April 2021

Thought Leadership | *Afolabi Elebiju*

'Connections, Collections': Issues Arising from the Imposition of Excise Duties on Telecommunications Services in Nigeria

Introduction

One of the unique features of the second ***Finance Act 2020 (FA2 2020)*** which received Presidential assent on 31st December 2020 is that it 'strangely' introduced excise duties on telecommunications (telecoms) services. ***Section 37 FA2 2020*** introduced a new (very brief, but portentous!) ***section 21(2)*** to the ***Customs & Excise Tariff, Etc (Consolidation) Act***[1] ***(CETCA):*** *"Telecommunication services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe pursuant to section 13 of this Act [CETCA]."*[2]

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I discussed this fleetingly (by way of footnote reference) in an earlier piece, ***'Rendezvous': Implications of Tax Provisions of Nigeria's Finance Act (No.2) 2020 for Non-Residents***,[3] but the resulting multidimensional issues requires more detailed consideration, which is the purport of this article. I will start by excerpting from page 5 of my earlier article as follows:

*"**E. Customs & Excise Tariff, Etc (Consolidation) Act (CETCA)***

- *Imports Now Subject to Excise Duties: By virtue of the new **section 21(1) CETCA** (vide **section 37 FA2 2020**), 'goods imported' are now also subject to excise duties – alongside locally manufactured ones. Customarily, imports were only subject to customs (import) duty, and not excise.[4] The provision is so drastic that one wonders if it is a draftsman's error? This writer thinks not, because the new **section 21(1) CETCA** starts with 'Goods imported and those manufactured in Nigeria'[5] ..."*

Discourse: Issues Arising

That the amendment seeks to implement a variant of the ***Telecommunications Tax Bill*** which was roundly condemned, and seemed to have been abandoned, is not in

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[1] ***Cap. C49, Laws of the Federation of Nigeria (LFN) 2004.***

[2] *By **section 157 Nigerian Communications Commission Act, Cap. N97, LFN 2004 (NCC Act)**, " 'Telecommunication' means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, visual or other electro-magnetic systems"*. Thus, services by all players across the telecoms value chain will be subject to the excise duties when same comes into effect. This view is reinforced by the fact that ***section 157 NCC Act*** further provides that *" 'Communications sector' or 'market' means an economic sector or market for a network service, or an applications service, or for goods or services used in conjunction with a network service or an applications service, or for access to facilities used in conjunction with either a network service or an applications service"*.

[3] *LeLaw Thought Leadership Reflections, January 2021*, p.5: https://lelawlegal.com/add111pdfs/TLR_AE_-_FA2_2020.pdf (accessed 17.04.2021). See *footnote 25* at *p. 5* (reproduced also as footnote 5 herein, being the accompanying footnote to excerpts of the article reproduced above).

[4] For further discussion that excise duties applied to local manufactures, see generally, Emeka Ihebie, ***'Excise Duties in Nigeria',*** *in* ***'Indirect Taxes in Nigeria'***, *(CITN, 2014), pp 166-192*. Obviously, ***FA2 2020*** needed to amend the ***CETCA*** (which together with its sister legislation, the ***Customs & Excise Management Act (CEMA)***, focused excise duty on locally produced goods), in order to achieve the new legislative intent.

[5] ***"That the provision is deliberate is also underscored by new section 21(2) CETCA which imposes excise duties on 'telecommunication services provided in Nigeria', albeit commencement of excise on telecoms services would be pursuant to an Order by the President."*** Emphasis supplied.

doubt.[6] We will start by looking at this from *"impact on the economy"* point of view.

Increased Public Revenue/Operating Costs

Obviously, it is meant to generate more funds for the government by extracting excise duties from the entire telecoms value chain, and the first touch point is that such translate into *higher costs by consumers, as the telecoms players will clearly pass on the excise duties to consumers by way of increased prices. Given the criticality of telecoms to other sectors, there would be spillover effects*: higher operating expenses (which could impact taxable profits, because of higher deductible expenses, lower turnover or net margins), harsher operating environment for the medium and small scale enterprises (MSMEs), the informal sector, and start-ups, etc. These could potentially have a cumulative negative impact on Nigeria's ease of doing business ratings (discussed further below).

