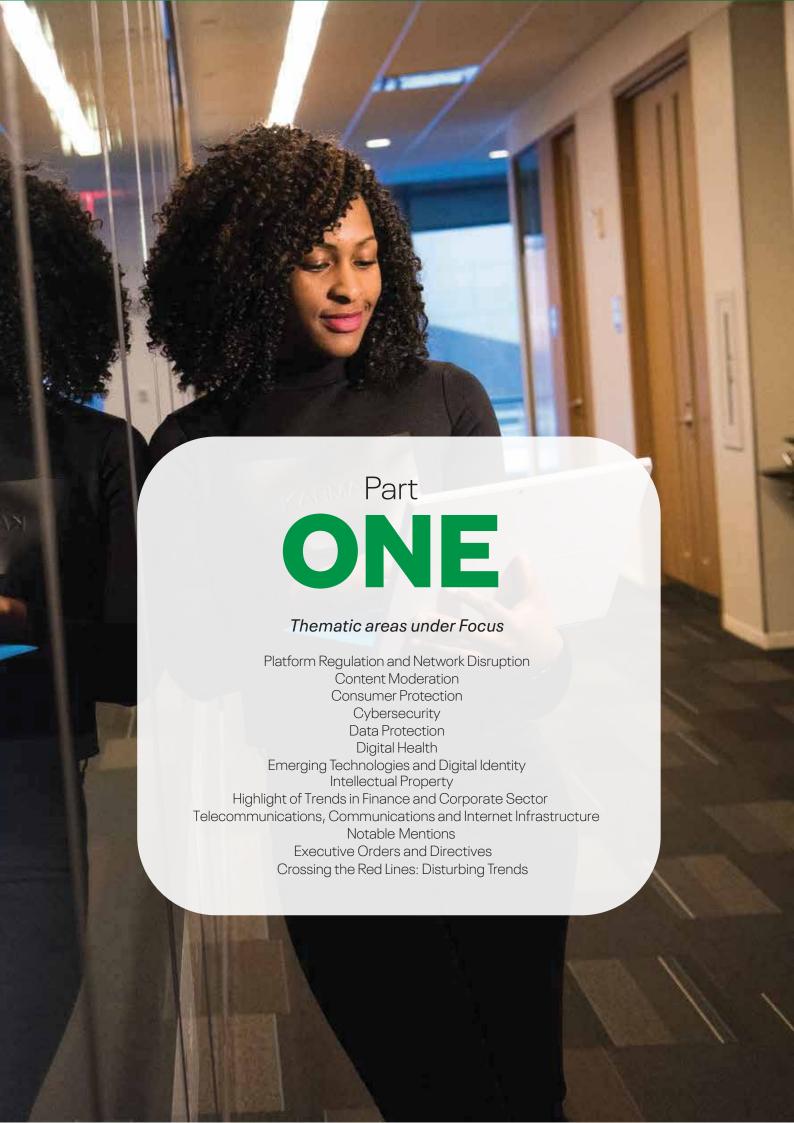
This Report will highlight the state of tech policy in Nigeria, noting the good, the bad, and sometimes ugly sides of tech-relevant regulations. The Report will further assess how the respective laws impact innovation and growth in Nigeria's digital technology space. Finally, the Report will make key recommendations and predictions on what stakeholders may expect concerning tech policy in Nigeria in the coming years.

The Report is divided into three parts.

Part 1 focuses on a summary of the events or key updates covering the Report timeline and highlights the laws, regulations, policies and executive actions which have impacted technology within Nigeria;

Part 2 considers some of the legislative & policy challenges for the Tech ecosystem; recommendations and predictions concerning tech regulation in the coming years based on the available data provided in this report; and

Part 3 contains stakeholder insights from startups, investors & regulators. Finally, we conclude by high-lighting the current and evolving developments, primarily draft laws, policies and directives, which may likely impact the state of tech policy in coming years.





Platform Regulation and Network Disruption

Social Media Regulation in Nigeria, 2020-21

There have been long niggling attempts by the Nigerian government to regulate social media³ platforms. Since 2015, there have been legislative <u>attempts</u> to introduce laws to regulate social media; however, none of them is yet to be enacted. In June 2021, the National Broadcasting Commission (NBC) directed that all social media platforms, online broadcasting services and over the top (OTT) services <u>apply</u> for a broadcast licence and warned that any online broadcast service provider that failed to obtain the licence would be considered an illegal entity.

In addition, there is a proposed amendment to the Nigeria Broadcasting Commission Act pending before the House of Representatives, which includes a proposal to regulate online broadcasters and classify social media and other online media as an online broadcasting medium. The proposal is <u>backed</u> by the Minister of Information and Culture, who asserted that it is essential for the government to <u>regulate</u> the use of social media. Furthermore, in November 2021, the government <u>announced</u> it is developing a code of conduct to regulate social media platforms. The code of conduct will be introduced as a bye-law under the NBC Code.

Twitter 'Suspension' in Nigeria, 2021

On 1 June 2021, Nigeria's President, Muhammadu Buhari, tweeted, reacting to the agitations in the Eastern region of Nigeria. However, some users of the platform interpreted the tweet as a threat of violence and reported the tweet. As a result, on 2 June 2021, the President's tweet was <u>deleted</u> from the platform for violating Twitter's rules and community standards.

Following this series of events, the Federal Government announced the indefinite <u>suspension</u> of Twitter's operations in the country. The announcement was made by the Minister of Information and Culture, who mentioned that the suspension was because Twitter was the choice <u>platform</u> "for activities that are capable of undermining Nigeria's corporate existence".

Subsequently, the Association of Licensed Telecom Operators of Nigeria (ALTON) <u>announced</u> that they had received a directive from the Nigerian Communications Commission (NCC) to suspend access to Twitter and have acted in compliance with the directive. Further, the Federal Government announced that following a request from Twitter, they had set up a <u>committee</u> to negotiate with Twitter over its suspension

within the country. During a television appearance, the Minister of Information and Culture <u>announced</u> that the recommendations by the team negotiating with Twitter would be subsequently applied to all other social media platforms operating in Nigeria.

As part of the aftermath of the suspension of Twitter, NBC <u>directed</u> all broadcasting stations to stop using Twitter services. In addition, the suspension caused many corporate entities to stop using Twitter as a medium to address customers, which is considered to result in loss of opportunities, <u>businesses</u> and fewer complaint resolution channels.

In October 2021, during the Independence day speech, the President announced that the <u>suspension</u> of access to Twitter would be lifted if the social media platform meets certain conditions, which include national security and cohesion; registration, physical presence and representation in Nigeria; fair taxation; dispute resolution and local content. After two hundred and twenty-two (222) days, the suspension <u>ended</u> on January 13th 2022, after the microblogging platform reportedly agreed to meet all the stipulated conditions.

Introduction and Suspension of the Nigerian Press Council Bill, 2021 and Nigerian Broadcasting Commission Bill, 2021.

The Nigerian Press Council (NPC) Bill and Nigerian Broadcasting Commission (NBC) Bill were sponsored by a member of the House of Representatives and intended to amend the Nigerian Press Council Act and Nigerian Broadcasting Commission Act, respectively. Media groups have raised concerns that some provisions of the NPC Bill are unconstitutional and would effectively muzzle the press. Also, the proposed NBC Bill sought to reduce the independence of the NBC as available under the current Act. For example, it prescribed that the Chairman, Board members, and the Executive Secretary of the NBC be appointed by the President based on the recommendations of the Minister of Information instead of making the appointments subject to the legislature's approval. Section 23 of the proposed NBC Bill also gave the Minister of Information powers to make regulations, essentially removing the independence required of a regulator.

In addition, the Minister of Information and Culture <u>requested</u> that the House of Representatives include internet broadcasting and online media under the control of the Commission in the proposed NBC Bill. The provision implies that internet media companies may have to obtain approval from NBC before operating in the country, exposing them to stringent government supervision and possible censoring.

Subsequently, both bills have been <u>suspended</u> after mass criticism by mostly press and media groups.

Network Disruption

The year under review witnessed several orders from the government to restrict access to services and disrupt networks. While the suspension of Twitter was the most notable restriction to an online service, the Nigeria Communications Commission (NCC) also ordered telecommunication companies to restrict access to online media publisher <u>Peoples Gazette</u>.

As part of the government's measures to enable security forces to tackle the threats of insecurity in the North-West region of Nigeria, the Nigerian Communications Commission (NCC) instructed telecommunications operators to shut down network services in Zamfara, Katsina, Sokoto and <u>Kaduna</u> states. The <u>shutdown</u> was total in Zamfara, with phone services shut down in at least thirteen (13) local government areas of Katsina and 14 local councils in Sokoto. However, the effectiveness of the shutdown is still being <u>questioned</u> as the activities of the bandits in the affected areas are reportedly ongoing.

The effect of network disruption can impact human rights, economic activity, public safety and emergency services, among others.



Content Moderation

The Nigerian government has since made its stance on information disorder, often tagging them as threats to its nascent <u>democracy</u>. Furthermore, attempts have been made to diffuse the danger of information disorder. For instance, the federal government launched the <u>National Campaign Against Fake</u> News before the 2019 elections to sensitise Nigerians on the dangers of fake news. In addition, the year under review witnessed further effort by the federal government to regulate the content made available by citizens and organisations.

In 2020, the National Broadcasting Commission (NBC) <u>issued</u> the amendment to the 6th edition of the Nigerian Broadcasting Code to limit anti-competitive behaviour, promote local content, and increase advertising revenue for broadcast stations. However, the amendment has been <u>criticised</u> for promoting the infringement of Intellectual Property rights, contradicting the principles of the freedom and exclusivity of contracts and discouraging investment in the entertainment sector, amongst other things. The amended code also increased the <u>fine</u> for hate speech from five hundred thousand Naira to five million Naira to deter the broadcast of hate or controversial speech.

The fight against fake news was intensified in 2021 with the <u>training</u> of National Orientation Agency (NOA) officials by Dubawa, an independent fact-checking platform, to identify and mitigate the spread of fake news and then the announcement of the NOA's plan to train <u>37,000 fact-checkers</u>, 1,000 from each state in the country including the FCT, over five years.

Following the suspension of Twitter, NBC <u>instructed</u> broadcasting stations in the country to stop using the service and deactivate their accounts. The commission cited statutory provisions that empower it to give such an order and mandated adherence by broadcasters, stating that the order's defaulters would be deemed unpatriotic.

Additionally, at the legislative arm of the Government, the National Film and Video Censorship, Classification, and Exhibition Regulatory Commission Bill, 2019 was tabled for consideration. The Bill seeks to licence and regulate any online platforms engaged in sales, renting, leasing, distribution or exhibition of films and video works, musical videos, and video games. It is currently at the committee report stage after passing the second reading. The Bill in its current form underscores the Government's desire to have a firmer control over all online platforms in the country and the type of content they release, share or distribute. However, keywords are used vaguely without definition, which authorities could overstretch, and essential safeguards were omitted.



A comprehensive review of the Bill highlighted the failure to accurately categorise or classify the varying models of OTT services, including Voice over Internet, Internet Protocol Television Services, and Voice on Demand Services. There is also no clear distinction between social media OTT platforms and OTT broadcasting platforms which gives room for misclassification and ambiguity to the disadvantage of international players within the OTT services space.

Furthermore, the licensing and content approval process suggested in the Bill will significantly affect platforms with user-generated content. To put it in context, in February 2020, over 500 hours of videos were <u>uploaded</u> to YouTube every minute, approximately 30,000 hours of content per hour. Such an approval process could stifle creativity and create a thriving content and speech moderation environment where free speech is abhorred and generally disregarded.

Finally, in December 2021, the federal government expressed plans to regulate streaming services because they could be exploited to "cause chaos." According to the Minister of Information and Culture, the services can be used to <u>undermine</u> Nigeria's democratic process. Accordingly, the government announced it is working on a digital content regulation for OTT streaming services and content providers in Nigeria.



Consumer Protection

The period under review showed the interest of the Federal Competition and Consumer Protection Commission (FCCPC) around the intersection of consumer rights and technology. In <u>2020</u> and <u>2021</u>, the telecommunication sector ranked third on the Commission's complaint chart. However, the most ambitious move is the announcement of plans to investigate and sanction digital lending companies. In November 2021, the FCCPC announced plans to crack down on digital lending companies violating consumer rights. The announcement followed a series of complaints from members of the public about the <u>pervasive practices</u> of some digital lending companies. According to the FCCPC, the complaints bordered on:

"questionable repayment enforcement practices including public shaming and violations of privacy, arbitrary, unjust, unreasonable, or exploitative interest rates and or loan balances calculations, harassment, and failure of consumer feedback mechanisms among others have led to significant and understandable consumer aggravation and dissatisfaction".

As a response, the Commission constituted a task force of five other agencies to jointly <u>investigate</u> the abuse. Other members of the task force include the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC), National Human Rights Commission (NHRC), Central Bank of Nigeria (CBN), and National Information Technology Development Agency (NITDA). Also, the Commission announced it would work with mobile applications stores to <u>shut down</u> products found to violate the law and could issue a guideline to players in the industry. In addition, the FCCPC also set up a dedicated email address to receive complaints from members of the public.

