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Al-Hikmah University Journal of Public & International Law is a peer review journal published bi-annually by the Department of Public and International Law, Al-Hikmah University, Ilorin, Kwara State, Nigeria. The journal provides opportunity for academics, researchers, scholars, jurists and legal practitioners to reflect on diverse legal issues of International, Regional, National and Islamic jurisprudence. The journal accepts original and well researched articles in any areas of law and other tropical issues.

This maiden edition features 26 articles on various areas of law such as Information Technology Telecommunication, Military Law, Environmental Law, Electoral Law, International Criminal Law, Constitutional Law, Professional Ethics, Law of Tort, Human Rights, Arbitration Law, Maritime law, Law of Taxation, Islamic law of Finance, Disputes Resolution in Islamic Jurisprudence, Estates and probate Practice in Islam, Criminal Law and others.

Only the articles that have scaled through peer review process that were selected for publication. I guaranteed that you will find those articles very educative and interesting.

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THE REGULATION OF MOBILE NUMBER PORTABILITY: EMERGING TREND IN THE NIGERIAN TELECOMMUNICATIONS INDUSTRY

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Abstract

The roll-out of mobile communications in commercial quantity has brought a lot of emerging trends. Mobile Number Portability is very important as a result of its various benefits to the consumers, the operators and the regulators in the Nigerian telecommunications industry. This paper examines the legal regulation of Mobile Number Portability as an emerging trend in the telecommunications industry. Materials used are library-based with the use of both primary source of law such as the Nigerian Communications Act and judicial precedent, and secondary source of law like mobile number portability regulations made pursuant to the Nigerian Communications Act. It has been found that despite the huge benefits of mobile number portability, it has been bedeviled with series of challenges such as poor education on the procedure of porting and delay in the porting processes. Because Mobile Number portability is a fundamental prerequisite for true competition in the telecommunications sector, it is recommended that Mobile Number Portability should be strongly encouraged by governments and regulatory agencies to recognize that Mobile Number Portability is an essential part of the competitive framework and should be made legally binding on all operators and service providers.

Keywords: *Regulation, Number Portability, Telecommunications, Mobile*

1. INTRODUCTION

The principal legislation governing the telecommunications industry in Nigeria is the Nigerian Communications Act¹. It was signed into law by President Olusegun Obasanjo, with the aim of allowing the Nigerian

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¹ The Nigeria Communications Act (NCA) Cap N97 Laws of the Federation of Nigeria 2004.

Communications Commission to effectively and diligently carry out its regulatory functions. The proposition for the mandated implementation of Mobile Number Portability was first raised on the 11th June 2007 by the then Vice Chairman of the Nigerian Communications Commissions (NCC), Engr. Ernest Ndukwe, during the public lecture held at the Nigerian Communications Commission Secretariat, Abuja. During the lecture, he made the mandate for the implementation of Mobile Number Portability known to the various telecommunications operators in Nigeria and December 31st 2007 was fixed for the implementation. However, the plan for the implementation on Mobile Number Portability in Nigeria failed due to various constraints from cost and infrastructure, among others.²

Ultimately, Mobile Number Portability was launched by the Nigerian Communications Commission and other stakeholders in the Nigerian Information and Communications Technology (ICT) industry on 22nd April 2013 in Lagos State. Mobile Number Portability portends when changing from one mobile service provider to another, so that a customer needs not to go through the troubles of informing his/her family members, friends and colleagues because the number is still the same. It is made available to both 'pre-paid' (pay as you go), and 'post-paid' mobile customers in Nigeria³.

The Nigerian Communications Commission has been vested with the exclusive right to regulate numbers and number portability in Nigeria. The list of countries⁴ that have adopted number portability is growing and the increase in the number portability awareness among subscribers has resulted in an increased expectation by consumers that taking their numbers with them when changing services should be trouble free.

² 'Mandate for the Implementation of Number Portability in Nigeria' This Day Newspaper (Nigeria 11 August, 2006) page 23.

³ Odii, J.N. and Onuoha, J.C., "A Review of Number Portability in Global System for Mobile" <<http://www.ajocict.net/uploads/V5N3P3>> accessed on 14 June 2015.

⁴ About fifty countries have implemented Mobile Number Portability. These countries include Singapore (1997), United Kingdom and Netherlands (1999), Spain, Switzerland and Sweden launched between 2001 and 2002. United States (2003), South Africa (2006), Ghana (2012) etc. See generally, <<http://www.thisdaylive.com/articles/the-mobile-number-portability/146455/>> accessed on 24 June, 2015.

This paper examines the concept of Number Portability, meaning and types of number portability, its history, its importance, rate of porting, when dispute arises while porting, the benefits and challenges of Number Portability. It further appraises the law and policy of Mobile Number Portability in Nigeria.