Compliance Burden/Ease of Paying Taxes

Obviously, the requirement to pay excise duties increases the overall tax compliance burden of telecoms players. Telecoms industry players will need to, as part of their risk management, comply with the whole gamut of ***CETCA*** provisions relating to collection and remittance of excise duties. This will entail creating in-house compliance administrative capacity (employment/re-assignment of staff, making adjustment to systems and processes etc.), in order to ensure optimal compliance status. Also, there would be need for external support as necessary, for example engagement of consultants for advisory or compliance work, lawyers for litigation, etc. These entail increase in overheads as well.

There could now be enforcement issues and litigation pursuant to statutory dispute resolution provisions where telecoms operators disagree with acts and decisions of the Board of Customs and Excise in their administration of the excise duties.[7] Clearly, measuring the compliance impact on the part of telecoms operators can only be done after the fact. However, it is not in doubt that cumulatively, these would further negatively impact Nigeria's not so impressive standing on the ***Ease of Paying Taxes.*** Since this also impacts ratings on ***Ease of Doing Business***,[8] implementation will likely see Nigeria lose a few points on this score.[9]

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[6] See for example, Wole Olayinka, ***'How a Proposed Bill Could Increase Internet Costs in Nigeria'***, *Tech Cabal, 14. 10. 2019*: https://techcabal.com/2019/10/14/how-a-proposed-communications-service-tax-bill-could-increase-internet -costs-in-nigeria/ (accessed 20.04.2021). Excerpts: "*Nigerians face the possibility of a new tax on electronic communications which is already being levied in Ghana. The Communications Service Tax Bill* was … *thrown out by the National Assembly in 2016 due to outcry by stakeholders but has now resurfaced under the current Senate. … Senator Ali Ndume re-introduced the Bill that will see consumers pay a 9% tax on voice calls, data consumption, SMS, MMS and pay TV. The Bill has now passed first reading to second and states: 'The tax shall be levied on Electronic Communication Services supplied by service providers. For the purpose of this clause, the supply of any form of recharges shall be considered as a charge for usage of Electronic Communication service. 'Babatunde Fowler, Chairman of the [FIRS], was* credited *with a statement that Nigerians talk a lot on the phone, as part of the justification for the tax. 'I will put it this way, Nigerians talk a lot on the phone… so for them to have capacity or revenue to talk that much, I don't see any harm in paying a little bit more to government.' The tax will be collected together with the providers' charges while the [FIRS] collects from service providers and remit to the Federation Account. All service providers are expected to file monthly returns, with penalties for failure to file returns.* ***If this bill becomes law, the affected services will either become more expensive for consumers, or the providers will charge the same rates while absorbing the tax, as was the situation in Ghana until last month. A third possibility is that the providers redesign their rates so that both provider and consumers share the brunt of the new tax.*** *In Ghana, the communications tax has existed since 2008 and was reviewed upward from 6% to 9%, effective from October 1, 2019. Telcos who previously bore the weight of the tax have now shifted it to consumers following the increase. …* ***In Nigeria, this tax may serve to disincentivise growth in a sector that's serving as a beacon to other businesses. In 2018, the telecommunications and information services sector contributed 7.57% to the GDP of the country as one of the largest non-oil drivers of the economy.*** *On this point, tax experts at Deloitte [Nigeria]* pose *the question:* ***'Considering that telecommunication services still need to be extended especially to the rural areas, will the Bill not be perceived to be a deliberate attempt to stall the growth of this particular sector?' Being a consumption tax, the CST together with the value-added tax system will increase the cost of services to consumers in a market where*** certain providers already struggle ***to drive adoption of their products. This could potentially discourage investors looking to participate in the sector. Already, Nigerians*** pay relatively high costs ***for data services and this proposed tax will further increase the cost and very likely stall broadband penetration. A counterintuitive step, if the government intends to meet its*** target of 70% penetration ***by 2021, which*** according to the [NCC]***, penetration was at 33% in March. Also, telecommunications and information services serve as the backbone of the growing tech scene in Nigeria, along with virtually all other sectors; from agriculture to health care and education that rely on technology to bolster their offerings and improve efficiency. The CST will effectively increase the cost of operations for all such businesses. With a record $28.5 billion budget presented to the National Assembly by the president for 2020, and considering the government's need to fund its growing budgetary needs by improving revenue, more taxes seem an obvious solution.*** *However, as … Deloitte put it:* ***'the Government should develop structures that will ensure that taxpayers outside the tax net, especially in the informal sector, are captured and taxed adequately rather than introducing 'emergency taxes' at every opportunity.'*** " Emphases supplied.