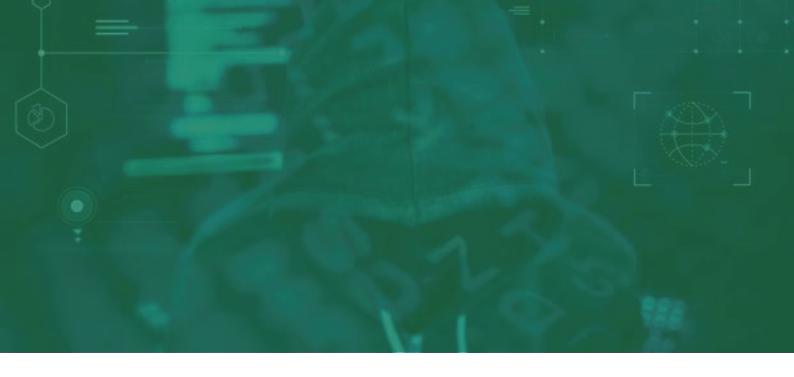
Further, in March 2020, an electronic commerce platform <u>delisted</u> 390 products from 168 sellers because of a price hike after receiving a warning from the FCCPC. Similarly, in September 2020, the Commission launched an <u>investigation</u> into the PayTV industry over competition and consumer rights issues.

Furthermore, within the period under review, the Commission issued Guidelines, Regulations and indicated other proposed policies that could impact the Tech sector. The most recent is the Merger Review Regulations 2020; the Notice of Threshold for Merger Notification; the Merger Review (Amended) Regulations, 2021; and the Investigative Cooperation/Assistance Rules & Procedures 2021. As part of implementing the policies, the Commission launched a notification portal. In addition, the FCCPC published three draft policies for public contribution - the Enforcement Framework-Restrictive Agreements and Trade

<u>Regulations</u>, 2021; Abuse of Dominant Position Regulations, 2021; and <u>Notice</u> on Market Definition, 2021. These policies will have a sizable impact on competitiveness in the ICT sector as it continues to witness growth.

The period under review also witnessed the <u>signing</u> of a memorandum of understanding between the FCCPC, EFCC and the Federal Trade Commission (FTC) of the United States of America "to strengthen cooperation and collaboration in addressing mutual cross-border consumer protection or fraud concerns and problems". The nature of the cooperation will also involve sharing information to combat online crimes. In addition to international partnerships, the FCCPC also leverages the African Consumer Protection Dialogue, a joint initiative of competition and consumer protection authorities in Africa. Part of the Dialogue's mandate is to enable cross-border cooperation and investigation on the continent.

From the above, what is certain is the clear intention of the FCCPC to regulate consumer complaints by technology companies and enabled by technology. Significantly, it has become pertinent for ICT companies to pay attention to the activities of the Commission and its powers. Interestingly, the FCCPC shares concurrent powers with other regulators concerning consumer rights.



Cybersecurity

The overarching aim of cybersecurity is to protect individuals and enterprises from online attacks and unauthorised access to systems. Cybersecurity witnessed interventions from a regional court, the federal government, and government agencies in the year under review. The ECOWAS Court of Justice, in July 2020, ordered the Nigerian government to amend or repeal the provision of Section 24 dof the Cybercrimes Act 2015 for violation of Nigeria's obligations to guarantee the right to freedom of expression under the African Charter of Human and Peoples Rights and International Covenant on Civil and Political Right. The suit was initiated by the Laws and Rights Initiative against the Nigerian government, challenging the provision of the Cybercrimes Act. Tln judgement, the Court ruled that section 24 of the Act had vague concepts allowing for arbitrary interpretation and application. While there is an amendment bill for the 2015 Cybercrimes Act before the National Assembly, the bill seeks to amend Section 21 and not the affected Section 24.

Cyberattacks are infamous for their ability to cause problems that can develop from nuisance to outright chaos. The review period witnessed combined efforts from the Federal Government, NCC, and NITDA to insulate Nigerian cyberspace from cyberattacks. First, the Federal Government launched the National Cybersecurity Policy and Strategy (NCPS) in February 2021 and called for an overhaul of the national strategy on cybersecurity, emphasising the need to explore the internet for economic growth opportunities, enhancement of knowledge, and mitigation of crime. The new Strategy replaces the 2014 Strategy and Policy and sets the country on a new and modern direction in securing its cyberspace. In addition, NITDA announced the launch of a bug bounty program for responsible vulnerability disclosure concerning government-owned websites and portals. However, much was not disclosed on how to make the disclosure.

In the same token, the NCC <u>established</u> the 'NCC Centre for Computer Security Incident Response Team (NCC-CSIRT)' to primarily address cybercrime issues and protect telecoms infrastructure whilst encouraging participation in Nigeria's digital economy. The establishment of the NCC Centre is similar to the upgrade of the NITDA's Computer Emergency Response and Readiness Team (CERRT) with improved

^{4.} Section 24 of the Cybercrimes Act defines the offence of cyberstalking and includes the penalty for violation. The provision has been criticised for lacking safeguards, use of broad and undefined words which has been used by law enforcement authorities to arrest dissidents, journalists, human rights activists and other citizens.

^{5.} The section mandates all persons and institutions to report actual and sust=pected cyber attacks and intrusions so that they can be adequately addressed by the National Computer Emergency Response Team (CERT). It further stipulates a fine of 2,000,000 naira where a report is not made within 7 days.

facilities and gadgets to secure Nigerian cyberspace in August 2020. Subsequently, NITDA released the Strategic Roadmap and Action Plan (SRAP 2021 - 2024) to guide the direction and strategies of the Agency in facilitating the digital transformation of the nation. In the SRAP, the strengthening of cyberspace and creating a safe and reliable digital network was listed as one of the major goals to be achieved by 2024. The action of NITDA and the NCC signals the adherence to the need for a sector-specific computer emergency response team espoused under the new and former Strategy. In addition, the NCC-CSIRT, CERRT and the Nigeria Computer Emergency Response Team (CERT) issued different cybersecurity advisory on threats during the year under review.

Further, in December 2020, the Nigerian Army <u>announced</u> the upgrade of the Nigerian Cyberwarfare Command Centre to combat more online threats. The Centre was established in 2017 to support the protection of the country's cyberspace. In October 2021, the Nigerian Army <u>established</u> the Nigeria Cyberwarfare School to "tackle the issue of insecurity and territorial warfare in cyberspace". In August 2021, the CBN <u>published</u> the draft Risk-Based Cybersecurity Frameworks and Guidelines for Other Financial Institutions for comments from the public. The Framework creates new obligations for regulated organisations to <u>strengthen</u> the sector's resilience in the face of increasing threats and risk. The Apex bank had previously released a similar Framework for Deposit Money Banks and Payment Service Providers in <u>2018</u>. In brief, the period within review finds a consistent joint effort by government agencies to secure Nigeria's cyberspace and mitigate the occurrences of cyberattacks in Nigeria. However, the violation of people's fundamental right of freedom of expression as decided by ECOWAS in the Cybercrimes Act remains a sore spot in the cybercrime policy terrain in Nigeria.





Data Protection

The Data Protection terrain in Nigeria witnessed significant growth during the review period. The <u>Data Protection Bill 2020</u> is the most recent federal legislative proposal on data protection. The Bill holds potential for data protection in Nigeria which is underscored by the recurrent issue of abuse and misuse of data and the absence of an institutional framework. In August 2020, the government, through different government <u>agencies</u>, made a <u>publication</u> urging public members to send in reviews and comments on the Bill. In September 2020, a stakeholder review and validation exercise was held for the Bill. At the end of the <u>exercise</u>, the Bill was meant to be presented to the legislature as an executive bill. However, as at the time of the compilation of this Report, the Bill has not been introduced. Surprisingly, in November 2021, the government <u>announced</u> a plan to draft a new data protection bill, suggesting a departure from the 2020 Bill. It is the fifth attempt at enacting a data protection law since 2018.

NITDA and NDPR Enforcement

Since its introduction in 2019, the NDPR has been the most important policy document on data protection in Nigeria. NITDA issued the <u>Guideline</u> for Management of Personal Data by Public Institutions in Nigeria in May 2020, and in November 2020, the Data Protection Implementation <u>Framework</u> provided implementation direction. NITDA has acted as the country's supervisory body, driving different initiatives to encourage compliance. According to NITDA, it has issued multiple enforcement <u>notices</u> and <u>warnings</u> to organisations. The mandatory annual filing of data protection audit reports by some organisations has emerged as one of the compliance mechanisms employed by NITDA. According to NITDA's 2020 <u>performance</u> report, 635 organisations filed the report across 13 sectors. In the 2021 <u>performance</u> report, over 1,200 organisations filed their report. NITDA issued two advisories. The first was on data processing during Covid-19 and the second was on the change to WhatsApp's privacy policy.

However, since 2019, NITDA has only issued three sanctions amidst ongoing <u>investigations</u> and <u>unresolved complaints</u>. The first sanction was issued in October 2020 against Lagos State Inland Revenue Service, NITDA imposed a <u>fine</u> of N1,000,000 (One million naira). Thereafter, in March 2021, a N5,000,000 (five million naira) <u>fine</u> was issued against a financial technology company, among other sanctions, for failure to implement adequate security measures. Subsequently, in August 2021, a digital lending platform was <u>fined</u> N10,000,000 (ten million naira) for its invasive practices and failure to obtain a lawful basis for processing, among other violations - it is the highest fine imposed so far.

Sector-Driven and State Government Regulations

The period under review also witnessed sector-specific regulations with data protection provisions. For example, in November 2020, NIACOM released the Nigerian Insurance Industry Information Communication Technology Guideline. The <u>Guideline</u> primarily sets the minimum standard for the use of information technology in the insurance sector and creates an obligation to comply with data protection laws. Similarly, the CBN released some Guidelines and Regulations within the same period that created privacy and data protection obligations on regulated institutions. Some of which are the Regulatory <u>Framework</u> for Open Banking in Nigeria, Draft Risk-Based Cybersecurity <u>Framework</u> and Guidelines for Other Financial Institutions, the Revised Regulatory <u>Framework</u> for Bank Verification Number Operations, the CBN Directives to Banks and OFIs on <u>Observance of Due Diligence</u> in Processing FX Transactions and <u>Publication of Names</u> of Defaulters, and the eNaira <u>Guidelines</u>. In addition, the Federal Ministry of Communications and Digital Economy released the Revised National Identity <u>Policy</u> for SIM card Registration and the National Policy for the Promotion of Indigenous Content in the Nigerian Telecommunication Sector - suggesting the government's inclination towards the localisation of data.

The absence of a federal data protection law has led to attempts by state governments to introduce their subnational data protection laws. For example, in October 2021, the Lagos State Data Protection Bill came up for a second hearing before the state's House of Assembly. In November 2021, a <u>public hearing</u> was held on the bill by the state Assembly. Similarly, there is a proposed executive bill in <u>Ogun</u> State for a Law to Provide for the Protection of Personal Information and Data of Residents of Ogun State. In addition, there are suggestions that more states may follow suit. The challenge with multiple state-level regulations is that it increases the compliance landscape for organisations and could create conflicts. For example, under the Lagos State Bill, responding to a data subject access right request differs from the duration under the NDPR. In addition, State governments will compel organisations to register within the state.

Regulating Digital Lending

The digital lending industry has come under the spotlight for pervasive violation of data protection and consumer protection laws by some players in the industry, which has led to <u>increased calls</u> to regulate their activities and protect consumers. In February 2021, a <u>report</u> was published detailing the gross violation of data protection and consumer protection laws. However, amidst multiple <u>complaints</u> to regulators and public outcry, it appears that the regulatory response has been slow.

Within the period under review, NITDA issued a fine against one organisation. As a result, the FCCPC constituted a <u>task force</u> of five other agencies, threatening to <u>shut down</u> violators and introduce a new framework. Also, NITDA <u>announced</u> a similar partnership with the FCCPC. The intra-agency partnership will support the joint investigation, enforcement, and possible prosecution.





Court Decisions

The period under review witnessed an increase in the number of cases founded on violations of privacy or data protection. A State High Court recognised data protection as a right worthy of protection. Similarly, the court recognised the rights and the NDPR ⁷. In addition, the Court of Appeal decided that data protection right is a subset of the right to privacy guaranteed under the constitution. In another decision, the court ordered the <u>restriction</u> of data processing by a federal government agency for failure to display a proper privacy notice and comply with the NDPR. The recognisable impact of these decisions is that consumers can now approach the court to sue public and private organisations for violation of their right to privacy and data protection.

Other Developments

Aside from the proposed laws mentioned above, there are other pending bills and regulations addressing the right to privacy and data protection. These include the Electronic Transactions Bill and the Digital Rights and Freedom Bill, among others. While these legislative proposals offer protection, some pose risks to privacy rights. For example, the Integration of Private Closed Circuit Television Infrastructure into the National Security Network in Nigeria Bill, National Electronic Health Record Bill and the Internet Child Pornography Prevention Bill (pending before the House of Representatives) failed to include sufficient safeguards guaranteeing privacy rights. In addition, the proposed amendment to the Draft NCC Registration of Telephone Subscriber Regulation retained the provision under the 2011 Regulation, which permits the NCC to disclose subscribers' information to security agencies. Optimally, such disclosure should be duly authorised by a court of law.

Overall, data protection in Nigeria is still in its developmental phase. However, signs of growth albeit slow, are seen from the renewed attempts to enact a law and proposed partnerships.

"There are growing examples of violations of the law by private and public institutions. While there could also be rising effort to comply with the existing law, it is minuscule compared to ongoing violations that pervade. Nevertheless, there is still so much that needs to be done to make data protection part of how people live, do their job, build products and provide services. Organisations and public authorities need to understand their obligations and make a genuine effort to build an effective privacy program. More work is to be done in raising awareness of data subjects – aware enough to invoke their rights and make informed decisions. The regulator also needs to do its job by enforcing the law and not passing over clear violations, even if committed by a government agency. Finally, the country should enact a federal data protection law."