2. LEGAL REGULATION OF MOBILE NUMBER PORTABILITY

The legislation governing the Nigerian telecommunications industry is the Nigerian Communications Act 2003, which was signed into law on the 18th of July 2003, by the then President of Nigeria, Chief Olusegun Obasanjo (GCFR) after being passed by the National Assembly. The purpose is to strengthening the commission, to properly, efficiently and diligently carry out its regulatory activities. The aim of the Act is to regulate the activities of all mobile service operators in Nigeria, especially between the mobile service operators and subscribers.

In the exercise of the powers vested in the Nigerian Communications Commission in accordance with the provision of sections 70 and 128 of the Nigerian Communications Act,⁵ the Act provides for the Mobile Number Portability Regulations, 2013, with Regulation 1 of the regulations providing for its scope and objectives.

Regulation 1 of the Mobile Number portability regulations, 2013 states: "These regulations are made to provide a regulatory framework for the operations of Mobile Number Portability in Nigeria."

Regulation 2 provides: "These regulations shall guide the administration of the Mobile Number system throughout Nigeria and shall apply to the NPC administrator, all licensed telecommunication service providers in Nigeria, other authorized parties and by extension to the subscriber of the various mobile service providers."

By virtue of Regulation 3 of the Regulations, the objectives are to:

- [a] ensure an effective and efficient porting regime;
- [b] foster and strengthen the relationships between mobile service providers and other authorized parties and to create a harmonious level playing field for all operators;
- [c] safeguard right and ensure subscribers satisfaction with the Mobile Number Portability Process;
- [d] sustain quality service delivery by mobile service providers and other authorized parties in order to ensure a seamless launch and continued improvement in the Mobile Number Process and by extension, the

⁵ The Nigeria Communications Act 2003 Cap 97 LFN 2004.

telecommunications sector in Nigeria pursuant to part 1 of Chapter VI of the Act and all the matters related thereto; and

- [e] Where necessary, stipulate penalties for non-compliance with the provisions of these regulations in addition or in alternative to any other penalties that may be contained in the Act or enforcement regulations.

It is pertinent to note however that in spite of these provisions, many stakeholders in the telecommunications industry have criticized the Nigerian Communications Commission, especially in relation to its aim of adopting Mobile Number portability to curb the essence in the telecom industry. This is because to them, the country (Nigeria) is experiencing a lot of unstable and unfavourable situation almost in every area of its economy and political sector. For instance, TitiOmo-Ettu⁶ stated that what constitutes good quality and the necessary education to make sound judgment is still lacking. Also, Adebayo⁷ argued that Nigeria is still very much unripe for MNP owing to some prevailing situations in the country.

It is however submitted that since the inception of Mobile Number and the laws attached to the principle in Nigeria, there has been drastic, sincere and positive changes in the method/manner the service providers discharge their duties to the subscribers and also in the relationship now existing *inter se*.

Originally, it was poor quality of services being rendered by service providers that informed the Nigerian Communications Commission to introduce the mobile number portability to subscribers, with the view that the Mobile number portability will awaken the network operators to their original motive of providing efficient and quality services to the subscribers.

Mobile number portability gives the subscribers the privilege to change providers without having to change phone number. Mobile number portability empowers the subscribers to terminate their relationship with current network service provider if they are dissatisfied with the quality of service provided.⁸ It is therefore described as power and freedom to the subscribers.

⁶EgnrTiti-OmoEtu is the former President of Telecoms Company in Nigeria.

⁷Egnr Gbenga Adebayo is the President of the Association of Licensed Telecommunication Operators of Nigeria(ALTON).

⁸ This was the remark of Dr. Eugene Juwah, Executive Vice Chairman of the Nigerian Communication Commission at Mobile Number Portability flag off.

It is a free service; a subscriber is not entitled to pay any charges to port their number,⁹ and where a subscriber is required to pay before porting (except for the money for the Subscriber Identification Module (SIM) card that will be issued to the subscriber, after porting), he can report to Nigerian Communications Commission (NCC).

It is a tool through which telecom regulators are able to extend telecommunication services to the subscribers and mobile number portability curtail individual or group monopoly. Mobile Number Portability gives room for specific number of days (either 48 hours or 90 days as the case may be) for porting and as such, it is not time wasting. More so, Mobile Number Portability services warranty freedom for telecom subscribers and it also serves as a propeller for excellent service and customer care in the telecommunication companies operation in Nigeria.

Mobile Number Portability ensures competition and fair pricing in line with the provision of the Act.¹⁰ There is a tendency that Mobile Number Portability leads to decrease in mobile traffic and increase in mobile related services.¹¹

3. CLASSIFICATIONS OF NUMBER PORTABILITY

There are basically 3 types of numbers portability and they are:

- i. **Service Portability:** This gives the user the right to retain his original telephone number when changing from one service (provided by the same service provider) to another service.¹² For instance, when a customer using Mobile Telecommunications Network (MTN) chooses to change from 'pre-paid' services to 'post-paid service', both of which are offered by the same service provider.¹³
- ii. **Service Provider Portability:** This allows the end user to retain the same number when changing from one service to another. A typical example of this is when a subscriber change from a Global Communications (GLO) to another service provider like Mobile Telecommunication Network (MTN).