[7] As a matter of fact, this will also implicate provisions of the ***Customs and Excise Management Act, Cap. C 45, LFN 2004 (CEMA),*** since provisions on proceedings are under the ***CEMA*** and not ***CETCA***. Furthermore, exercise powers donated by the ***Order*** pursuant to ***CETCA***, will be pursuant to ***CEMA***, since the mode for exercise of such power is enshrined in ***CEMA***; see for example ***section 4 CEMA***. Incidentally, ***CETCA*** relates more to imports (11 of its 19 **sections** (*vide* their side notes) expressly refer to imports).

[8] Paying taxes is one the benchmarks measured under ***Ease of Doing Business***. The others are: (a) *Starting a business;* (b) *Dealing with construction permits;* (c) *Getting electricity;* (d) *Registering property;* (e) *Getting credit;* (f) *Protecting minority investors;* (g)*Trading across borders;* (h) *Enforcing contracts;* (i) *Resolving insolvency;* and (j) *Employing workers.* See **'Doing Business 2020, Nigeria'**: https://www.doingbusiness.org/content/dam/doing_Business/country/n/nigeria/NGA.pdf (accessed 20.04.2021). In the publication (at *pp. 4 and 67*), Nigeria's performance on Paying taxes is summarised as follows: (a) *Number of payments*: 48 *vs* 36.6 Sub-Saharan Africa (SSA) average; (b) *Compliance time for 3 major taxes per year*: 343 hours vs 280.6 hours SSA average. ***Whilst Nigeria ranked 131st (out of 190 countries) in Doing Business with a score of 56.9%, she fared worse in Paying Taxes at 159th, scoring 53.7%.*** See also, the graphic summary of Nigeria's ***Paying Taxes*** ratings at: https://www.pwc.com/gx/en/paying-taxes/pdf/pwc-paying-taxes-2020.pdf (accessed 20.04.2021). Invariably, the man-hours under Total Time to Comply (TTC) will now increase.

[9] For example, and all things being equal, the number of taxes paid by telecoms operators will increase by 1 (excise duties).

Discriminatory/Multiple/Over-taxation?

If implemented, ***section 21(2)*** adds another tax to the list of taxes and levies that the telecoms sector has to grapple with. Considering that there is already 7.5% VAT on telecoms services, it is an open issue whether the Fg's introduction of excise duties will not turn out to be counter-productive. Again, it is noteworthy that the telecoms sector already pays some taxes that are not applicable to many other sectors.[10] According to the ***NCC Multiple Taxation Study (MTS)***, *"multiplicity of taxes is one of the major problems facing the country, and corporate entities and individuals often complain of the ripple effects associated with it"*, and *"the Licensees and Businesses in the Telecoms Sector of the Nigerian Telecommunications industry complain of the problem of duplicate, arbitrary and multiple taxation.*[11]

Given these and many other views in the ***MTS,*** one wonders how much the NCC as the industry regulator was consulted by the FG, and/or the sort of input that NCC made to the proposal to subject telecoms services to excise duties, before same was enacted into law. It will of course be preposterous to imagine that if NCC opposes any FG policy, that such opposition will prevent the policy from coming to fruition, if the FG remains unpersuaded. And there is even the possibility that the NCC may not be opposed to the excise duties imposition.[12]

*Divergence from the **National Tax Policy 2017 (NTP)***

Para 2.2.6 NTP (Creating a Competitive Edge) provides:

*"i. **Reduction in the Number of Taxes***
Taxes should be few in number, broad-based and high revenue-yielding. The administration of the taxes should also be simplified for ease of enforcement and compliance.

