

NATIONAL INFORMATION TECHNOLOGY DEVELOPMENT AGENCY BILL, 2022

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**A
BILL FOR
AN ACT TO REPEAL THE NATIONAL INFORMATION TECHNOLOGY DEVELOPMENT
AGENCY ACT, NO 28 2007 AND ENACT THE NATIONAL INFORMATION
TECHNOLOGY DEVELOPMENT AGENCY ACT TO PROVIDE FOR THE
ADMINISTRATION, IMPLEMENTATION AND REGULATION OF INFORMATION
TECHNOLOGY SYSTEMS AND PRACTICES AS WELL AS DIGITAL ECONOMY IN
NIGERIA AND FOR RELATED MATTERS**

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria—

**PART I
OBJECTIVES AND APPLICATION**

1. Objectives

The objective of this Act is to create an effective, impartial, and independent regulatory framework for the development of the Nigerian information technology sector and support the development of the digital economy, which shall include-

- (a) promoting and implementing policies and strategies on national information technology and digital economy as may be issued by the Government;
- (b) promoting and supporting initiatives that provide access to digital services in an efficient, inclusive, secure, and affordable manner;
- (c) encouraging local and foreign investment in the information technology sector through regulatory interventions;
- (d) promoting the deployment and use of indigenously produced goods, services, and platforms for the development of the digital economy;
- (e) promoting the use of innovative digital service, system, practice, and emerging technology, in Nigeria;
- (f) promoting indigenous research and development in information technology and digital economy;

- (g) protecting the rights and interests of consumers, investors, and service providers in the Nigerian information technology and digital economy;
- (h) ensuring digital inclusion for women, persons with special needs, minors, and vulnerable persons; and
- (i) promoting and safeguarding national interest, safety and security of citizens and foreigners in the use of information technology and digital services.

2. Application

This Act applies to the provision, deployment, and use of information technology system, practice, and digital service within Nigeria, or on a ship or aircraft registered in Nigeria.

PART II

ESTABLISHMENT OF THE NATIONAL INFORMATION TECHNOLOGY DEVELOPMENT AGENCY AND ITS GOVERNING BOARD

3. Establishment of the National Information Technology Development Agency

- (1) There is established a body known as the National Information Technology Development Agency ("the Agency").
- (2) The Agency-
 - (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) may sue or be sued in its corporate name; and
 - (c) may acquire, hold or dispose of any property, movable or immovable, for the purpose of its functions and powers under this Act.

4. Governing board of the Agency

- (1) There is established for the Agency, a governing board known as the National Information Technology Development Agency Governing Board ("the Board").
- (2) The Board shall consist of -
 - (a) a part-time Chairperson;
 - (b) a representative each of the-
 - (i) Federal Ministry responsible for information technology and digital economy,
 - (ii) Federal Ministry responsible for education,

- (iii) Standards Organization of Nigeria,
 - (iv) Council for the Regulation of Engineering in Nigeria, and
 - (v) Computer Professionals Registration Council of Nigeria;
- (c) four other members, one each from a geopolitical zone, other than the geopolitical zone of the Chairperson and the Director-General, who shall be persons of integrity; and
- (d) the Director-General of the Agency who shall be the Secretary to the Board.
- (3) The Chairperson and members of the Board other than the ex-officio members shall be appointed by the President on the recommendation of the Minister.
- (4) The Chairperson of the Board shall have cognate experience and qualifications in one or more of the following fields –
 - (a) information technology;
 - (b) finance and management;
 - (c) law;
 - (d) administration; and
 - (e) engineering.
- (5) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

5. Tenure of office

The Chairperson and other members of the Board, other than ex-officio members, shall each hold office-

- (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
- (b) on such terms and conditions as may be specified in his or her letter of appointment.

6. Cessation of membership

- (1) Notwithstanding the provisions of section 5 of this Act, a member of the Board shall cease to hold office as a member where such member-
 - (a) resigns his or her appointment by notice, addressed to the President;

- (b) becomes of unsound mind;
 - (c) becomes bankrupt or makes a compromise with his or her creditors;
 - (d) is convicted of a felony or any offence involving dishonesty or corruption; or
 - (e) becomes incapable of carrying out the functions of his or her office either arising from infirmity of mind or body.
- (2) Where the President is satisfied that it is not in the interest of the Agency or the public for a member to continue in office, the President may, in writing remove such member.
- (3) Where a vacancy occurs in the membership of the Board, it shall be filled by the appointment of a successor representing the same interest to hold office for the remainder of the term of office of his or her predecessor.