Ridwan Oloyede and Oluwagbeminiyi Ojedokun

 $^{6.} Incorporated \ Trustees \ of \ Digital \ Rights \ Lawyers \ Initiative \ v \ National \ Identity \ Management \ Commission \ (NIMC). \ Suit \ No. \ AB/83/2020$

 $^{7.\} Incorporated\ Trustees\ of\ Digital\ Rights\ Lawyers\ Initiative\ and\ LT\ Solutions\ \&\ Multimedia\ Limited.\ Suit\ No.\ HCT/262/2020$

^{8.} Incorporated Trustees of Digital Rights Lawyers Initiative v National Identity Management Commission (NIMC) LPELR-55623



Digital Health

In a period marked by the Covid-19 pandemic and efforts to combat it, policies in the digital health space were tailored towards enhancing the resilience of healthcare in the face of limited physical patient-care-giver interaction. As part of the national response, the President issued the Covid 19 Regulations under the Quarantine Act and the Lagos State Governor issued the Infectious Disease (Emergency Prevention) Regulation. The response to Covid-19 saw digital health startups like Wellvis Health, and GloEpid introducing triage tools that were used to advise people who may have been exposed to the virus and for disease surveillance. Similarly, Kogi and Ogun States introduced mobile applications, but the applications were identified to contain privacy risks⁹.

In addition, the National Health ICT Strategic Framework mandate expired in 2020. The Framework covered a period of five years from 2015 to "enable and deliver healthcare coverage by 2020¹⁰." Six years later, it is not clear if the Framework achieved the desired objective.

Another notable development during the period under review is the National Electronic Health Record Bill, which seeks to provide a legal framework for digitising health records in Nigeria so that they can be accessible to caregivers anywhere through a <u>central digital platform</u>. Under the Bill, the Federal Ministry of Health will establish a national health record system to store and access electronic health records. In March 2021, the Bill came up for <u>public hearing</u> before the House of Representatives Committee on Healthcare and awaiting the House committee report. However, there was opposition to the Bill, mainly because some stakeholders considered it duplicated the existing function under the Health Records Officers Act.

Another notable legislation that was introduced and has already come into force during the period in review is the Online Pharmacy Regulations 2021, which seeks to <u>regulate</u> the online dispensing of drugs. It has been gazetted and came into force in January 2022. It requires online pharmacies to register with the Pharmaceutical Council of Nigeria (PCN). The PCN is empowered to enforce this regulation with powers to access the database of any online pharmacy with force if necessary, and examine its records if there is the belief that there has been a breach of the regulations. However, the Regulations have been criticised for failing to involve relevant stakeholders before its release.

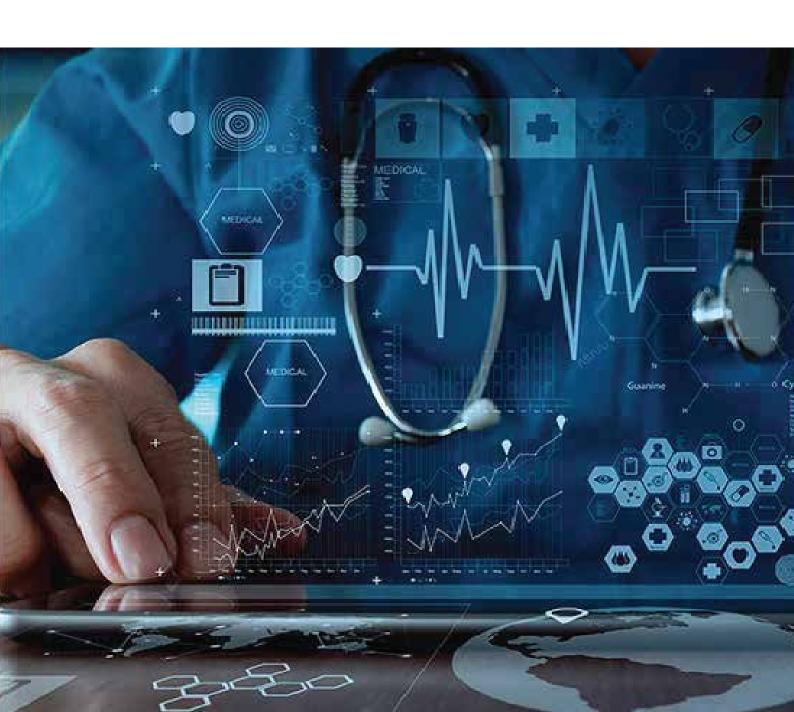
^{9.} The risks included poor security architecture, lack of privacy notice, mobile hosted by third parties, excessive use of permissions and excessive collection of personal data, that is contrary to principle of data minimisation.

^{10.} Foreword to the Framework by the then Minister of Health. https://www.health.gov.ng/doc/HealthICTStrategicFramework.pdf

There is concern amongst industry stakeholders about the regulations, touching on the minimal attention paid to patient data, the method of enforcement, and the restriction from selling prescription medication online, which defeats the purpose of telemedicine. As one industry stakeholder noted, patients do not come online to buy OTC medication like multivitamins. Instead, they leverage telemedicine to access their prescribed medication, especially during lockdowns when physical consultations are impossible.

The Covid-19 pandemic also spurred an increased pace of <u>innovation and investment into healthtech</u> projects to support the government's pandemic management efforts. Two tech hubs in Nigeria, Ventures Platform Foundation and CCHub specialising in early-stage startups, separately issued open calls to health tech startups to develop solutions about information dissemination, illness trend analysis, medical supply manufacture and logistics, and contact tracing. It was also advised that this should be done in collaboration with government agencies.

Digital health and its various products and services will improve access to healthcare in Nigeria. However, a sizeable part of the digital health sector needs <u>regulation</u> to drive growth and responsible innovation. Unfortunately, the power to issue regulations conferred on the Federal Minister of Health under the National Health Act has largely been unused. Nonetheless, professional bodies are issuing different policy instruments to impose obligations on service providers.





Emerging Technologies and Digital Identity

Nigeria's emerging tech and digital identity policy landscape is fledgling. However, several foundational steps were taken in the period under review, which, if followed through, may enhance Nigeria's standing to reap the benefits of the fourth industrial revolution. One of such steps was the World Bank's approval of Nigeria's Digital ID for Development Project 2020. Unfortunately, a lack of coherent and updated ID databases of Nigerians has militated against the capacity of national and subnational governments to deliver targeted benefits. As of July 2021, about 60 million Nigerians were enrolled in Nigeria's NIN (National Identification Number) system. With the support of the World Bank, the National Identity Management Commission (NIMC) aims to push this number to 150 million in the next three years. That would constitute roughly 65% of the population due to current growth rates. With the aid of the World Bank, NIMC also plans to enhance the NIN system's technical and legal safety measures to protect personal data and privacy. The NIMC would also be able to onboard Nigerians living in rural areas to access the benefits of NIN in an increasingly digital Nigeria.

However, the FG is not solely relying on the support of the World Bank in building a comprehensive database. In August 2021, the Ministry of Communication & Digital Economy <u>signed</u> a project agreement worth \$13 million with the Republic of Korea to increase access in the NIN enrolment process through the establishment of additional enrolment centres and provision of registration infrastructure. The treaty will also <u>aid</u> the execution of key initiatives of the National eGovernment <u>Master Plan</u> which includes expanding the delivery of eGovernment service delivery through capacity building programmes and the activation of a Government Service Portal. Also, through the Ministry, a directive was issued to all telecom operators, requiring them to integrate the NIN with the SIM details of their subscribers. Subscribers who fail to do so may likely have their SIM disconnected at the direction of the NCC, although the deadline for the directive has been <u>postponed</u> several times.

Notwithstanding, the directive has indirectly compelled more Nigerians to register for their NIN and then link with their SIM. Similarly, in December 2020, the Minister for Communications and Digital Economy directed the NCC to audit telecom subscribers. The directive instructed telecom companies to suspend the sales of SIM cards until the completion of the audit exercise. The suspension of sim card sale had a significant impact on both the telecom companies, citizens, and visitors to Nigeria. A loss of about eight (8) million subscribers was registered across all major telecom companies in Nigeria while MTN recorded a loss of 4.84 million in market share. Further, the FG also announced that digital tokens would replace NIN slips following the directive. However, this announcement by the FG has suffered severe whiplash from the National Association of Telecom Subscribers, who have decried the proposed tokenisation due to the non-consultation of relevant stakeholders.

Furthermore, the Ministry of Communications & Digital Economy also released the Revised National <u>Digital Identity Policy</u> for SIM Card Registration, which provides a legal framework for SIM card registration to adopt digital identity. The Policy covers the development of customised application software and databases, data management, the establishment of a Device Management System (DMS) and the development of a SIM Identity Management Solution. The Policy includes Guidelines on New SIM Acquisition and Activation, SIM Replacement, New SIM Activation for Corporates and Internet-of-Things or Machine-to-Machine. Also, the President approved the <u>transfer</u> of NIMC to the Ministry of Communications and Digital Economy as part of the government's realisation of the NDEPS.

Another significant step was the release of the National Adoption of Distributed Ledger Technology (DLT) Blockchain strategy document by NITDA, Nigeria's IT regulator. The <u>Strategy</u> shares objectives and initiatives to be pursued by the FG through its MDAs during the lifetime of the strategy document. Subsequently, a <u>stakeholder</u> session was organised to discuss the strategy. However, the decision of the CBN to ban financial institutions from supporting cryptocurrency transactions implies dissonance across agencies of government. It casts doubts on the capacity of the government to support the use case of blockchain.

Another emerging technology that caught the eye of the FG during the period under review was artificial intelligence (AI). In November 2020, the National Centre for Artificial Intelligence & Robotics (NCAIR) was launched, as a subsidiary of NITDA, in line with the National Digital Economy Policy and Strategy (NDEPS). The NCAIR is expected to serve as a hub for research, supporting innovation, knowledge transfer and training in AI, robotics, and other emerging technologies. In line with this, the Centre houses the Massachusetts Institute of Technology Regional Entrepreneurship Acceleration Program (MIT-REAP) and the Office for ICT Innovation and Entrepreneurship (OIIE). The NCAIR has also secured a partnership with the Japan International Cooperation Agency (JICA) to organise iHatch, a five-month free intensive incubation program to support Nigerian startups refining their business models and securing funding. However, before the National Assembly, there is a bill to create an AI research and regulatory body distinct from the NCAIR. The bill is still in its preliminary stages, and it is thus unclear what its impact will be on the NCAIR, if enacted.





Intellectual Property

The Intellectual Property industry witnessed key regulatory and enforcement development and awareness growth in the period under review. Key players and regulators active in and around the sector took steps to further the nation's growth and awareness of Intellectual property laws. The year under review kicked off with Global IP Organisation, World Intellectual Property Organisation (WIPO), <u>establishing</u> the WIPO Nigeria Office (WNO) in January 2020 to promote awareness-raising, training and capacity building in the field of Intellectual Property (IP) and across WIPO's global services in Nigeria. The office is situated in Abuja.

The Nigerian Copyright Commission (NCC) intensified its efforts to combat piracy and enforce copyright laws, especially at the border within the same year. To this end, the commission partnered with the Nigerian Customs Service (NCS) in an <u>inter-agency collaboration</u> to nip the importation of copyrighted materials in the bud. The agencies, through this collaboration, aim to bring the rate of piracy within the country down to a single digit. Although the parties had agreed on a memorandum of understanding to this effect, the parties agreed on a previous memorandum of understanding to this effect in <u>2017.</u> Its efficacy and operation have been questionable. However, the agencies have reaffirmed their resolve with action in the period under review. Some of the collaborative efforts include setting up a joint task force to embark on regulatory antipiracy operations and implementing capacity building training to upscale the competence of their operatives. These actions have yielded significant results, with the joint task force impounding over <u>80,000</u> pirated books worth over 100 million naira since 2020. The current protocol for import at the border requires an importer to obtain a certificate issued by the NCC before containers containing copyright materials, including books, stationeries and other educational materials, can be released.

Outside of the collaboration, the NCC has tried to combat piracy within the nation in the year under review. The agency has reportedly impounded over 10,000 copies of pirated materials worth over 16 million naira, making three arrests in the process. More efforts towards antipiracy are expected to be seen in 2022, provided the NCC and the joint task force maintain their newfound vigour. More importantly, we anticipate that the NCC will delve more into local production and printing outlets to curb piracy. The agency has already indicated an interest in increased local investigations through its outlet raids in the past year and the newly launched anti-plagiarism software expected to address plagiarism and copyright abuse in tertiary institutions.

Perhaps the most important development in the period under review is the release of the 2 (two) Copyright Amendment Bills, namely: The Copyright Bill 2021 (No. SB 769) - Executive Bill and the Copyright Bill 2021 (No. SB 688) - Private member Bill. The Bills seek to bring Nigerian legislation in line with the current realities of a rapidly globalised and technologically progressive world and offer protection to Nigerian creative industries in film and broadcasting, music, fashion, book publishing, art and emerging technology industry. We hope to see the Bill being passed before the end of the current government's tenure, especially given the history of the Bill pending since 2015.