*ii. **Avoidance of Multiple Taxation***
Taxes similar to those being collected by a level of Government should not be introduced by the same or another level of Government. The Federal, State and Local Governments shall ensure collaboration in harmonizing and eliminating multiple taxation."[13]

Can we really say that the extension of excise duties to a sector (telecoms) that was not previously subject to it, is consistent with the ***NTP***? There must have been a reason why this was not the case initially? It is conceded that arguments that this is multiple taxation because VAT is already paid on telecoms services will be countered by views that after all, most local products subject to excise duty are also subject to VAT. *Nonetheless, the point can still be made that this enacted proposal arguably does not, at least from an 'optics' perspective, pass the "sniff test"*.[14]

Cost Benefit Analysis

The big elephant in the room is *whether a thorough cost-benefit analysis study/economic impact analysis was done prior to amending **CETCA** to impose excise duties on*

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[10] These include National Information Technology Development Agency (NITDA) Levy at 1% of profit before tax by listed companies (including telecoms sector players) with at least ₦100m turnover (***section 12(a) and Third Schedule, NITDA Act Cap. N156, LFN 2004***); Annual Operating Levy (AOL) at 2.5% and 1% of network operators and non-network operators' net revenue respectively: See ***Reg.3(1) and (2), Annual Operating Levy Regulations, 2014:*** https://www.ncc.gov.ng/docman-main/legal-regulatory/regulations/559-regulations-on-annual-operators-levy/file (accessed 21.04.2021). *Cf.* that banks AOL to the Central Bank of Nigeria (CBN) is currently *"10 basis points"* or 0.1% of previous year's total assets per audited financials ***(section 77 Banks and Other Financial Institutions Act 2020 (BOFIA)***; whilst insurance operators pay 1% of gross premium, commission or fees as the case may be - by insurers/reinsurers, brokers and loss adjusters respectively to National Insurance Commission (NAICOM) (***section 16 NAICOM Act, Cap. N53 LNF 2004***). See also a 2020 NCC Study, ***'A Compendium of Taxes, Levies and Fees by State Governments on Telecoms Operators in Nigeria and Its Effect on the National Digital Economy Agenda', 2020,*** *p.7*: https://www.ncc.gov.ng/docman-main/research-development/942-compendium-on-taxes-levies-and-fees-by-state-governments-on-telecoms-operators-in-nigeria-and-its-effect-on-the-national-digital-economy-agenda/file (accessed 20.04.2021). *"According to the **Tax and Enabling Business Environment in Telecoms Sector Report, these taxes and levies are significantly slowing the expansion drive of the sector in the country, inhibiting mobile penetration and digital inclusion.** This, the Report stated, has direct impact on the ability of the Industry to innovate; to improve data and mobile network quality; to improve penetration; to reduce prices and to effectively deploy infrastructures around the remote areas of the country. It also poses direct impact on the ability of Telecommunications Operators to support nascent industries and business, further stunting the growth of the economy generally, whilst impeding the drive to achieve digital economy. **When tax continues to rise, the costs which include higher cost of telecoms services, get inevitably passed to customers. As a consequence, customers are financially discouraged from taking part in the digital space. Since the digital economy drive is backed by the level of penetration of telecommunications services in Nigeria, this indicates that the tax regime levied against Telecommunications Operators for the provision of telecommunications services, stands as an impediment to the achievement of the digital economy growth in Nigeria.*** Emphasis supplied. The document is hereinafter referred to as the ***NCC Multiple Taxation Study (MTS)***.

[11] At *p.3.* See also at *pp. 6-7*: *"However, with the drive of the Government to ensure the expansion of digital space in the country, there are major bottlenecks that inhibits their achievement in reality. These comprise of inadequate infrastructure quality, high cost of infrastructural development, low voice revenues, complex policy decisions on development cohesive ICT framework for Nigeria, **and high and multiple taxation**, all of which act as prohibitive barriers to seamless deployment of digitalization in Nigeria. **The Telecommunications Operators in Nigeria reportedly pay more than 40 different taxes and levies to different Agencies of the Government at Federal, State and Local Government levels in Nigeria.**"* Emphasis supplied. The publication cited authoritative sources in its footnotes 15 and 16: *"15. Ndukwe, E. C. A., 2005. Futhering The Digital Revolution In Nigeria In The Era Of Technology Convergence. Ile-Ife, The Obafemi Awolowo University. 16 Areo, O., 2019. Telcos Lament Impact Of Over 40 Taxes, Levies On Expansion Drive. [Online] Available at:* https://guardian.ng/technology/telcos-lament-impact-of-over-40-taxes-levies-on-expansiondrive/.*"*