7. Emoluments of members

The Chairperson and members of the Board shall be paid such emoluments, allowances, and benefits as the Government may, from time to time, direct.

8. Powers of the Board

The Board shall -

- (a) provide the general policy guidelines relating to the functions and powers of the Agency;
- (b) approve the remuneration and other conditions of service for the employees of the Agency, in consultation with the National Salaries Incomes and Wages Commission, and having regards to the remuneration and conditions of service of persons in similar job roles in the private sector;
- (c) approve the appointment, promotion, and discipline of the principal officers and senior staff of the Agency subject to extant laws and regulations;
- (d) approve the structuring of the Agency into such number of departments as it deems fit for the effective discharge of the functions of the Agency; and
- (e) exercise such powers as are necessary to give effect to the provisions of this Act.

PART III

FUNCTIONS AND POWERS OF THE AGENCY

9. Functions of the Agency

The Agency shall -

- (a) develop a framework for regulating the use, development, standardization, research, and application of information technology, emerging technology and digital services, activities, and systems in Nigeria;
- (b) promote the use of data for Government planning;
- (c) regulate the acquisition and use of digital systems and services in Government and create a framework for the auditing of Government information systems and digital services platforms;
- (d) develop a framework for the use of digital signatures, digital contracts and other forms of digital transactions or interactions that may require authentication;
- (e) issue regulations, guidelines, frameworks, directives, and standards to facilitate the establishment and maintenance of appropriate infrastructure, and information technology system, to support the development of digital service application in Nigeria;
- (f) create processes and keep appropriate data to ensure effective monitoring of information technology and digital devices to support national security objectives;
- (g) create incentives to promote the use of information technology including the setting up of information technology parks, promotion of innovation, start-up initiatives, entrepreneurship, the promotion of digital commerce, digital government services, privacy, and trust;
- (h) coordinate, monitor, and evaluate the use and adoption of digital services, products, and platforms to promote the digital economy;
- (i) coordinate and supervise the activities of any entity incorporated, owned or partly owned by the Government to provide information technology infrastructure and digital services;

- (j) create a framework for testing and certification of information technology system to promote security, innovation, and the use of emerging technology;
- (k) implement and execute projects for the purpose of development of information technology and digital economy;
- (l) promote universal access for information technology, digital service, and system penetration in Nigeria;
- (m) promote the adoption of locally produced information technology goods and services offered by Nigerian entities to support national security, job creation, and the well-being of citizens, having regard to international treaties and agreements on trade;
- (n) promote incentives to encourage investments in the digital economy;
- (o) promote digital skills, job creation, government digital services, cybersecurity, digital inclusion, and local content development;
- (p) promote the adoption of the Nigeria Top Level Country Code internet domain (.ng), sound internet governance, and give effect to the Second Schedule to this Act;
- (q) determine critical areas in information technology and digital economy requiring research and development intervention, and implement the research and development in those areas;
- (r) collaborate with any local or state government, company, firm, or person in any activity to facilitate the attainment of the objectives of this Act;
- (s) support the development and promotion of technical specifications and standards for the use of information technology and digital service in Nigeria including emerging technologies such as robotics, blockchain, cloud computing, and artificial intelligence;
- (t) render advisory service in all information technology and digital service matters to the public and private sectors;
- (u) advice Government and State Governments on ways of promoting information technology and digital service in Nigeria to enhance national security, information security, cybersecurity, privacy, and trust;

- (v) protect the interest and rights of consumers against unfair practices in collaboration with the consumer protection regulator;
- (w) represent Nigeria at international proceedings and meetings of international organizations relating to information technology and digital economy;
- (x) regulate the activity and service of a platform service provider and social networking service provider that create, maintain, and make accessible to the public, any device, tool, and application used for sharing and distributing information accessible in Nigeria; and
- (y) perform such other duties, which in the opinion of the Agency are necessary or expedient to ensure the efficient performance of the functions of the Agency under this Act.