2022 holds great potential for the growth of the intellectual property sector, especially in light of new policy and technological developments within the last two years. In collaboration with two partner organisations, Tech Hive released a forecast report detailing what we hope for the Intellectual Property sector in 2022.



Highlight of Trends in Corporate and Finance Sector

Corporate Affairs Commission (CAC) Companies and Allied Matters Act, 2020

On 7 August 2020, the President assented to the Companies and Allied Matters Bill passed by the National Assembly, introducing several corporate innovations geared towards enhancing the ease of doing business in Nigeria. In addition, the Act replaced certain redundant provisions and obstacles affecting business operations and efficiency in Nigeria and paved the way for the Companies Regulation 2021.

Central Bank of Nigeria

The CBN was notably the most active regulator in Nigeria within our review period; releasing a plethora of both innovative and challenging policies (collectively more than 15 key regulatory guidelines and frameworks for Nigeria's banking and finance sector) which had varying impact on the activities of Fintech, Lendtech and Wealthtech startups as well as the entire tech ecosystem.

Our observation is that the CBN's policy mindset is a key parameter for the success of startups and is of equal importance to investors and ecosystem operators alike.

Some notable policies released and/or announcements made by the CBN were: the Open Banking Regulatory Framework - which provides guidance to operators looking to deploy APIs and creates a structured environment for the safe utilisation of financial data exchange; the Guidelines on Global Standing Instruction for Individuals - which aims to improve the credit system and loan recovery by Nigerian banks and OFIs; the Approved Licence Categorization Requirements - which details the licensing requirements for the six (6) categories of operators in Nigeria's burgeoning payments system; the Regulatory Sandbox Operations Framework - which provides a first-of-its-kind sandbox environment to harmonise regulation and innovation in Nigeria's banking and finance ecosystem; the freezing of the bank accounts of certain Wealthtech companies; the BDC and AbokiFx debacle; the Banks and Other Financial Institutions Act 2020; and the launch of Nigeria's Central Bank Digital Currency - the eNaira and its Guidelines.

A few of the CBN policies and guidelines highlighted have improved the overall state of the banking and finance ecosystem, creating new business segments, for example, the Revised Licensing regime for payment companies and the BOFIA 2020 recognised IMTOs and PSPs as OFIs.

However other challenging policies of the CBN, including the directive to Banks and OFIs on cryptocurrency transactions and the targeting of wealthtech startups on concerns of breaching FX regulations, have increased concerns of stakeholders on the uncertain regulatory environment for Nigeria's banking and finance sector.

Federal Inland Revenue Service ("FIRS")

Taxation plays a vital role in the financing of state spending. We found that the Ministry of Finance, Budget, and National Planning made significant changes to the taxation regime in the country within our review period. For example, the Ministry defined significant economic presence for a non-resident company in Nigeria for taxation in the <u>SEP Order</u> released in February 2020. Also, the introduction of the Finance Act, 2020 ushered in over eighty (80) amendments to existing tax and regulatory legislations in Nigeria to address ambiguities in the previous Act and provide tax incentives to companies in light of the Covid-19 pandemic.

In addition to the changes introduced by the Finance Act, the FIRS clarified the definition of Goods and Services, Registration and Deregistration for VAT, Self-Accounting for VAT, Registration for Non-Residents for VAT, and the Compliance threshold through a <u>circular</u>. Furthermore, the government's commitment to align the Nigerian tax system with global best practises were reflected in the <u>Finance Bill 2021</u> transmitted by the President to the National Assembly on 6th December 2021.

Strikingly, the new tax appeal tribunal rules released in June 2021, although commended for its novel provisions on electronics filing and virtual hearing of applications, have been criticised for stating that applicants must pay 50% of the tax assessed before a matter can proceed.

Securities & Exchange Commission ("SEC")

The use of Crypto-assets and other Distributed Ledger Technologies remain on the rise worldwide. According to the SEC, crypto-assets may be treated as securities in Nigeria unless proven otherwise. In this <u>Statement</u> made in 2020, the SEC affirmed that they are empowered to regulate Crypto-assets when they qualify as investments and describes who may be regarded as an issuer or sponsor of a crypto-asset. A few months later, in February 2021, the SEC reiterated its regulatory powers over Cryptocurrencies when the investment's character qualifies as a securities transaction in a <u>further statement</u>. In the new statement, the SEC noted that it would engage the CBN in understanding the identified systemic risks in cryptocurrencies to ensure that appropriate mitigants are put in place, should such securities be allowed in the future.

To ensure the public's safety and confidence in the unregulated Crowdfunding sphere, in January 2021, the SEC approved the <u>Rules</u> to detail the eligibility criteria and obligations of issuers, crowdfunding portals and crowdfunding intermediaries, and registration requirements, risk assessment, prohibitions, restrictions and penalties.

Other remarkable updates from the SEC include the creation of the Sub-Brokers Serving Multiple Brokers through a Digital Platform (Digital Sub-Brokers) licence category in the amended <u>Consolidated Rules and Regulations</u> and the <u>introduction</u> of proposed Interoperability and Financial Market Infrastructures Link Framework among Central Securities Depositories to enhance the efficiency of trading and settlement functions as well as align the market with international best practices. Additionally, <u>the SEC Regulatory Incubation (RI) program</u> was launched in June 2021 to boost innovation and investment in the Fintech sector, modelled as a regulatory sandbox initiative. Subsequently, the SEC issued <u>New Rules</u> defining Robo Advisers, the nature of services they can provide, and the risks involved in August 2021. The growth-driven releases by the SEC impacted the wealth tech sector positively and created clarity for previously ambiguous terms and positions in crypto-asset investments and regulations.

The Nigerian Stock Exchange ("NSE")

The Nigerian Stock Exchange released its <u>Exposure Draft</u> of the Proposed Rules for Broker-to-Fintech Collaborations in 2020. The Proposed Rules seek to regulate any business collaboration between dealing members of the NSE and Fintech entities, which aims to provide a product or service via a platform to end-users, including clients of the dealing member.



Telecommunications, Communications, Internet Infrastructure

The telecommunications industry in Nigeria is a major GDP <u>contributor</u> and serves as the backbone for most of the tech and digital ecosystem in the country. Because of its critical nature, there are always initiatives and plans to expand its growth and reach because of its ripple and multiplier effects. The period under review was no exception, with reforms mostly driven by the telecoms regulator and the subnational governments.

The overarching vision for the telecoms/internet/tech ecosystem in Nigeria is defined in the <u>National Digital Economy Policy and Strategy</u> (NDEPS) 2020 - 2030. This policy document is based on selected pillars for implementation to drive the growth and Nigeria's participation in the global digital economy.

During the period under review, the Nigerian Governors Forum (NGF), a group composed of serving state governors in Nigeria, resolved that telecoms operators would pay a uniform rate of N145 (One Hundred and Forty-Five Naira only), approximately \$0.37 (Thirty-Seven Cents), for each linear metre of fibre cable laid in a state. Currently, states charge different rates, some going as high as N1,000 and above for each linear metre of cable. The disparate higher costs prevent telecoms companies from expanding their network coverage and maximising the bandwidth available from submarine cables berthed in coastal states like Lagos.

However, most states who see the Right of Way levy as a source of revenue are yet to implement the <u>reduced</u> <u>rate</u>. Ekiti, Plateau, Imo, and Katsina States have implemented it, while Anambra and Kaduna have gone the extra mile of <u>completely scrapping it</u>.

Another attempt to reduce broadband infrastructure deployment costs was the introduction of the National Dig Once Policy. As the name implies, this Policy encourages the digging of fibre optic conduits in construction projects to avoid repeated applications and delays in obtaining Right of Way licences. If fully implemented, it promises to encourage broadband infrastructure sharing and reduce the cost of broadband internet access.

The telecoms sector regulator, Nigerian Communications Commission (NCC), also issued a five-year <u>Strategic Management Plan (SMP)</u> spanning from 2020 to 2024 to enhance its ability to manage and regulate the telecoms sector. Already, the NCC has been recognised by the International Telecommunications Union (ITU) as Africa's most dynamic telecoms regulator. The NCC has also received delegations from Guinea-Bissau and

Senegal, studying its operations as a benchmark for improving their telecoms sector regulation.

The SMP thus signals that the NCC is interested in improving its services and not resting on its oars. Its key pillars include regulatory excellence, universal broadband access, development of the digital economy, market development, and strategic partnering.

The President also designated the telecommunications sector as <u>critical national infrastructure</u> in August of 2020. This action is consistent with his powers under the Cybercrimes Act and expressed in the Revised National Cybersecurity Strategy, which lists telecommunications as a critical national information infrastructure.

In the same period, the NCC has also launched the National Broadband Plan 2020 - 2025, which seeks to accelerate the adoption of broadband services across Nigeria to enhance GDP growth and address some of the country's challenges. The Plan reveals several recommendations on policy and regulation that broadband service providers are expected to implement with state governments. The plan, for instance, prioritises the expansion of Nigeria's 4G network and the reduction of right of way rates. Since the release of the Plan, the government has taken several steps towards its implementation like the following

- A partnership with Microsoft to deploy high-speed internet infrastructure across the six geo-political zones in the country. Microsoft Airband will be executing the project in collaboration with local partners. The project is expected to create 27,000 digital jobs over the next three years and upskill five million people. It will also involve equipping 1700 trainers who will go on to provide training to young Nigerians and civil servants;
- A memorandum of understanding between the NCC and NIGCOMSAT, Nigeria's satellite agency, to run 5G services on its C-band frequency spectrum, the most popular global spectrum for 5G services;
- Auctioning of the 3.5GHz spectrum needed for the 5G network. Two major mobile operators (MTN & Airtel) and a new entrant (Mafab Communications) qualified for the bidding processes. At the end of bidding, MTN and Mafab emerged winners. The spectrums are valid for ten years. MTN and Mafab are expected to roll out 5G services in at least one state in each geo-political zone over the next two years;
- Launching two new satellites by 2025 by NIGCOMSAT. Both satellites, NIGCOMSAT-2 and NIGCOMSAT-3, will be replacing the current NIGCOMSAT-1R, which will be expiring by 2026. By launching two new satellites a year before its expiration, Nigeria will enjoy increased satellite capacity and avoid service disruption. The new satellites will also support the 90% broadband penetration by 2025, encapsulated in the National Broadband Plan; and
- The proposed National 5G policy was formally introduced in January 2021 to drive the <u>adoption of 5G.</u>



It is noteworthy that in the period under review, the Internet Exchange Point of Nigeria (IXPN) crossed the 70th percentile in terms of traffic, placing Nigeria with Kenya and South Africa in terms of Africa's most developed internet ecosystems. IXPs support local exchange for internet traffic, avoiding delays with international traffic routes. As a result, they reduce the connection cost, support faster internet speeds, and encourage investment. Nigeria hitting this milestone is a testament to Nigeria's vibrant internet ecosystem, which added over 10 million new internet users in 2020 alone.

The NCC has also expanded consumer options and competition in the telecoms space by releasing the <u>Draft Framework</u> for Mobile Virtual Network Operators (MVNOs) in December 2020. These MVNOs are expected to offer telecoms products and services on the back of existing infrastructure owned by the mobile network operators. In addition, an updated Registration of Telecommunications Subscribers Regulations was also issued. The Regulation limits the number of stakeholders having access to subscriber details and introduces restrictions on Nigerians below 18 acquiring SIMs.

To encourage knowledge transfer and support the growth of local businesses serving the telecoms sector, the President, in May 2021, launched the <u>National Policy</u> for the Promotion of Indigenous Content in the Nigerian Telecommunications Sector. In ensuring the implementation, the policy sets up the Nigeria Office for Developing the Indigenous Telecom Sector (NODITS). This special purpose vehicle is expected to support the development of indigenous content in the Nigerian telecoms sector and support efforts to develop local human resources, leading to overall economic development.



Notable Mentions

Nigerian Startup Bill 2021

The Nigeria Startup Bill is a joint initiative by Nigeria's tech ecosystem and the Presidency to harness the potential of the digital economy through co-created regulations. The objective is to provide startups with regulatory clarity, improved access to capital, and an enabling environment to support their growth and scalability.

The Bill proposes the establishment of the National Council for Digital Innovation and Entrepreneurship, which is responsible for collaborating with various regulatory bodies to ensure the provision of support services and incentives to startups.

The ecosystem drove the Bill using the "big tent" approach through engagement with all relevant stakeholders in the startup ecosystem, including the government (departments, agencies, ministries, both at states and federal levels) and across the legislative, executive and judiciary arms of government to develop and submit the bill to be signed into law.

The NSB Secretariat has embarked on a virtual roadshow to educate the public about the provisions of the Bill and its benefits through informative webinars and fireside chats with practitioners and ecosystem operators.

The Bill is yet to be introduced at the National Assembly at the time of this Report. However, it is hoped that the Bill will galvanise the ecosystem by ensuring less friction between the regulators and ecosystem operators and improve the digital economy.

Furthermore, a recently released <u>report</u> by Tech Hive and Ikigai Innovation revealed that while countries across Africa are taking the initiative to produce legislation that will positively impact the startup space, the proposed Nigeria Startup Bill seems to be taking the lead by addressing the highest number of the issues faced by startups.

Others

Alongside the developments in the tech sector, there are exceptional milestones that occurred in other relevant sectors within our review period. For example, the Presidency directed that the National Agency for Science and Engineering Infrastructure (NASENI) be moved from the Ministry of Science and Technology to the Presidency to ensure access to adequate funding for the agency.