[12] See for example, Adeyemi Adepetun, ***'Spectrum Fees, AOL, Other Charges May Increase',*** *The Guardian, 09.06. 2020*: https://guardian.ng/business-services/spectrum-fees-aol-other-charges-may-increase/ (accessed 21.04. 2021). The news item reported *"a virtual conversation"* with the Executive Vice Chairman, the Nigerian Communications Commission (NCC), Prof. Umar Danbatta *"on 'the Socio-Economic and Political Impact of COVID-19 on Telecom and ICT Sector in Nigeria,' organised by the Association of Telecommunication Companies of Nigeria (ATCON)"*. According to the report, *"The President of ATCON, Olusola Teniola, had asked the NCC EVC if the sector will witness a possible downward review of spectrum trading fees, but Danbatta said: 'Review is an agenda. There is a plan to review all the fees, not just spectrum. **What I am not sure of is whether downward or upward reviews. But I must say this, the Federal Government needs more money to run the economy.**' "* Emphasis supplied.

[13] The ***NTP 2017*** is available online at: https://pwcnigeria.typepad.com/files/fec-approved-ntp---feb-1-2017.pdf whilst its predecessor ***NTP 2012*** is available at: http://admin.theiguides.org/Media/Documents/NATIONAL %20TAX%20POLICY.pdf (both last accessed 20.04.2021).

[14] See excerpts of commentary on the ***NTP*** from Afolabi Elebiju and Chuks Okoriekwe, ***'Counting the Cost: An Impact Analysis of Nigeria's Tax Incentive Regime',*** *(article in forthcoming issue of **Tax Law Journal of Nigeria (TLJN),*** at *pp. 3-4* of the unpublished article: *"It is every sovereign's prerogative to decide the manner of taxing both individuals and corporates within its jurisdiction, in order to meet its funding needs. This is often reflected in the government's tax policy document which is periodically reviewed to take account of evolving realities, in achieving improvements. The [**NTP**] is the most current document, Nigeria having issued her first **NTP** in 2012. … Given Nigeria's over reliance on petroleum earnings, it was not until recently that tax itself began to be given its deserved pride of place as a major source of public revenue. The **NTP 2017** [at **Para. 1.4**] noted some factors bedevilling Nigeria's tax system, viz: '… lack of robust framework for the taxation of informal sector and high network individuals, thus limiting the revenue base and creating inequity; … inordinate drive by all tiers of government to grow internally generated revenue which has led to the arbitrary exercise of regulatory powers for revenue purpose; … '… **Since the NTP 2017 was issued by the FG, one would expect it to be a (or "the") critical guiding document underlying government's strategic tax initiatives. Whilst the NTP 2017 is not tax legislation, it should at least be morally binding on the government, given the foreseeability that the public (especially investors) could look at same as a reasonable predictor of government action in respect of taxes and tax reforms**. The country-wide relevance of the NTP (considering Nigeria's federal set-up), should not be in doubt."* Emphasis supplied. At *footnote 17 (p.4)*, the authors further noted in part that: *"It is however expected that the government will act in accordance with the **NTP 2017**, having been approved by the highest executive organ, the Federal Executive Council (FEC). States' alignment is also presumed, given that the Joint Tax Board ((JTB) comprising the FIRS and its State counterparts) would have endorsed same prior to adoption by the FEC."*

telecoms services? In these days of big data, it is to be expected that *business and economy-impacting regulatory measures will only be taken after due consideration of potential effects*; clearly, if there is no clear *cost vs benefit advantage*, then it is not worthwhile to implement such proposals. If for example, this will create massive inflation, the question has to be asked whether we are not gaining some value via one channel, but losing equivalent or more value through other means?[15]

The FG probably conducted such analysis, but the fact of whether such was done is not in the public purview; meanwhile, such preparatory action will provide comfort to the business community particularly, and the public generally.[16] A possible agency that would have done such survey is the National Bureau of Statistics (NBS)[17] or the Ministry of Finance and Economic Planning itself, possibly working with consultants. So the question remains: was an economic impact analysis done, and subjected to rigorous testing?