10. Powers of the Agency

The Agency shall have powers to -

- (a) implement Government policy on information technology and digital economy;
- (b) test, and approve the use of information technology infrastructure and services before adoption in Nigeria ;
- (c) issue regulations, standards, and guidelines with respect to the use of information technology and digital services in every sector of the economy in pursuance of the objectives and functions of the Agency;
- (d) collaborate with the Standards Organization of Nigeria to develop and enforce the standards formulated by the Agency in the discharge of its duties under this Act;
- (e) fix permit fees and charges, and collect fees or penalties as may be necessary for the exercise of its functions;
- (f) issue notices of contravention and non-compliance with this Act, regulations, standards, and guidelines made under this Act;
- (g) enter premises, inspect, seize, seal, detain, and impose administrative sanctions where there is contravention of any provision of this Act, subject to the order of a court of competent jurisdiction;

- (h) demand and monitor compliance with directives, regulations, standards, and guidelines issued pursuant to the provisions of this Act;
- (i) establish, subsidiary offices, and provide subventions for such offices, to implement any of its mandate which may require dedicated institutional, legal, and financing framework;
- (j) enforce, in collaboration with law enforcement agencies, the provisions of this Act;
- (k) issue certificates of clearance for information technology and digital projects proposed by Ministries, Departments, Agencies and other public institutions of the Government;
- (l) issue and renew licences and authorisations for the provision of information technology;
- (m) review administrative sanctions issued under this Act; and
- (n) carry out such other activities, which in its opinion are necessary to ensure the efficient performance of the objectives and functions of the Agency under this Act.

PART IV DIRECTOR-GENERAL AND STAFF OF THE AGENCY

11. **Director-General of the Agency**

- (1) There shall be for the Agency, a Director-General who shall be-
 - (a) appointed by the President on the recommendation of the Minister;
 - (b) the Chief Executive and Accounting Officer of the Agency; and
 - (c) responsible for the execution of the policy and day-to-day administration of the Agency.

- (2) A person shall not be qualified to be appointed as the Director -General of the Agency unless the person possesses an academic qualification and cognate experience of not less than ten (10) years in any of the following fields –
- (a) administration;
 - (b) engineering;
 - (c) information technology;
 - (d) finance and management; or
 - (e) law.
- (3) The Director-General shall hold office -
- (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
 - (b) on such terms and conditions as may be specified in his or her letter of appointment.
- (4) Notwithstanding the provision of subsection (3) of this section, the Director-General may-
- (a) resign his or her appointment by notice in writing under his or her hand, addressed to the President through the Minister; or
 - (b) be removed by the President for –
 - (a) inability to discharge the functions of his or her office (whether arising from infirmity of mind, body or any other cause); or
 - (b) misconduct or corruption.
- (5) Notwithstanding the provisions of subsection (4) of this section, the Director-General of the Agency may be removed by the President where the President is satisfied that it is not in the interest of the Agency or public for the Director-General to remain in office.

12. Other staff of the Agency

- (1) The Agency may, subject to the approval of the Board, with recourse to the relevant government body, appoint such staff as it deems necessary and expedient, from time to time-

- (a) for the proper and efficient performance of its functions ; and
 - (b) on such terms and conditions, with remunerations, allowances and benefits as may be determined, from time to time, by the Board, in consultation with the National Salaries Incomes and Wages Commission.
- (2) The Board and the National Salaries Incomes and Wages Commission, in determining the terms and conditions, remunerations, allowances and benefits of staff, shall have regard to-
 - (a) the need to attract and retain quality and high calibre manpower for the Agency;
 - (b) specialized nature of work to be performed by the Agency; and
 - (c) the salaries paid in similar government agencies to persons with equivalent responsibilities, expertise, and skills.

13. Service in the Agency

- (1) Service in the Agency shall be approved service for the purposes of the Pension Reform Act, and accordingly, staff of the Agency shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act.
- (2) Without prejudice to the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on conditions which preclude the grant of a pension, gratuity or other retirement benefits in respect of that office.
- (3) For the application of the provisions of the Pension Reform Act, any power exercisable by a Minister or other authority of the Government other than the power to make regulations under the Pension Reform Act is vested in and shall be exercisable by the Board and not by any other person or authority.