Furthermore, a ten (10) year Nigeria Digital Agriculture Strategy (NDAS), which was based on the Economic Recovery and Growth Plan (EGRP) of the Federal Government and the Agriculture Promotion Policy (APP), has been drafted to provide purpose and direction to the implementation of digital technologies in agriculture. The NDAS seeks to support the agricultural sector in accomplishing the economic diversification policy of the Federal Government, which aims to improve revenue generation for human and infrastructural development.

Even more, the SON's Regulation recognised the need for guidelines to regulate stakeholders in the e-commerce industry due to the shift from traditional to electronic transactions. The Regulations specify stakeholders' various roles and responsibilities in the e-commerce industry and the minimum reasonable expectations of e-commerce transactions. Although the Regulations exempts specially negotiated contracts from its scope, parties can use the Regulation as a minimum requirement.

Additionally, NITDA commenced the National Public Key Infrastructure (PKI) <u>project</u> in June 2021, following a Presidential Directive to NITDA in 2017 to harmonise all PKI projects in Nigeria. The National PKI is expected to enable secure online service communications and protection against unauthorised access and disclosure of stored data. The National PKI represents a significant step in implementing the National Digital Economy Policy and Strategy (NDEPS) and the National e-Government Masterplan.

It is also noteworthy that NITDA released a draft framework on Alternative Dispute Resolution for the ICT sector in July 2020. The framework was created to provide an avenue for technology companies to resolve ICT disputes. The scope of the draft framework covers conflicts stemming from contractual obligations between consumers within Nigeria and a trade established in Nigeria. Alongside creating a specialised ADR body, the framework also creates an online dispute resolution mechanism to facilitate the easy resolution of disputes.

The insurance sector regulator, NAICOM, also released the Nigerian Insurance Industry ICT <u>Guidelines</u> Version 1.0, which defines the minimum standard for the use of IT in the insurance sector.

Likewise, the National Digital Innovation and Entrepreneurship Policy was developed to foster the growth of sustainable digital innovation and encourage entrepreneurship, and indigenous content generation, which the federal government believes will fast track the recovery of other traditional economic sectors from recession. The Policy was presented by NITDA and is in line with the National Digital Economic Policy and Strategy.

In brief, the commencement of a National PKI project to protect sensitive data and provide secure communication channels and the transfer of NASENI to the presidency, SON regulations, and NDAS remarkably bode well for the economic development of Science Agriculture, E-Commerce and Communications sectors in Nigeria.



Executive Orders and Directives

Ride-Hailing Platform Restrictions in Lagos

In February 2020, a restriction on the operations of commercial motorbikes and three-wheeled rickshaws became effective, cutting off access in the majority of the business districts and economic hubs within Lagos. According to the Directive, the ban was introduced to ease congestion and improve road safety but ultimately led to the loss of investment, revenue and employment opportunities for several startups and citizens. In response, some of the startups pivoted to delivery and logistics services.







Crossing the Red Lines: Disturbing Trends

Police Brutality (#EndSARS Protest), 2020

The growing number of reported cases of police brutality and the continued criminalisation of young Nigerians on frivolous grounds such as ownership of phones, personal computers, or other ICT devices has negatively impacted the tech community in Nigeria. The challenges arising from police brutality cases have hindered young people from active participation in the tech sector for fear of intimidation by police officers, particularly the Special Anti-Robbery Squad (SARS). The tensions surrounding the cases of police brutality culminated in protests in 2020 across several states in the country, particularly Lagos, the hub of ICT activities in the country. The protests, which began in online petitions to the government by celebrities and concerned or affected citizens on social media sites, prominently, Twitter, evolved into physical protests in October 2020. In the aftermath of the protests, panels were set up in some States to inquire into the issues of police brutality in Nigeria.

Cryptocurrency Prohibition Directive, 2021

The CBN released a circular early in 2021, prohibiting Banks and Other Financial Institutions from facilitating payments for persons or entities dealing in or operating cryptocurrency exchanges. The directive was a notable turnaround from the 2017 Circular released by the CBN, wherein it advised all Banks and Other Financial Institutions to exercise caution when dealing with cryptocurrencies.

In its updated stance, the CBN also directed tll Banks and Other Financial Institutions to identify any persons or entities dealing in or operating cryptocurrency exchanges within their systems and immediately close all such accounts. The suddenness of the CBN decision has been criticised as a harmful policymaking strategy that challenges the speed of innovation for Nigerian startups or companies and has increased the regulatory risk outlook of small-scale startups who may just be one policy away from being out of business. Critics have asserted that there is no clear justification for the crypto prohibition and that the move perhaps reflects the conservative bent of the CBN administration compared to its counterparts in other climes. In contrast, US authorities released a memo guiding some cryptocurrencies (Stablecoins) by American Banks for certain transactions.





Ride-Hailing Platform Restrictions in Lagos

In 2020, the Lagos State Government released a policy restricting the operations of commercial motor-bikes, tricycles and, by extension, ride-hailing services. The restriction, which became effective on 1 February 2020, meant that motorbikes and tricycles could no longer operate within Nigeria's most commercial and industrialised state. The government cited several concerns, including safety and security, resulting in the ban. It also stated that motorbikes and tricycles would impede its agenda of transforming Lagos into a 'megacity'. However, the restriction led to rippling effects on businesses, investments and the economy.

On the business front, motorbikes and tricycle hailing tech startups operating within the state took a significant hit in the aftermath of the ban. Major startups Gokada, Max and Oride were left scrambling to protect their assets and minimise damage. Gokada <u>laid off</u> 80% of its staff (including riders and software developers), Max let go of almost 2,000 riders whilst Oride <u>suspended</u> business operations altogether, thus increasing unemployment rates. The unemployment rate rose by an estimated <u>800,000 drivers</u> who became unemployed by the policy. The uncertainty of the policy on motorcycles and tricycles also discouraged the entry of another ride-hailing startup SafeBoda, who opted to launch their operations in Ibadan.

Furthermore, the volatility of legislation and policies revolving around the tech sector, as evidenced in the ride-hailing restriction, creates a negative perception of doing business in Lagos in the mind of investors. Investors are usually attracted to predictability and consistency in legislation, and the apparent instability displayed by the legislation negatively impacts how investors view Lagos. The decision of SafeBoda to take its business to Ibadan and the steep_decrease in Foreign Direct Investments (FDI) are instances of the changing view of investors towards Lagos State.

Economically, the ban drove up transport fares as bus drivers and other ride-hailing services such as Bolt and Uber took advantage of the increased demand and low alternatives to increase fares.

Increasing the State of Surveillance

The year has witnessed increased spending on government surveillance capability. In July 2021, the Senate <u>approved</u> a supplementary budget to purchase tools capable of monitoring encrypted WhatsApp communication. The Senate approved 4.8 billion naira (\$11 million) to the National Intelligence Agency to purchase WhatsApp Intercept Solution and Thuraya Interception Solution. A <u>report</u> published in 2021 on the state of surveillance in Nigeria concluded that the legal framework in Nigeria on communication surveillance does not contain sufficient safeguards to protect human rights.

National Information Technology Development Agency (NITDA) Bill 2021

The Bill seeks to increase the regulatory powers of NITDA over the IT space and Nigeria's burgeoning digital ecosystem. But contrary to its stated goal of encouraging local and foreign investment in the Nigerian tech space, it expanded the scope of entities to be paying levies that will only increase the tax burden of IT and digital service providers. Considering the multiple taxes that Nigerian businesses are already subject to, an additional tax will not do much to improve regulatory certainty.

The Bill also introduced a licensing and registration regime for all businesses operating in the digital space. A new licensing requirement is unnecessary considering the fact companies in the tech space are already subject to sector-specific licensing and registration rules. An additional layer of licensing only creates more burden for an over-regulated industry. In addition, the Bill grants NITDA additional powers to regulate data.





1. Outstanding Bills and Policy changes

At the moment, several bills are being considered at the National Assembly (Senate and House of Representatives) and different state House of Assemblies which ought to have scaled through the Committee Stage at least, or have been passed but are still at the First Reading stage since 2019. The delay poses a major barrier to the progress of the tech ecosystem in Nigeria.

2. Disruption v. Displacement Divide

There is an apparent disconnect and increasing clash of ideas between innovators who are focused on scaling their disruptive innovations and regulators who are concerned about the displacement impact of these innovative products on the current market framework. This continuous disruption-displacement disconnect has led to concerning developments in which startups like platform businesses such as ride-sharing apps have impacted employment laws and policies as their business models create grey areas such as the classification of an employee or what taxes they will be charged.

3. Increasing Regulatory Uncertainty:

There is an increasing trend of abrupt policies which have adverse effects on the current business model of startups. For instance, the banning of commercial motorcycles without much recourse to stakeholders such as ride-hailing startups in Lagos, a commercial nerve centre in Nigeria, is one of the many instances in which far-reaching regulatory actions have been taken within a moment's notice. In another example, the Lagos, State Film and Video Censor Board sent a letter to some streaming platforms imposing a 5% levy on audio and visual content. However, the government later denied the existence of such a levy and suspended the Director of the Board.

The trend has increased the worries of startups and generally affects the perception of investors which in turn affects the economy. Current industry regulators' modus operandi reveals instances of lack of transparency, knee-jerk reactions, and one-sided decisions which has increased the level of regulatory uncertainty.

4. Digital v. Brick & Mortar Regulations

Certain current regulatory responses to innovation are still being fashioned primarily for traditional and legacy companies. For instance, platform businesses which offer peer-to-peer services for e-commerce operators and customers are still operating under NIPOST regulations. The digital economy requires more agile innovation-focused regulation which would reduce the burden of compliance and maximize the potential of new business models for customers, startups and governments themselves.

5. Absence of stakeholders engagement

A noticeable development in several policies that were released within the review period shows that stakeholders were not adequately consulted. For instance, there has been public outcry and the outright rejection of the NBC Code by stakeholders due to the lack of consultation amongst other things. Similarly, the government has also faced heavy criticisms on the NIN tokenization and NIN-SIM linkage projects because of the non-consultation with stakeholders before their deployment. To achieve inclusive and rights-respecting policies that promote economic and social growth, it is important to consult multiple stakeholders in the concerned industry.

6. Arbitrary extortion

It is no news that businesses are harassed and extorted unabated by government representatives and informal actors. Players in the tech ecosystem are also affected. From illegal council charges and rates to plain extortion from touts. For example, in Lagos, ride-hailing service providers were extorted by touts and road transport union members. Similarly, logistics companies complained about being extorted by the Police, Local council members and NIPOST. To put it in context, different local governments impose different and in some cases, multiple licensing requirements, thereby increasing the cost of running business and loss of revenue. In the same breath, in February 2020, the Lagos State government proposed a 10% tax on e-hailing companies. In Abuja, the Abuja Municipal Area Council is reputed for extoriting and levying arbitrary taxes.

7. Scramble for control between regulators

The period under review saw an increased level of unhealthy rivalry between federal regulators and federal and state governments for domain control over issues related to cryptocurrencies, and the status of VAT. For instance, what started as a <u>court ruling</u> in Rivers State, purporting to nullify the validity of the FIRS collecting VAT, quickly snowballed into states like Rivers and Lagos, <u>enacting state VAT laws</u>, and most state governors in the southern part of the country, coming out in <u>support of state VAT</u>, which further politicised the issue and created more uncertainty at a time the federal government is seeking to leverage VAT for higher revenue collection.

With respect to cryptocurrencies, the SEC had made <u>statements</u> about its readiness to regulate cryptocurrencies as a form of security. NITDA had also published a <u>strategy document</u> listing blockchain as an area of interest. These plans were however cut short when the CBN abruptly issued a <u>directive</u> to all financial institutions, compelling them to desist from processing any crypto-related transaction, and to also close accounts related to such activities.

Similarly, states like <u>Lagos</u> and Ogun are at different stages of enacting their own data protection laws, notwithstanding the presence of the NDPR that applies federally, albeit a subsidiary legislation, and the ongoing efforts to enact a full-fledged data protection law for Nigeria. In addition, the Lagos State Film and Video Censor Board imposition of 5% levy on streaming services for audio and video contents, which was later <u>denied</u> by the state government suggests bickering and misalignment between state agencies.

What all these issues point to is a lack of synergy and inclusive policy making across the agencies and tiers of government. The result as seen above is working at cross-purposes, increased regulatory uncertainty, higher cost of compliance, and a disincentive for local and foreign investment, which the country badly needs.



Recommendations

SECTORS IN FOCUS

Access to Information, Hate & Controversial Speech, & Information Disorder

The suppression of access to information, as well as the resulting general ignorance about governmental activity, causes more harm to society than any harm that could conceivably result from providing public access to information. Although the Freedom of Information Act is a step in the right direction, little can be said about its implementation in the various government ministries, agencies and departments with various requests for information being deliberately frustrated or ignored. The government needs to set out a structured implementation plan for the Freedom of Information Act. A plausible action plan could be the creation of an access to the information desk in every government ministry, agency and department to ensure there is someone accountable for ensuring access to information.

- ☐ We recommend that the Hate Speech Bill be scrapped totally because of its ambiguity and unreasonably harsh penalties and be replaced with continuous education and sensitization of the general public on the consequences of Hate Speech and Information disorder.
- □ Further, we recommend that the private sector and civil societies should constantly be abreast of laws being deployed against online expression in Nigeria. An example is Section 146 of the Nigerian Communications Act of 2003 (NCA). Thus, they have an essential role in monitoring the implementation of laws that impact online expression through deliberate advocacy and awareness sessions with stakeholders and other state actors like legislators, law enforcement and government agencies on the importance of free online expression.
- We recommend ensuring a human rights approach to lawmaking for policymakers like the National Assembly. Policymakers should ensure that laws impacting online expression such as the Cybercrimes Act are brought in line with constitutional and international human rights standards (such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights) through amendments.