Telecoms Sector Less Attractive?
Another noteworthy point is whether this additional cost will not make the Nigerian telecoms sector, which has recorded so many outstanding exploits, less attractive to investors? Returns may be impacted by lower net income, as consumers adjust for the excise duties component on their telecoms spend; ultimately this could arguably have a negative impact of the investment competitiveness of the Nigerian telecoms market. Whilst it is conceded that our impressive demographics, and increasing mobile penetration shows that the Nigerian telecoms market is far from maturing, the introduction of the ***section 21(2) CETCA*** excise duty will not altogether be without any effect.

Delay in Issuing the Order: Is the FG Having Second Thoughts?
As at the date of this article (in April 2021), the President has not yet issued the relevant ***Order***. Is this delay indicative that the government is having second thoughts about the measure? This is particularly because the Hon. Minister of Finance wasted little time in issuing regulations to give effect to the ***FA1 2020***. For example, the Minister issued the ***CIT (Significant Economic Presence) Order 2020*** in February 2020, pursuant to enabling legislation (***FA1 2020***) enacted in January 2020.[18] If the FG has a rethink and no longer intends to proceed, one good way to silently achieve the result is by the President omitting to issue the ***Order***, since issuance is required to trigger the implementation of ***section 21(2) CETCA***.

Whilst the delay could be a good omen, the flip side is that the uncertainty it symbolises could present significant unease to sector practitioners and investors. It is also noteworthy that post issuance of the ***Order***, *there may still be need for bespoke regulations to provide clarity on the mechanics or modalities of how the excise duty regime will be implemented*. This could take additional time to conclude, belying the question: was it not that the FG in enacting ***section 21(2) CETCA***, wanted to immediately start earning excise duties from telecoms services?

Regulatory Stability/Certainty Issues:
Finally, the sudden emergence of the excise duty (as it were out of the blues) means investors may continue to be apprehensive about drastic and unexpected regulatory changes, curtailing their ability to plan with fair amount of certainty or interfering midstream with well-considered business/investment plans on the basis of extant regulatory regime. One bane of the Nigerian investment environment has been regulatory policy flip flops, with prejudicial consequences for investors who had taken positions, based on underlying assumptions, which subsequently change without notice.[19]

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[15] More funds to government coffers may have to be weighed against the potential inflationary effect of the excise duties, leading to higher cost of living, etc. Given Nigeria's current worrisome poverty indices, could this not also trigger social or other unrest?

[16] *Cf.* with the mandatory requirement on project promoters to conduct environmental impact analysis (EIA) on major projects pursuant to the ***Environmental Impact Assessment Act Cap. E12, LFN 2004***.

[17] The NBS is the FG's custodian of statistical data. According to information on its website: *"NBS is expected to coordinate Statistical Operations of the National Statistical System in the production of Official Statistics in all the Federal Ministries, Departments and Agencies (MDAs), State Statistical Agencies (SSAs) and Local Government Councils (LGCs)."* See NBS, ***'Who We Are'***, https://nigerianstat.gov.ng/page/about-us (accessed 17.04.2021).

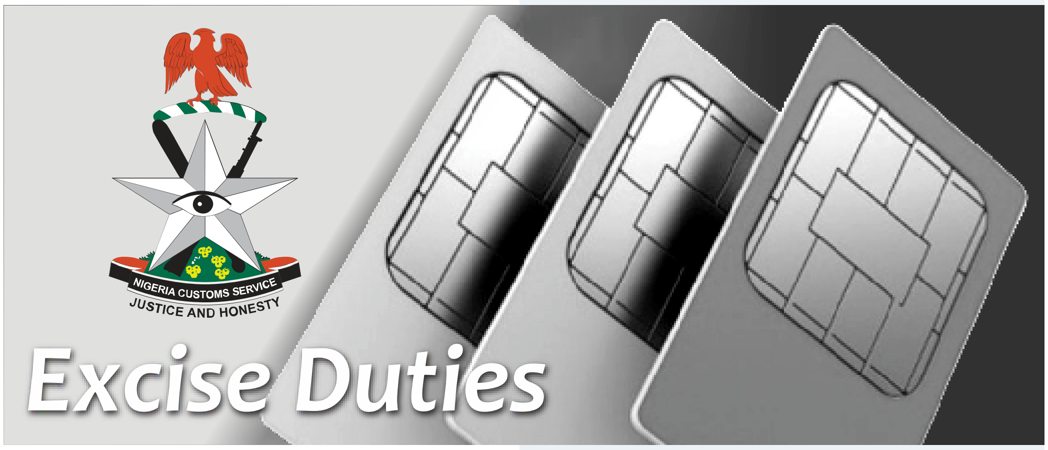
[18] Other examples are ***Value Added Tax (Modification) Order, 2020*** also issued in February 2020, albeit the Gazette came out later.