14. Staff regulations and discipline

- (1) Subject to the provisions of this Act, the Agency may make staff regulations relating generally to the conditions of service of the staff, and without prejudice to the generality of the foregoing, such regulations may provide for-

- (a) the appointment, promotion, and disciplinary control of staff of the Agency; and
 - (b) appeals by staff against dismissal or other disciplinary measures and until such regulations are made any instrument relating to conditions of service in the Public Service of the Federation shall be applicable, with such modifications as may be necessary, to the staff of the Agency.
- (2) The staff regulations made under subsection (1) of this section shall not have effect until approved by the Board, and when so approved the Agency shall cause a notice of the staff regulations to be issued to all affected staff in such manner as it may, from time to time, determine.

PART V PERMIT AND AUTHORISATION

15. Requirement for permit and authorisation

- (1) The Agency shall issue permit and authorisation for operators in the information technology and digital economy sector in accordance with the regulations made pursuant to this Act.
- (2) The regulations referred to in subsection (1) of this section, shall provide for permit and authorisation criteria including renewal, suspension, and revocation conditions to promote free market operation and competition among others.

PART VI FINANCIAL PROVISIONS

16. Establishment of the national information technology development fund

- (1) There is established a fund, which shall be known as the National Information Technology Development Fund (“the Fund”) which shall be used for the advancement of the digital economy and related purposes.
- (2) There shall be paid and credited into the Fund established under subsection (1) of this section-

- (a) a levy of one percent of the profit before tax of companies and enterprises enumerated in the Third Schedule to this Act with an annual turnover of N100, 000,000 and above;
- (b) grants-in-aid and assistance from bilateral and multilateral agencies;
- (c) fees or charges due to the Agency under this Act or its subsidiary legislation;
- (d) all other sums accruing to the Fund by way of gifts, endowments, bequest or other voluntary contributions by persons and organisations, provided that the terms and conditions attached to such gifts, endowments, bequest or contributions will not jeopardize the functions of the Agency; and
- (e) all other monies or assets that may, from time to time accrue to the Fund.

17. Exemption from Tax

All monies accruing to the Fund and account of the Agency from the sources specified in section 16 of this Act shall be exempted from income tax and all contributions to the Fund shall be tax-deductible.

18. Accounts and Report of the Fund

The Director-General of the Agency shall keep proper records of the Fund and render accounts to the Board, from time to time.

19. Federal Inland Revenue Service to collect levy and pay into the Fund

- (1) The Federal Inland Revenue Service shall assess and collect the levy imposed under section 16 of this Act.
- (2) The Federal Inland Revenue Service shall while assessing any company for any applicable federal taxes, also assess such company for the levy or tax due under this Act.
- (3) The Agency may by regulations determine from time to time the companies liable to contribute to the one percent levy provided for in Section 16 (2) (a) of this Act and provide same to the Federal Inland Revenue Service.

- (4) The levy imposed under section 16 of this Act shall be due and payable within 60 days after the Federal Inland Revenue Service has served notice of assessment on a company in such form as the Federal Inland Revenue Service may, determine and records of such assessments shall be provided to the Agency annually.
- (5) Where a levy due under section 16 of this Act is not paid within the time specified in subsection (4) of this section, the Federal Inland Revenue Service shall serve on the company a demand notice for the unpaid levy plus a sum, which is equal to two percent of the levy.
- (6) The institution of proceedings or imposition of a penalty under this Act shall not relieve a company or organization from liability to pay such levy that may become due under this Act.

20. Expenditures of the Agency

The Agency may, without prejudice to the provision of section 16 (1) of this Act, apply the proceeds of the Fund established under section 16 of this Act -

- (a) to the advancement of the objectives of this Act;
- (b) to the cost of administration of the Agency;
- (c) for the development and maintenance of any property vested in or owned by the Agency;
- (d) for investments in initiatives to attain the objectives of the Agency; and
- (e) to any other expenditure in connection with any of its functions under this Act.