	Also, there should be clear oversight, accountability and transparency systems to check the government's unlimited powers to decide what constitutes disinformation under the Protection from Internet Falsehoods, Manipulation and Other Related Matters Bill; a Bill that currently threatens the right to freedom of expression.
	It is recommended that there should be a judicial review of and a regulatory impact assessment (RIAs) of proposed censorship regulations. In other words, the government's demands to restrict content to protect public safety must be according to the rule of law. In addition, they should respect and protect freedom of expression and be directed at content creators rather than intermediaries.
Co	nsumer Protection
Ther and or im	e is no doubt that the activities of some technology companies have adverse effects on consumers expose them to harm online. Some of which include: online scams, identity theft and frauds, difficult apossible returns and refunds policies for defective goods and services, drip pricing practises, deceptollection of consumer data, use of dark patterns and anti-competition activities.
	Rights-respecting regulations should be designed to regulate the booming digital lending sector in Nigeria. We recommend that to enhance consumer protection in the digital economy, legislators and enforcement agencies must increasingly focus on consumer protection with a focus on legal and policy frameworks; dispute resolution and redress; enforcement, including cross-border cooperation; and consumer education and empowerment.
	The regulatory authority should update our consumer protection laws, policies and guidelines to ensure they reflect the new business models of the digital economy and are capable of curbing the activities of tech companies harmful to consumers. The updated laws will enable the FCCPC to set out core characteristics of effective consumer protection in the digital space. For example, there should be an outright ban on dark patterns especially with relation to services targeted at children and other vulnerable groups.
	Also, the FCCPC should help boost consumers' trust in e-commerce by developing transparent and effective consumer protection policies and frameworks to ensure consumers receive the same degree of protection even in the digital space. The FCCPC can also train staff on issues that affect or impact consumers in the digital space, especially market behavioural and psychological targeted activities This will enable staff to understand how to approach and respond to complaints filed by consumers and help them seek redress.
	Furthermore, we recommend that agencies and institutions created to implement and enforce competition and consumer protection laws should be effective, efficient and equipped to address the new issues that arise with the advancements in information technology, especially how new technologies interact with consumers rights.
Dia	iital Haalth
	A more tech-diverse regulatory framework for supervising digital health innovations should be developed in the Health Sector. Treating digital-driven startups in similar ways to brick-and-mortar traditional healthcare providers under the same regulations may stifle innovation and creativity in Nigeria's health sector.
	There is a need for the legislative environment to respond to the fast-developing system of digital health by passing an Effective Electronic Health Record Bill. Developing a strong legislative system for digital health will serve to protect the privacy rights of patients, regulate the use of health data for clinical trials as well as encourage responsible use of

health data and telemedicine. Even more important is the need to set interoperability standards to ensure that the seamless flow and processing of digital health data from electronic health records, mobile health apps, medical imaging and wearable devices through the use of artificial intelligence, cloud computing and big data analytics does not translate into unregulated transfer and access to patients health data. The legislative ready environment will also serve as a catalyst to encourage investors to drive the adoption and development of digital health.

There is also a need to review the Online Pharmacy Regulations 2021, as it is unduly restrictive in its current form. It restricts online pharmacies from selling prescription-only medication, a rule that defeats the purpose of telemedicine, and fails to take cognisance of the limitations on movement, as a result of the COVID-19 pandemic. At the PCN Stakeholders session held on the 9th December 2021, it was revealed that over 70% of cancer patients need prescription medication, more than supplements. It also requires online pharmacies to comply with telecoms regulations without specifying the regulation in question. These are just some examples of how the Regulations, set to come in force by January 2021, creates new challenges for online pharmacies in Nigeria.

Emerging Technologies, Artificial Intelligence and Digital Identity

- Currently, there is a bill before the National Assembly to create the Artificial Intelligence and Robotics Research Regulatory Agency. As stated earlier in this report, there already exists a National Centre for Artificial Intelligence and Robotics, (NCAIR) carrying out functions that the proposed agency seeks to carry out.
- While the need for AI regulation cannot be understated, the proposed bill falls short of what a regulatory umpire should look like. It focuses more on the bureaucratic setup of the proposed agency than on AI itself. It arbitrarily defines what the areas of focus for the agency should be, which are quite broad, including manufacturing, agriculture, education, environment, national security, fintech, healthcare, and several other sectors. This can hardly be defined as a focus. For example, Australia's national AI strategy defines just three focus areas natural resources, healthcare, and infrastructure.
 - What Nigeria needs more at this point are sector-specific regulations, and studies on the most prevalent Al use cases in Nigeria. An example of a sector-specific regulation is the SEC Robo-Advisory Rules, which covers the use of Al-driven algorithms for investment decision-making.
- We recommend that the Bill should be temporarily shelved, while there should be increased allocation to the NCAIR for it to carry out a study on AI use cases in Nigeria. Using the information about the most prevalent use cases in Nigeria, real focus areas for AI can be defined and a national AI strategy can be developed. Following this, a law may be developed to enhance the NCAIR to an independent regulatory body. Generally, there is no immediate need to create a distinct bureaucracy for AI in Nigeria.
- □ This is the approach adopted by countries or regions like the EU, Italy, Germany, UK, USA, just to name a few. In Germany, an existing agency, the Data Ethics Commission (DEC) oversaw the process of articulating the country's AI strategy. In the USA, it was done by the National Science & Technology Council (NSTC).

In summary, Nigeria must first seek to understand Al and articulate a home-grown strategy before seeking to regulate it.

Intellectual Property

☐ There is an urgent need to update our Intellectual Property laws such as the Trademark Act and the Patent and Designs Act. There should also be a consolidation of the two Copyright Bills currently at the House of Assembly in order to reduce conflict between the two bills.

	However, our policymakers and legislative officials must have a better and clearer understanding of what such policies are to protect and the role of technology in shaping Intellectual Property rights as a whole.
	The misclassification of streaming platforms as broadcasting entities by the government is another area of concern for Intellectual Property rights in Nigeria. This misclassification should be corrected by the government as it could drive out much needed foreign investment.
Tel	ecommunications, Communication and Internet Infrastructure Increased efforts should be applied to ensure uniformity of right of way rates across Nigeria's 36 states and the FCT. Without this, the benefits of increased broadband internet speed as a result of new undersea cables going live in 2022, will be isolated to landing points like Lagos and the few states that have reduced their rates. Right of way charges is a short term solution that prevents states from reaping greater long term financial benefits that come from increased digital activities originating from a state.
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GE	NERAL
Go	vernment
	There is a need to create innovation zones where entrepreneurs can have access to tax holidays, subsidised real estate for business operations, reliable internet connection, adequate security and fiscal incentives and concessions; put in place to foster the growth and vibrancy of technology and creativity.
	Institutions and regulators should be funded and staffed adequately, and with independence. The government should stop using executive power to distort the independence of regulators. Ministers should stop issuing overreaching directives that are unconstitutional and in excess of the power granted under the law.
Dal	i armantana and Lanialatura
	icymakers and Legislature A better understanding of the technology ecosystem is the core driver for better legislation. Thus, there is a need to understand how these technologies work and how proper legislation could be put in place where needed. A recommendation would be the introduction of more sandbox protocols in conjunction with sector stakeholders.
	The backbone to a thriving sector with a progressive rate of development is good policies that drive comfortable participation from within. Without keen attention to policies, there could be a reduction in foreign investments and funding.
	Currently, we have a plethora of outdated laws and policies in the technology sector. Therefore, the regulators and legislators must adopt an adaptive strategy to the ever dynamic and evolving technology ecosystem. Our laws and regulations must be designed in a flexible and dynamic way that permits flexibility so as to not stifle innovation.
	Passage of the Startup Bill: The Nigeria Startup ecosystem has witnessed unprecedented growth in recent years due to the proliferation of technology and gritty innovation by founders and founding teams alike. However, for all these successes, there has been a dearth of an enabling regulatory framework set up to aid and strengthen the growth of Startups and mitigate their inherent challenges such as access to capital, infrastructure deficit, regulatory disposition, multiple taxation, lack of talent pool and education, competition, lack of innovation incentives. These issues have led to a clamour for the creation of a law or the unification of

various existing laws that relate and affect the Startup ecosystem and prescribe a working strategy for the effective and successful implementation and enforcement of such laws.

	A Data Protection Act should be enacted and an independent data protection authority should be created. Pending bills like the Digital Rights and Freedom Bill, Electronic Transactions Bill and other bills geared towards unlocking opportunities should be passed into law.
Inv	There is a case to be made for the creation of more avenues to local funding for entrepreneurs without oppressive requirements and conditions. This can be done via a collaboration between the public and private sectors through grants, boot camps, and innovation acceleration academies.
Re¢ □	Julators There should be the harmonisation of policy framework and regulatory environment without undermining the theory of regulatory independence.
	Collaborate with other regulators to avoid duplication of effort and imposition of onerous conditions for businesses to thrive.
	As a result of the advancement of the technology sector, the regulations and policies must be updated regularly and adequately to accommodate the variety of innovations being created.
	Regulators should be more proactive in engaging with market operators and be more transparent with drafts of bills, regulations and policy documents.
	There should be genuine usage of sandbox programmes by regulators to test the response of innovation to existing regulations; with a bid to improve and design more innovation-friendly laws and policies for startups in the tech ecosystem.
	They should consult with relevant stakeholders when developing policies. The contributions of the stakeholders should be reflected in the policy development cycle.
	Federal and state level regulators should engage more to prevent duplication of effort, conflict and power display, which increases regulatory landscape and uncertainties.
Too	sh Startuna 9 Innovatora
	They should appoint governance and public affairs officers or policy lobbyists to increase more regulator-focused engagement and collaboration. They should invest in regulatory intelligence.
	They should collaborate with their industry peers, competitors and stakeholders to form industry associations or trustee organisations which would take the front seat with regulators in developing industry-relevant policy plans and best practices; while ringfencing their startups from possible political risk and blowout.
Ма	rket Researchers and Journalists
	Invest in more capacity building to understand the implications of policies on the ecosystem.
	Act as bridges between quality research and policy reform.
	Carry out more contextually-relevant research on the role of policy making and need to protect the fledgling ecosystem.



2022 Tech Ecosystem Outlook: Predictions

Data Protection

A number of significant events occurred this year in the data protection and privacy field and we expect to see a lot more happen in the coming year. Below are a few things we expect to see happen in 2022:

- Progress with the Digital Rights and Freedom Bill The President declined assent to the previous version of the Bill in 2019, which has now been revised and introduced in the House of Representatives and awaiting the House committee report.
- Equally, we expect to see progress with the Electronic Transaction Bill. The Bill is currently awaiting the Senate Committee on Banking Insurance and Other Financial Institutions report.
- Amendment of NITDA's establishing Act, granting it additional powers to regulate technology companies and data.
- ☐ More sector-specific frameworks from other regulators.
- ☐ More states to enact or introduce data protection or privacy law.
- Regulation of the activities of digital lenders through sanction and a new framework.
- □ Increased sanction from the regulator.
- ☐ Enactment of a new data protection law.

Corporate and Finance Sector

This sector saw the most activity in the year 2021, with increased regulatory attention and new product verticals being pioneered by fintech companies and regulatory interventions. The trend is likely to continue in 2022 and here are our predictions:

Open Banking will likely take more shape from next year. At a conference organised by TechCabal, a CBN representative stated that meetings are currently being held with stakeholders in the Open Banking sector, so we can predict that more activities will take place next year regarding how financial data is shared and how this will reshape open banking in Nigeria.

In addition, the CBN Draft Guidelines for the Regulation and Supervision of Microfinance Banks,
released in January 2020 will likely review the minimum capital requirements for the tiers of micro-
finance banks in Nigeria. upon final approval. It is anticipated that a final approved guideline next
year may call for a recapitalization of existing MFBs by 2022.

The CBN eNaira platform may be further reviewed to address some of the key observations made
after the launch of the pilot platform. The CBN reports that about 500,000 users are already
active on the platform and the CBN has noted that it will allow more innovations driven by market
operators on the eNaira platform.

General

In addition, there are three key activities predicted to shape and improve the tech ecosystem in 2022. These activities are the backdrop towards facilitating the ease of doing internet-related businesses and they are: Roll Out of 5G Network by MTN and Mafab Communications, proliferation of digital banks, and Investments in Fiber Optics/Broadband at the State level.

What could possibly go wrong with these predictions? Nigeria is currently approaching 2023 when national elections will be held across the country. Usually, these periods are marked by heavy politicking, and 2022 marks the start of another election cycle. It is therefore possible that among other other risks, some of the regulatory expectations being anticipated may not be achieved.



Stakeholder Insights





On the general overview of the technology policy landscape in 2021.

"It is good to contextualize regulations within the political economy and physical realities of a country. What we saw in 2021 was a reaction to how oil revenues were being challenged and certain regulators thinking mainly in terms of generating revenue while being cautious of developments that could disrupt other government revenue sources. This trend connects directly to the way in which regulators reacted to issues around cryptocurrencies and taxation for example.

While the desirability of some of the regulatory directives in 2021 is still debatable, looking forward, there is a need for regulators to take into consideration those being regulated, to reduce the challenges of current investors and avoid sending the wrong signals to potential investors."