[19] See for example, Obinna Chima, ***'Chidoka: Policy Inconsistency Stifling Investments'***, *ThisDay, 18.01.2021*: https://www.thisdaylive.com/index.php/2021/01/18/chidoka-policy-inconsistency-stifling-investments/ (accessed 21.04.2021); Afolabi Elebiju and Titilade Adelekun Ilesanmi, ***'Pitfalls, Issues and Prospects: A Perspective on Some Concessions of Public Infrastructure In Nigeria'***, *LeLaw Thought Leadership Perspectives, December 2020, at p.7:* https://lelawlegal.com/add111pdfs/Concession.pdf (accessed 21.04.2021).

Conclusion

The FG's deficit budgets exerts considerable pressure on it seek ways of increase collections to the public *fisc*. Enacting annual ***FAs*** provide opportunity and quickly capitalise on potential areas where collections could result in significant contributions of public revenue, based on government's monitoring of the business landscape. With the ***FA1 2020*** amendments and subsequent associated actions on stamp duties, the FG sent a signal that it intended to leverage stamp duties; the provisions of the ***Stamp Duties Act***[20] having previously been half-heartedly enforced. It appears that its gaze has now been turned on excise duties, but it is important to ensure that this initiative (which unfortunately cannot be challenged),[21] yields more value than good.

The Nigerian telecoms story has shown how government's supportive and pro-sector growth regulatory approach has helped to deliver a market boasting stellar performances that has exceeded all expectations at the onset of sector reforms.[22] Furthermore, there is so much ICT- driven/related entrepreneurial energy in Nigeria, which with government support, will yield bountiful harvests, including tax contributions to the public *fisc*. This writer's humble submission is that the FG is better off focusing on enabling Nigerians create new revenue streams (or optimizing existing streams) from which it will derive additional and increased tax collections than



overtaxing sectors like telecoms as exemplified by the planned introduction of excise duties on telecoms services.

After all, we had no telecoms sector on this scale in 2000, neither did we have fintechs as now a decade ago; the horizon promises a lot more and the government should be in the vanguard of this optimism by deeds and words.

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[20] ***Cap. S8, LFN 2004***.

[21] The ability of the FG *vide* the National Assembly to legislate on customs and excise is constitutionally enshrined in the ***1999 Constitution of the Federal Republic of Nigeria as amended***.

[22] See generally, Afolabi Elebiju, ***'Promoting Country Competitiveness Through Sectoral Reforms: Case Study of Nigerian Mobile Telecommunications Sector, 1999 – 2006'***, *(MentorHouse, 2014)*, for a storied account of the historic trajectory of the sector, rising as it were at out of nothing to severally being ranked as the fastest growing telecoms market in the word at different times. For some current assessment, see also Afrinvest Research, ***'The Nigerian Telecommunications Sector Report: A Transformative Past, Resilient Future'***, *Proshare, 07.07.2020:* https://www.prosharenq.com/news/Mobile-Money-and-Telcos/The-Nigerian-Telecommunications-Sector-R/ 52021#:~:text=The%20telecommunications%20sector%20in%20Nigeria,under%20the%20right%20regulatory% 20framework (accessed 21. 04.2021). According to the report, "***The telecommunications sector in Nigeria remains the fastest growing, the most resilient and the largest contributor to the economy's growth***. *Despite this, the sector is not at its full power yet given weak broad-band penetration at 37.8% and the huge prospects for mobile money under the right regulatory framework.* ***These opportunities drive our optimistic outlook for the sector despite weak macroeconomic conditions.***" Emphasis supplied.