21. Annual estimates and accounts

- (1) The Agency shall not later than 30th September in each financial year prepare and present to the Minister for approval, a statement of estimated income and expenditure for the following financial year.
- (2) Notwithstanding subsection (1) of this section, the Agency may also in any financial year, submit supplementary or adjusted statement of estimated income and expenditure to the National Assembly through the Minister for approval.

- (3) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list following the guidelines supplied by the Auditor-General for the Federation.

22. Annual Reports

The Agency shall prepare and submit to the Minister not later than 30th June in each year a report in such form as prescribed in this Act on the activities of the Agency during the preceding year, and shall include in the report a copy of the audited accounts of the Agency for that year and of the auditor's report thereon.

23. Power to Accept Gifts

- (1) The Agency may accept gifts of land, money, or other property on such terms and conditions if any, as may be specified by the person or organization making the gift.
- (2) The Agency shall not accept any gift if the conditions attached by the person or organization making the gift are inconsistent with the functions of the Agency under this Act.

24. Power to Borrow

The Agency may, with the approval of the Minister, borrow by way of loan, overdraft, or otherwise from any source, such sums as it may require for the performance of its functions and meeting its obligations under this Act or its subsidiary legislations.

PART VII OFFENCES AND PENALTIES

25. Offences and Penalties

- (1) Where a body corporate fails to make payment within two months after a demand notice for the unpaid levy, plus a sum, which is equal to two percent of the levy, has been served on the body corporate, under Section 19 (4) of this Act, the body corporate commits an offence and is liable on conviction to a fine of 0.5 percent of the total amount payable for every day that such amount remains unpaid.

- (2) Where a person or body corporate fails to comply with the frameworks, guidelines, regulations, standards, circulars, directives or administrative sanctions prescribed by the Agency in the discharge of its duties under this Act, such person or body corporate commits an offence and is liable on conviction –
- (a) in case of an individual, to a fine of not less than N 1,000,000.00 or imprisonment for a term of not less than one year or both; and
 - (b) in case of a body corporate, to a fine of not less than N10,000,000.00 and in addition, any officer of such body corporate found guilty is liable to imprisonment for a term of not less than two years or both.
- (3) Where a person or body corporate attempts to or denies any person authorised by the Agency or by law, entry into premises or access to records or data, in pursuance of the provisions of this Act, such a person or body corporate commits an offence and is liable on conviction -
- (a) in the case of an individual, to a fine of not less than N1,000,000.00 or imprisonment for a term of not less than one year or both; and
 - (b) in the case of a body corporate, to a fine of not less than N10,000,000.00 and in addition, any officer of such body corporate found guilty, shall individually be liable to not less than N1,000,000.00 or imprisonment for a term of not less than two years or both.
- (4) Where a person or body corporate imports or deploys the usage of any information technology equipment that has been designated by the Agency as requiring approval before importation or deployment, without first obtaining such approval or complying with the conditions imposed by the Agency for the importation and usage of the equipment, the person or body corporate commits an offence and is liable on conviction -
- (a) in the case of individual, to a fine of not less than N1,000,000.00 or imprisonment for a term of not less than one year or both; and
 - (b) in the case of a body corporate, to a fine of not less than N10,000,000.00 and in addition, any officer of such body corporate

found guilty is liable to not less than N1,000,000.00 or imprisonment for a term of not less than two years or both.

- (5) A person or body corporate who operates an information technology or digital economy service, product, or platform without a licence or authorisation, commits an offence, and is liable upon conviction, in addition to any administrative sanctions imposed by the Agency -
- (a) in the case of individual, to a fine of not less than N1,000,000.00 or imprisonment for a term of not less than one year or both; and
 - (b) in the case of a body corporate, to a fine of not less than N10,000,000.00 and in addition, any officer of such body corporate found guilty is liable to not less than N1,000,000.00 or imprisonment for a term of not less than two years or both.
- (6) A body corporate who commits an offence under this Act where no specific penalty is provided, is liable on conviction, to a fine not exceeding N10,000,000.00,
- (7) A person who commits an offence, where no specific penalty is prescribed in this Act or any subsidiary legislation, is liable upon conviction –
- (a) as a first offender, to a fine not exceeding N1,000,000.00 or to imprisonment for a term of one year or both; or
 - (b) for a subsequent offence, to a fine not exceeding N3,000,000.00 or to imprisonment for a term not exceeding three years or both.