Kasim Sodangi, Head of Compliance, Smile Identity. Former Coordinator, ONC, NITDA.

On regulatory developments by the CBN and its impact on Startup growth in Nigeria

"The CBN in Nigeria is considered a mixed bag. It is regarded as one of the most progressive especially in Africa. Despite the usual complaints about the bank, many late-stage startups agree that the sector's growth would have been impossible if the bank didn't let them exist. However, it is definitely not without its mistakes, a few of which have surfaced more in the past year. According to lyin Aboyeji, Co-founder of Andela/Flutterwave and Founder at Future Africa, "CBN's policies in 2015/2016 did create the fintech industry, and I am sure the CBN does not want to destroy its brainchild. However, there will be a need for more engagement to find the balance between regulation that protects the consumer and the financial system and innovation that improves financial services inclusion for the average consumer."

Olanrewaju Odunowo, Head, TechCabal Insights

On current regulatory developments and 2022 Regulatory Outlook for the SEC

"Generally, the SEC is aiming to improve regulations for technology startups operating in the Nigerian Capital Market. This is why in the past year, we have developed regulations covering robo advisory, crowdfunding, and digital sub-broker services in Nigeria."

"The Covid-19 pandemic has had a huge impact on the use of technology, and this has also spurred regulators in rethinking regulations for the coming year. We have barely scratched the surface of emerging technologies like AI, Blockchain, and Ledger Technology. As regulators, we are closely monitoring how these technologies may impact the capital market and how regulations will respond to innovation."

Emomotimi Agama, Head, Registration, Exchanges, Market Infrastructure and Innovation, Securities and Exchange Commission, Nigeria.

On the need for regulator-innovator synergy in creating sustainable regulations

"In the regulatory process, many times they [regulators] do not carry stakeholders along. Yes, there are some public hearings but those usually happen late into the process of policymaking. My experience with such hearings is that it happens as a box-ticking exercise and a lot of comments and concerns are not reflected in the particular regulation of concern. Many multinationals operate in countries that already have some of these regulations and have dealt with the positives and negatives of such. Their comments and contributions would be of immense benefit to Nigeria. For regulators, they should ensure drafts of policies, regulations, and laws are made available early on for comments and contributions and consult with industry associations. Roundtables with relevant stakeholders should also be encouraged."

Tokunbo Ibrahim, Public Affairs Lead, Sub-Saharan Africa, Glovo

On the role of Nigeria Startup Bill and impact on the Tech Ecosystem in 2022.

"On the Nigeria Startup Bill, I hope in the coming year that more startups and stakeholders within the ecosystem would "wake-up" to the importance of engagement with policy, stop seeing regulation/government as the enemy and really step up to take more ownership of initiatives like the Nigeria Startup Bill and indeed the nation at large. I also hope that the planned Startup Bill is passed in the form that delivers the right support environment for this ecosystem that can really transform our nation. And, lastly, I look forward to the implementation of the Bill and how the mechanisms of the bill can provide more regulatory certainty and coordination across all concerned agencies, arms of government, and the tech ecosystem."

Kola Aina, Partner, Ventures Platform

Investor's Insights



On 2022 Outlook for Investments into the Startups and Tech Sector

"We are going to see even more fintech unicorns. I predict that we will see at least 2 more before the end of Q2 2022. We're definitely going to see higher rounds as investors (home and abroad) are excited about the industry and the prospects of innovative financial services. But I am even more excited about the new crop of founders that will and are getting funded by late stage founders who have gotten decent exits."

Olanrewaju Odunowo, Head, TechCabal Insights

On the role of startups and investors in engaging regulators.

"Startups and investors need to be more attuned to the environment they operate in. It is an existential risk when startups do not understand the direction in which their regulatory environment is headed and don't have the necessary partnerships to shape regulations. What I have observed is a trend of startups taking advantage of regulatory gaps in order to increase profitability which is not entirely bad but can be risky where there is no governance engagement. Engaging regulators is not limited to sitting down in a room with regulators, it also includes educating the public in understanding the nature of their {startups} service offerings, this is not to say startups should expose their trade secrets but they {startups} need to actively support movements, causes, and platforms that would educate the government on ideas within their industry which regulators may not be aware of. Likewise, they need to share experiences from other climes in which they operate, moving as much human capital which regulators will benefit from."

Kasim Sodangi, Head of Compliance, Smile Identity. Former Coordinator, ONC, NITDA.

Regulator's Insights



On how regulations and innovation interrelates in Nigeria's capital market

"What the SEC primarily desires for the capital market is investor protection. Investors and innovators ordinarily are more focused on profits, while paying less attention to investor protection and the risk factor of their products. Every innovation related to the Nigerian capital market must address investor protection as well as accommodate the risks that users are exposed to when using their products."

Emomotimi Agama, Head, Registration, Exchanges, Market Infrastructure and Innovation, Securities and Exchange Commission, Nigeria.

Policy and Regulatory perception Insights

On general overview of policies and regulation for platform companies in Nigeria

"Nigeria and other SSA countries generally do not have regulations for platform businesses. As such, we are generally boxed under NIPOST due to the scarcity of e-commerce regulations in Nigeria. While there are reports of planned regulations for tech companies involved in e-commerce, we do not have a clear timeline for when the final regulations would be issued. We are also wary of the regulatory direction of how gig economy workers on platform companies are described in labour laws and policies. We are also closely tracking the developments under the Nigerian Startup Bill, however, we have concerns on how the Bill will serve the interest of foreign startups looking to enter into the Nigerian market."

Tokunbo Ibrahim, Public Affairs Lead, Sub-Saharan Africa, Glovo

On how regulations and innovation interrelate for the Nigerian Tech Ecosystem

"Whenever the government is high-handed with regulation, innovation struggles. Whenever the government gets out of the way, despite a lack of infrastructural support, innovation thrives. Regulators need to listen more and seek to understand what best serves our local context. They need to focus on protecting consumers and the market. Overall, they need to see themselves as partners with innovators. Imagine if we built 5 Flutterwaves, that could mean more jobs and potentially more revenue for the government in the form of taxes."

Olanrewaju Odunowo, Head, TechCabal Insights

On the need for cohesion among regulators in regulating innovation.

"We are beginning to see some policy coherence, for instance, through the Nigeria Startup Bill, which has received the nod of the Federal Government. What is important about the NSB is that it harnessed the opinions and involved several stakeholders within the tech ecosystem. If the NSB eventually gets the necessary backing and is passed into law, a common vehicle for engagement among regulators and stakeholders can be created and that would be a good starting point. In addition, there is a National Development Plan which gives an insight into how the government plans for growth. I anticipate that these two documents provide a general overview of the direction Nigeria may be headed in terms of developing its tech ecosystem in the future, subject to the direction that industry-specific regulators like the CBN would be taking... While we are not out of the woods yet, there is an urgency to strike a balance between driving innovation, growing an economy, and taxing it efficiently."

Kasim Sodangi, Head of Compliance, Smile Identity. Former Coordinator, ONC, NITDA.

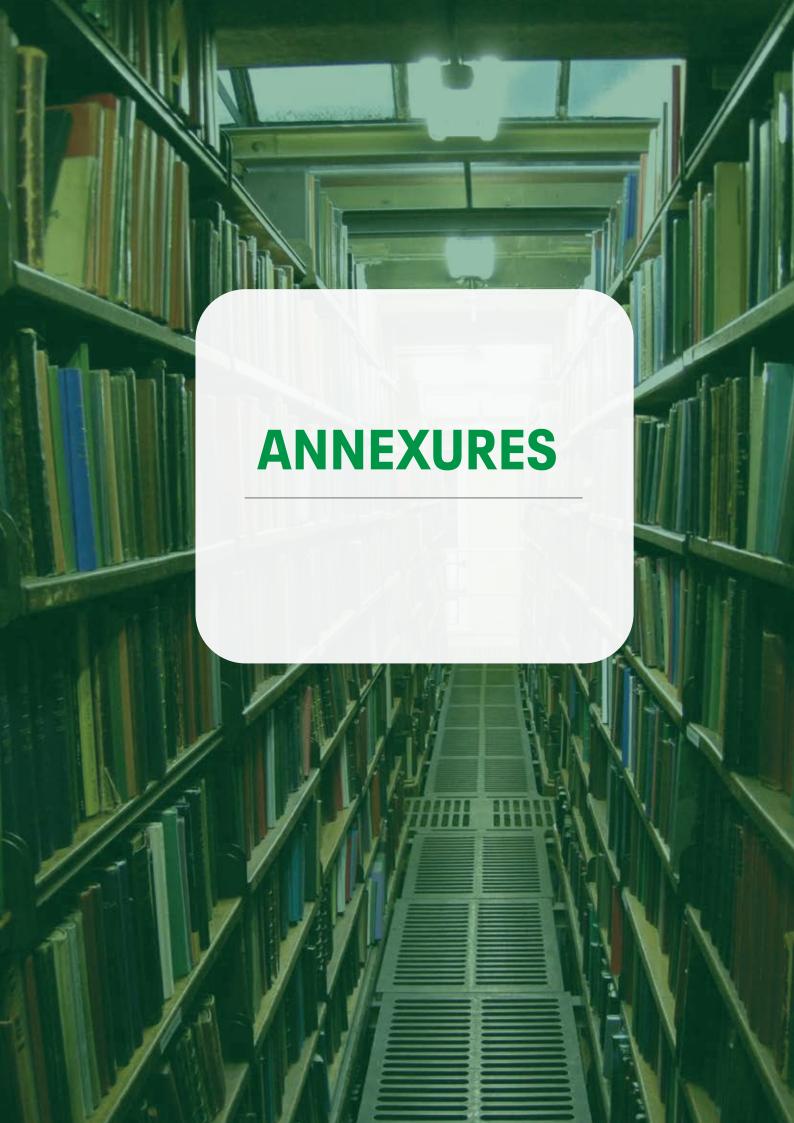


Conclusion

The rapid advancements in technological innovation globally have given rise to an emerging world with new roles, responsibilities, and regulations. Digital technologies have been forecasted to be a major driver of productivity, with successful economies now depending more on digitally skilled workers. More specifically, in Nigeria, digital technologies are helping reshape society by creating more means of income and facilitating greater access to social infrastructures. Although like other technological waves, the impact may be gradual, its long-term changes will have a far-reaching impact along the lines of development. Therefore, to address the developmental impact digital technologies bring, the government and other key stakeholders including policymakers and legislators, investors, and regulators need to stay on their toes. The dynamic nature of digital technologies and innovation exposes the society to potential chaos or greater good depending on their use, hence the need to create efficient and rights-respecting regulations that intersect to drive innovation and develop the economy.

In summary, this Report examined the various sides of tech policy in Nigeria, noting the good, the bad, and sometimes the ugly sides of policies and regulations regulating the tech ecosystem in Nigeria. The Report further assessed how existing policies and regulations have impacted the tech ecosystem as well as their future implications. In addition, the Report proffered recommendations to tackle existing and future existing challenges raised by the regulation of technology in Nigeria.

Finally, based on our analysis of the current state of tech policy in Nigeria and proposed regulations, predictions on the changes that may occur with tech policy in the coming years, their implications, and the role that all stakeholders should play were highlighted. The Report concludes with insights from ecosystem stakeholders, operators, and regulators.



Proposed Bills and Policies

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
HB 872: National Innovation Agency (Establishment) Bill, 2020	House of Representatives STATUS Awaiting Committee report (Science and Technology)	The Bill seeks to provide the establishment and management of a national innovation ecosystem to encourage and stimulate research, innovation, and scientific discoveries in Nigeria and for the establishment of an Agency for the exploitation and commercialization of the products of research and innovation to diversify and improve the economy for Nigerians.	<u>Download</u> <u>here</u>
HB 447:National Electronic Health Record Bill	Period Health Representatives Electronic Health Record System to store and access electronic health records in Nigeria and for related matters. It would function to establish an index service for the purpose of the store and access electronic health records in Nigeria and for related matters.	<u>Download</u> <u>here</u>	
		Nigeria and for related matters. It would function to establish an index service for the purpose of creating a unified health record	
SB 155: Electronic Transaction Bill	Senate	The Electronic Transactions Bill is intended to provide information and legal assistance as well as	Not available for
	Committee Report (Banking, Insurance and Other Financial Institutions)	legal remedies to consumers regarding electronic transactions. The Bill is also intended to specifically provide for the prohibition and punishment of electronic crimes and fraud; and facilitate the use of all electronically generated information in courts for all civil and criminal trials.	Download

NAME OF BILL / POLICY	AGENCY / AUTHOURITY		COPY OF BILL / POLICY
HB 1182: National Information and Cyber- Defence Development Agency Bill, 2020	House of Representatives STATUS First Reading	Very little is known about the National Information and Cyber- Defence Development Agency Bill of 2020. However, the Bill which is sponsored by Hon. Bede Uchenna Eke, passed First Reading on the 15th of December, 2020, and is at the moment awaiting Second Reading.	Not available for Download
HB 221: Critical National Assets and Infrastructure Center (Establishment) Bill	House of Representatives	The Bill seeks to categorize specific sectors as critical infrastructure, to raise the security and protection of such industries. However, this appears to be a repetition of Section 3 of the Cybercrimes Act, which already grants the President the Office National Security Adviser power's advice to designate specific computers as Critical National Infrastructure.	<u>Download</u> <u>Bill</u>
	STATUS First Reading		
HB98: Digital Rights and Freedom Bill	House of Representatives	The Bill replaces a previous version, which President Buhari declined assent to in 2019. The revised version of the Bill addresses some of the Presidency's concerns, and there was consultation with more stakeholders. The Bill seeks to protect the rights of internet users and guarantees the application of human rights for users of digital platforms.	<u>Download</u> <u>Bill</u>
	STATUS Committee Report (Committee of the whole)		
HB 163: National Biotechnology De- velopment Agency	House of Representatives	This Bill seeks to establish the National Biotechnology Development Agency. This Agency will be used for research and to	<u>Download</u> <u>Bill</u>
(Establishment) Bill	STATUS Committee Report (Committee of the whole)	enhance public awareness in biotechnology in order to stimulate private sector participation in the biotech industry in Nigeria.	

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NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
SB 12: Communication Service Tax Bill.	Senate STATUS First Reading	The Bill proposes a monthly tax on Electronic Communication services other than private Electronic communication. The rate of the tax levied is 9% of charge for the use of the communication service which shall be collected by the FIRS (Establishment) Act, 2007.	<u>Download</u> <u>Bill</u>
HB 04: Economic Stimulus Bill	House of Representatives STATUS Awaiting Committee Report	This Bill proposes that 40% of Nigeria's annual budget be set aside for capital projects in the next 10 years. The Bill has been commended as an initiative that would contribute to helping the nation make better financial plans towards future projects for the nation's development.	<u>Download</u> <u>Bill</u>
HB 969: Cybercrimes (Prohibition, Prevent- ion, etc.) Act (Amendment) Bill, 2020	House of Representatives STATUS First Reading	The Bill seeks to amend the extant Cybercrimes Act 2015 to introduce Cyber Security Management Systems in Nigeria. It also introduces the requirement that anyone who operates a computer system, private or public, reports any attack or breach to the relevant cyber security unit.	<u>Download</u> <u>Bill</u>
HB 42: Telecommunications Facilities (Lawful Interception of Information) Bill	House of Representatives STATUS First Reading	The Bill aims to guarantee that telecommunication service providers are able to permit national security and law enforcement agencies to exercise their powers to intercept communications, access subscriber information and such other information as required whilst ensuring that the privacy	<u>Download</u> <u>Bill</u>
		of individuals and the provision of telecommunication of services to Nigerians are maintained	

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
Copyright Act (Re- peal And Re-Enact-	Senate	The Bill seeks to provide stronger protection for intellectual works	<u>Download</u> <u>Bill</u>
ment) Bill, 2021	Awaiting Committee report (Joint Committee on Trade and Invest- ments and Judiciary and Human Rights)	of content creators and other intellectual property owners. It widens IP protection to include digital contents among others, which are not covered under the existing Copyright Act.	
HB. 137: Advertising Practitioner's (Registration, Licens-	House of Representatives	It seeks to regulate and control the practice and business of advertisement to protect the general public, consumers,	<u>Download</u> <u>Bill</u>
ing, Etc) Bill.	STATUS Awaiting Committee Report (Commerce)	promote local content and entrench international best practices by establishing a council to serve as a regulatory body.	
Ogun State Protection of	Ogun State House Of Representatives	The State Bill seeks to establish rules governing the collection, use, disclosure and disposal of	Not available for
Personal Data Bill, 2021	STATUS Final Draft Stage	personal information in a manner that recognises the privacy of individuals; and the need for organisations to collect, use, disclose or dispose of personal information for purposes that a reasonable person would consider appropriate in the circumstances.	Download
Lagos State Data Protection Bill 2020	Lagos State House of Assembly	The Bill seeks to introduce a data protection law that governs data controllers/processors and guarantees rights of data subjects.	<u>Download</u> <u>Bill</u>
	status Public Hearing Stage, November 2021	It also seeks to establish the Lagos State Data Protection Commission which will be the regulatory agency for data protection matters in Lagos State.	
Internet Child Pornography (Prevention) Bill	House of Representatives	The Bill seeks to prevent the use of the internet for circulating child pornography and purports to create a licensing regime for internet service providers under the NCC. It provides that the	<u>Download</u> <u>Bill</u>
	STATUS First Reading	license can be revoked where an officer of the licensee is involved in an offence that affects a child.	

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
National Information Technology Devel- opment Agency Bill, 2021	Agency Bill STATUS N/A	It proposes the adoption of the National Information Technology Development Agency Act, which would give the agency more power over the administration, implementation, and regulation of information technology systems and practices, as well as the digital economy in Nigeria, among other things.	<u>Download</u> <u>Bill</u>
HB 332 National Broadcasting Com- mission Act (Amend- ment) Bill	House of Representatives STATUS First Reading	The Bill seeks to enhance the powers and functions of the Commission in order to improve its efficiency in regulating broadcasting in Nigeria, as well as other related issues.	<u>Download</u> <u>Bill</u>
HB 514 National Film and Video Censor- ship, Classification and Exhibition Regulatory Commission Bill	House of Representatives STATUS Awaiting Commitee Report	The Bill seeks to repeal the National Film and Video Censors Board Act 2004. It proposes that the National Film and Video Censorship, Classification, and Exhibition Regulatory Commission Bill, 2019 be passed, which will classify and regulate the sale, rental, distribution, and exhibition of films, video works, musical videos, video games inclusive of online platforms engaged in the same.	<u>Download</u> <u>Bill</u>
Nigeria Data Protection Bill, 2020	Attorney General STATUS Awaiting presentation as an Executive Bill to the National Assembly.	The proposed Bill will regulate the protection of personal data and create an independent supervisory authority.	<u>Download</u> <u>Bill</u>

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
Central Bank of Nigeria's Data Pro- tection Regulation	Central Bank of Nigeria status N/A	A banking and finance sector-focused data protection framework for regulated entities	Not available for Download
National Digital Innovation and Entrepreneurship Policy	Federal Government STATUS N/A	The Policy was developed as part of a plan to implement the National Digital Economic Policy and Strategy to set the strategy for achieving a digital Nigeria.	<u>Download</u> <u>Policy</u>
National Health ICT Strategic Framework	Ministry of Health STATUS N/A	The mandate of the former five-year framework expired in 2020.	Not available for Download
National Dig Once Policy	Federal Ministry of Communications and Digital Economy STATUS N/A	The Policy seeks to accelerate broadband penetration through the deployment of fibre-optic conduits along with other construction projects in Nigeria. It also aims to assure and encourage broadband infrastructure sharing, which will lower the cost of broadband internet service deployment across the country and eliminate needless delays in obtaining ROW licenses.	Not available for Download
NCC Business Rules & Operational Processes for Implementation of the SIM Replacement Guidelines, 2021	Nigerian Communications Commission STATUS N/A	The business rules provide detailed processes with respect to SIM replacement for individuals, corporate bodies, individuals with unverified NIN, and digital processes for SIM replacement.	<u>Download</u> <u>Regulation</u>

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
Nigerian Local Content Development and Enforcement Commission Bill, 2020	House of Representatives STATUS Second Reading	The Bill seeks to establish a Nigerian Local Content Development Commission which will be tasked with the responsibility of promoting Nigerian content in different sectors, such as ICT, solid minerals, manufacturing, health, construction, power, agriculture, and agro-allied products.	<u>Download</u> <u>Bill</u>
NCC Business Rules & Operati onal Processes for Implementation of the National Policy for SIM Activation, Replacement & other Key Telecom- munications Opera- tional Processes	Nigerian Communications Commission STATUS Draft	The business rules seek to harmonise SIM registration data and NIN data and introduce KYC(know your customer) mechanisms where there are discrepancies, procedures for SIM activation for foreigners, replacement and upgrade, and mobile number porting.	<u>Download</u> <u>Regulation</u>
NCC Registration of Telephone Subscribers Regulations 2021	Nigerian Communications Commission STATUS Draft	The regulation seeks to replace the 2011 version with an expanded scope that covers all communication services and incorporates electronic SIMs. It also empowers registration agents to retain user data after transmitting such data to the NCC, unlike the 2011 regulation which prevents this.	<u>Download</u> <u>Regulation</u>
NCC Frequency Spectrum (Fees and Pricing, etc) Regulations 2021	Nigerian Communications Commission STATUS Draft	The Regulation seeks to update the 2004 version with respect to the determination of frequency spectrums for commercial activities. The draft regulations proposes permit the issuance of frequency spectrum for the purpose of conducting trials on a non-commercial basis	<u>Download</u> <u>Regulation</u>

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
Artificial Intelligence and Robotics Research Regulatory Agency Bill, 2021	House of Representatives STATUS First Reading	The Bill seeks to establish a research and regulatory agency for the field of Al and robotics in Nigeria. It defines the management structure of the proposed agency, its powers, objectives, areas of focus, and appointment of its chief executive (the Director-General).	<u>Download</u> <u>Bill</u>
HB330: Nigeria Press Council Amendment Bill	House Of Representatives STATUS Second Reading	The Bill aims to widen the powers of the Minister of the Federal Ministry of Information by giving them broad powers that grant arbitrary control over the media.	<u>Download</u> <u>Bill</u>
The Nigerian Communication Comissions Act (Amendment) Bill, 2021	House Of Representatives STATUS First Reading	The Bill serves as an update on the laws governing the telecommunications sector to properly provide for the technological advancements the industry has witnessed since 2003.	<u>Download</u> <u>Bill</u>
HB421: 'Integration of Private Closed Circuit Television Infrastructure into the National Security Network in Nigeria Bill	House Of Representatives STATUS Second Reading	The Bill proposes the nationwide adoption of CCTV by private organizations to expand the security network infrastructure in Nigeria. The Bill does not contain any safeguard on the protection of privacy and misuse of CCTV.	<u>Download</u> <u>Bill</u>
HB832: Free Internet Access in Public Places Bill, 2020	House Of Representatives STATUS First Reading	The goal of the Bill is to provide free internet access to the general public. It proposes the establishment of a program to provide facilities for easy internet access in designated public areas.	<u>Download</u> <u>Bill</u>

NAME OF BILL / POLICY	AGENCY / AUTHOURITY	COMMENT	COPY OF BILL / POLICY
Prohibition of Hate Speeches and Other Related Matters Bill	ches and Other "Hate Speech Bill" and seeks to		<u>Download</u> <u>Bill</u>
SB 132: Protection from Internet False- hood and Manipula- tions Bill	Senate STATUS Second Reading	The bill would allow the government to disrupt internet access, block social media platforms, and would also institute fines of up to 300,000 naira or imprisonment of up to three years for statements that are "prejudicial to national security" or "diminish public confidence" in the government.	<u>Download</u> <u>Bill</u>
Framework on Alternative Dispute Resolution for ICT Sector 2020	National Information Technology Development Agency STATUS Draft	The Framework aims at creating an avenue for the resolution of cross-border and domestic disputes through Alternative Dispute Resolution (ADR). The framework creates an institution where all technology-related disputes will be addressed as well as an online dispute resolution platform.	Not available for Download
The Nigerian Startup Bill	Ministry of Communication and Digital Economy/NITDA STATUS Draft	An Act to make provisions for the development of Technology-enabled startups, to create a favourable environment for innovation and other related matters	Not available for Download

Licensing/Levy Tracker

Title	Licensing/Registration Requirement	Levy/Annual Renewal
Data Protection Bill	×	X
National Broadcasting Commission Act (Amendment Bill)		
National Film and Video Censorship, Classification and Exhibition Regulatory Commission Bill, 2019		
National Information Technology Develop- ment Agency (Amendment) Bill		
Nigeria Press Council Amendment Bill	×	✓
National Electronic Health Record Bill 2019	X	×
Lagos State Value Added Tax (VAT) Bill		×
Artificial Intelligence and Robotics Research Regulatory Agency Bill Nigerian Communications Commission (Amendment) Bill 2021	X	×
Telecommunications Facilities (Lawful Interception of Information) Bill, 2019		X
Nigerian Communications Commission (Amendment) Bill 2021	×	8
Internet Child Pornography (Prevention) Bill 2019		×

Integration of Private Closed Circuit Televi sion (CCTV) Infrastructure into the National Security Network in Nigeria Bill 2019	X	X
Free Internet Access in Public Places Bill 2020		
Cybercrimes (Prohibition, Prevention) Act (Amendment) Bill 2020	×	×
Nigerian Local Content Development and Enforcement Commission Bill 2020		
Copyright Amendment Bill (Private Members Version)		
Copyright Amendment Bill (Govt. Version)		×
Lagos State Data Protection Bill	✓	
Online Pharmacy Regulation	~	

Building a Community that lasts

While curating the Report, we have come to understand the relevance and importance of building and creating a community of stakeholders deeply interested in the development of innovative and yet rights respecting policies that affect the tech ecosystem.

We also understand the need to grow this community organically with the aim of gathering like minded individuals and entities that are passionate about the technology ecosystem and more importantly intentional about the policies that shape the ecosystem.

Therefore, we are calling out to all those who are ready to build this community with us; to come join us in shaping the policy conversations that would shape our African technology ecosystem.

Part of our objectives are:

- Hosting periodic sessions to discuss topical policy issues;
- Share our insights, analysis, and topline impact of policies;
- Co-creating recommendations and suggestions into policy development cycle; and
- Organising policy hackathons to propose legislation that supports innovation and the ecosystem.

Kindly indicate your interest *here*.



Spread the word also.

Let's build a community that lasts.

Hugs from the Tech Hive and Ikigai Innovation Teams.