PART VIII

MISCELLANEOUS PROVISIONS

26. Functions of the Minister

The Minister shall have the following responsibilities and functions pursuant to this Act –

- (a) the formulation, determination and monitoring of Government policy for the information technology and digital economy sector in Nigeria to ensure among others, the utilization of the sector as a platform for economic and social development of Nigeria;

- (b) provide inputs into any regulation, standard, guideline or framework being proposed by the Agency; and
- (c) ensure the independence of the Agency, regarding the discharge of its functions and operations under this Act.

27. Administrative Redress Process

- (1) Except otherwise provided by extant legislation, the Agency shall by regulation prescribe an administrative redress process to address issues that may arise from regulatory activities of the Agency.
- (2) The Agency shall, where applicable, encourage the use of online dispute resolution mechanisms in implementing its functions under this section.
- (3) A summary of the Agency's findings or conclusions in any administrative investigation or sanction shall be published on its official website.

28. Establishment of a digital infrastructure and service provision company

- (1) The Minister may, with the approval of the Federal Executive Council, incorporate a limited liability company (the "Company"), for the Federal Government under the Companies and Allied Matters Act, which shall be a digital infrastructure and service provision company.
- (2) The Board of the Company shall comprise of not more than 9 members, at least one from each of the six geopolitical zones and reflecting gender balance and persons with disability.
- (3) The Management of the Company shall comprise of not less than 6 members at least one from each of the six geopolitical zones and reflecting gender balance and persons with disability.

29. Limitation of suits against the Agency

- (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member, officer or employee of the Agency.

- (2) Notwithstanding anything contained in any other legislation, no suit against the Agency, a member of the Board, the Director-General of the Agency or any other officer or employee of the Agency for any act done in pursuance or execution of this Act or any other law, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act or any other legislation, duty or authority, shall lie or be instituted in any court unless it is commenced -
 - (a) within three months next after the act, neglect or default complained of; or
 - (b) in the case of a continuation of damage or injury, within six months next after the ceasing of such damage or injury.
- (3) No suit shall be commenced against the Agency, a member of the Board, the Director-General of the Agency or any other employee of the Agency before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Agency by the intending plaintiff or his or her agent.
- (4) The notice referred to in subsection (3) of this section shall clearly state the -
 - (a) cause of action;
 - (b) particulars of the claim;
 - (c) name and address of the intending plaintiff; and
 - (d) relief which he claims.

30. Service of document

A notice, summons, or other document required or authorized to be served on the Agency under the provisions of this Act or any other law may be served by delivering it to the Director-General of the Agency or by sending it by registered post, addressed to the Director-General of the Agency at the principal office of the Agency.

31. Restriction on execution against property of the Agency

- (1) In any action or suit against the Agency, no execution or process of attachment in the nature thereof shall be issued against the Agency unless not less than three months notice of the intention to execute or attach has been given to the Agency.
- (2) Any sum of money which by the judgment of any court has been awarded against the Agency shall, subject to any direction given by the court, where no

notice of appeal against the judgment has been given, be paid from the Fund of the Agency.

32. Indemnity of officers

A member of the Board, the Director-General of the Agency or any other officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him or her in defending any proceeding, if the proceeding is brought against him or her in his or her capacity as such a member of the Board, the Director-General of the Agency or as an officer or employee of the Agency.

33. Power to make regulations

The Agency may make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act.

34. Secrecy

- (1) A member of the Board, the Director-General, or any other officer or employee of the Agency shall-
 - (a) not, in their interest, make use of any information which has come to their knowledge in the exercise of their powers or obtained by the person in the ordinary course of their duty as a member of the Board or as the Director-General, Secretary, officer or employee of the Agency;
 - (b) treat as confidential any information which has come to his or her knowledge in the exercise of his or her powers or is obtained by him or her in the performance of his or her duties under this Act; and
 - (c) not disclose any information referred to under paragraph (b) of this section, except where required to do so by a court or in such other circumstances as may be prescribed by the Board from time to time;
- (2) Any person who contravenes the provisions of sub-section (1) of this section, commits an offence and is liable on conviction to a fine of not less than N1,000,000.00 or imprisonment for a term not exceeding one year or both.

35. Repeal

The National Information Technology Development Agency Act No. 28, 2007 is repealed.

36. Savings and transitional provision

- (1) The power, duties and functions of the National Information Technology Development Agency established under the National Information Technology Development Agency Act No 28, 2007 (“the repealed Act”) is transferred to the National Information Technology Development Agency established under this Act.
- (2) Anything made or done or having effect under the repealed Act and having any resulting or continuing effect shall be treated as from the commencement of this Act, as if it were made or done by the Agency established under this Act.
- (3) Any person who before the commencement of this Act, was appointed or employed by the Agency established under the repealed Act shall continue in office and be deemed to have been appointed or employed by the Agency established under this Act.
- (4) All assets, rights, liabilities and obligations of the Agency under the repealed Act shall, by virtue of this Act, be deemed to be that of the Agency established under this Act.

37. Interpretation

In this Act-

“Agency” means the National Information Technology Development Agency established under section 3 of this Act;

“Board” means Governing Board of the Agency established under this Act;

“Computer” includes any electronic device or computational machinery using programmed instructions which has storage, retrieval, memory, logic, arithmetic or communication capabilities and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such device in a system or network or control function by the manipulation of signals, including electronic, magnetic or optical, and shall include any input, output, data storage, processing or communication facilities directly related to or operating in conjunction with any such device or system or computer network;

“Computer Network” means the interconnection of one or more computers;

“Computer system” means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic arithmetic, data storage and retrieval, communication control and other functions;

“Data” means a representation of information, knowledge, facts, concepts or instructions, which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printout, magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computers;

“Director-General” means the Director-General of the Agency appointed under section 11 of this Act;

“Domain Name Host” means a person who has the records of domain names on the Internet;

“Electronic form” means any information generated, sent, received or stored in media magnetic, optical, computer memory, microfilm, computer-generated, micro fiche or similar device;

“Electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer-generated microfilm;

“Equipment” means computer hardware, software application, storage system, cloud, website, or any other thing or gadget usable alone, or capable of being used in conjunction with other equipment to manipulate or transmit data;

“Fintech” means a company providing financial services using Information Technology tools;

“ Foreign digital platform targeting the Nigerian market ”means any–

- (i) non – Nigerian information technology company that has a contracted Agent in Nigeria for the purpose of earning and transmitting commercial profit from its operations in the country,
- (ii) non- Nigeria information technology company with a local subsidiary for the purpose of compliance, marketing or any other business interest, and

(iii) information technology company classified under the Finance Act, 2020 as having 'Significant Economic Presence' in Nigeria;

"Government" means the Federal Government of Nigeria;

"Information Technology " includes all forms of technology used to create, store, exchange and use information in its various forms (business data, voice, conversation, still images motion pictures, multimedia presentations and other forms including those not yet conceived);

"Minister" means the Minister charged with the responsibility of matters relating to Information Technology, Digital Economy and matters related therewith;

"President" means the President of the Federal Republic of Nigeria; and

"Software" includes any program, procedure and associated documentation concerned with the operation of a computer system.

38. Short title

This Act may be cited as the National Information Technology Development Agency Act, 2021.

FIRST SCHEDULE

[Section 4(5)]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC

1. Proceedings of the Board

- (1) Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees.
- (2) At every meeting of the Board, the Chairman shall preside and in his absence, the members present at the meeting shall appoint one of their numbers to preside at the meeting.
- (3) The quorum at a meeting of the Board shall be not less than one-third of the total number of the Board members present at the meeting.
- (4) The Board shall for the purpose of this Act, meet not less than four times each year.
- (5) Subject to the provisions of subparagraph (4) of this paragraph, the Board shall meet –
 - (a) whenever it is summoned by the Chairman; and
 - (b) if required to do so by notice given to him by not less than 1/3 of members, within fourteen days from the date in which the notice is given.
- (6) Where the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such person to the Board for such period as it thinks fit, but a person co-opted pursuant to this paragraph shall not be permitted to vote at any meeting of the Board and shall not count towards a quorum.

2. Committees

- (1) Subject to its standing orders, the Board may appoint such number of standing or ad hoc committees as it thinks fit to consider and report on any matter with which the Board is concerned.
- (2) A committee appointed under this paragraph shall-
 - (a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board) and a person other than a member of the Board, shall hold office on the committee in accordance with the terms of his or her appointment; and
 - (b) be presided over by a member of the Board.
- (3) The quorum of any committee set up by the Board shall be determined by the Board.
- (4) The decision of any committee of the Board shall constitute a recommendation to the Board.

3. Miscellaneous

- (1) The fixing of the Seal of the Agency shall be authenticated by the signature of the Chairperson, or any other person generally or specifically authorized by the Board to act for that purpose and that of the Director-General.
- (2) Any contract or instrument which if made by a person not being a body corporate, and not required to be under seal, may be made or executed on behalf of the Board by the Director-General or any other person generally or specifically authorized by the Board to act for that purpose.
- (3) Any document purporting to be a contract, instrument or document duly signed or sealed on behalf of the Agency shall be received in evidence and shall unless the contrary is proved, be presumed without further proof to have been signed or sealed.
- (4) The validity of any proceedings of the Board or any of its committees shall not be affected by-
 - (a) any vacancy in the membership of the Board, or committee; or
 - (b) the reason that any person not entitled to do so took part in the

proceedings of the Board or committee.

- (5) A member of the Board or of a committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or committee shall disclose his or her interest to the Board or committee and shall not vote on any question relating to the contract or arrangement.
- (6) A member of the Board shall not be personally liable for any act or omission done or made in good faith while engaged in the business of the Board.

SECOND SCHEDULE

[Section 9 (p)]

SUPPLEMENTARY PROVISIONS RELATING TO THE SUPERVISION OF THE MANAGEMENT OF THE COUNTRY CODE TOP LEVEL DOMAIN (.ng) ON THE INTERNET

1. Subject to the provisions of this Act, the Agency shall advise the Federal Government generally on matters and issues that are related to the management and administration of Nigeria's country code top-level domain (.ng).
2. The Agency shall have supervisory authority over any organization incorporated under the laws of Nigeria to manage and administer Nigeria's country code top-level domain (.ng) including but not limited to the following -
 - (a) approve the constitution of the management of any such organization created to carry out acts mentioned in paragraph 1 of this Schedule;
 - (b) issue standards which shall ensure that the membership of the organization when viewed collectively is broadly representative of the stakeholders of the Information Technology in the country; and
 - (c) outline an operational rule for the organization which shall include but not limited to the following-
 - (i) the creation of any departments of the organization to perform specialized functions,
 - (ii) the establishment and functioning of committees including a management board,
 - (iii) the preparation by the organisation of an annual business plan in terms of which the activities of the organisation are planned annually
 - (iv) the determination through arbitration of any dispute concerning the interpretation of the memorandum and articles of association of the organization,
 - (v) the procedures and criteria for the establishment of second-level domains and for delegations to such domains,
 - vi. the domain name dispute resolution and related appeal mechanisms, and
 - vii. criteria for the qualification of an appointment of Domain Name Hosts.

3. The Agency shall ensure that the activities of the organization comply with best practices in the administration of country code top-level domain.

THIRD SCHEDULE

[Section 16 (2) (a)]

COMPANIES AND ENTERPRISES TO PAY LEVY

The companies and enterprises to pay levy under section 17 (2) (a) of this Act includes -

- (a) mobile and fixed telecommunications companies;
- (b) information technology companies, gaming companies, and e-commerce companies;
- (c) foreign digital platforms targeting the Nigerian market;
- (d) pensions managers and pension-related companies;
- (e) banks, financial institutions, and fintech companies;
- (f) insurance companies; and
- (g) such other companies and enterprises as may be determined by regulations from time to time by the Agency.

EXPLANATORY MEMORANDUM

(This not does not form part of this Act but intends to explain its purports)

This Act Repeals the National Information Technology Development Agency Act, No 28, 2007 and enact the National Information Technology Development Agency Act to ensure the effective administration, implementation and regulation of information technology systems and practices as well as digital economy in Nigeria.