⁹<<http://www.itedgenews.com/port>>accessed on 27 June 2015.

¹⁰ The principal enactment i.e the Nigerian Communications Act 2003.

¹¹Mobile Number Portability as Panacea for Poor Telecoms Services
<http://www.myfinancialintelligent.com>>accessed on 27 June, 2015.

¹² See generally, Nigeria Communications Act (NCA) Cap N97 LFN 2004and Mobile Number Portability Regulation 2013.

¹³ Ibid.

- iii. **Location Portability:** This is the ability of a subscriber to, without impairment of quality, reliability or convenience; retain his number when changing from a physical location to another within the same calling area. This type of portability may not be required in the existing mobile services which are offered nationwide.

4. COMMON STEPS TO PORTING A NUMBER

Different countries have implemented Number Portability differently. These differences are primarily due to disparities among regulatory agencies philosophies, existing infrastructure and methods employed by operators to meet the mandate. Although, there is a variety of ways to implement these steps, in all cases, there are three basic steps to porting a number from the 'old' service provider (OSP) to the 'new' service provider (NSP):¹⁴

Port Initiation;
Exchange of Porting Information; and
Network Routing Schemes

These steps are discussed in turn.

Step One: Port Initiation: To start the porting process, a subscriber needs to contact an operator to request the port. There are two basic approaches for this process used around the world which are:

- a. Donor Initiated in which the subscriber goes to his/her current operator or old service provider (OSP) to request to port 'out.' In this model, the donor operator or Old Service Provider starts the porting process. The subscriber contacts his current service provider and indicates his desire to change service providers and port their number. The Old Service Provider then initiates the administrative process with the New Service Provider.¹⁵

In some places, the subscriber is given an authorization code or document showing that he is eligible for porting.¹⁶ The subscriber has a set period of time (e.g. up to 30 days in the U.K.) to determine a desired service provider and present the written authorization. The New Service Provider then coordinates the port with the Old Service Provider, using

¹⁴Odi, J.N. and Onuoha, J.C., "A Review of Number Portability in Global System for Mobile". <<http://www.ajocit.net/uploads/V5N3p3>>accessed on 25 June 2015.

¹⁵ Ibid

¹⁶Eligibility is determined by fulfillment of the contract or ability to break the contract.

contact information provided in the written authorization form.¹⁷ In other cases, the Old Service Provider contacts the New Service Provider directly upon initiation by the subscriber. This assumes that the subscriber has already selected a new service provider. In both cases, the net result is that the subscriber must initiate the porting process through the current service provider.

- b. Recipient Operator Initiated: In this model, the porting process starts when the subscriber contacts a desired new service provider (NSP) (recipient operator) to initiate the porting process. The subscriber contacts a retail point of sale (a kiosk, a Web site, a retail centre, an authorized agent, etc.) and provides information regarding his/her current operator, such as account number. The New Service Provider then begins the administrative process and must validate the subscriber-provided-information with the Old Service Provider. At this point, the OSP still has the discretion to reject the port, based upon agreed valid reasons, such as incorrect subscriber information.¹⁸

Step Two: Exchange of Porting Information: Regardless of the method chosen for port initiation, the Old Service Provider and New Service Provider must exchange information for validation and port coordination. This information exchange is commonly referred to as inter-carrier communications or inter-operator communications (IOC).

In the case of fixed-to-fixed porting, the amount of information in the inter-operator communications (IOC) can be several pages, including circuit and trunk information, physical locations of various network elements as well as subscriber information. In the case of mobile-to-mobile porting, the data in this exchange can be as simple as: subscriber name and billing address, account number, the phone number to be ported and the date and time of porting.¹⁹ There are several different methodologies used around the world to accomplish inter-operator communications. One of such is a fully automated exchange through a single central clearing-house.

¹⁷ Mobile Number Porting Process manual available at <<http://www.mnpsog.org.UK>>main document>, accessed on 25 June 2015.

¹⁸ Odii, J.N. and Onuoha J.C. & "A Review of Number Portability in Global System For Mobile" <<http://www.wajocict.net/uploads/V5N3P3>> accessed on 14 June 2015.

¹⁹ Ibid.

This method uses a pre-determined format for the data and can be completed in minutes. This fully automated exchange is 'kicked-off' by one operator's back-office system (e.g. a billing system or a customized gateway) and is responded to automatically by the other operator's back-office system. Another automated approach involves entering the porting information into a Graphical User Interface (GUI). The information is then exchanged through a centralized clearing-house with the other operator. In both of these cases, software systems play a major role in validating the port, expediting the changeover in service providers, and tracking the porting process end-to-end.

In some countries, a manual approach is used, often using facsimile or e-mail to exchange information. There are trade-offs to both approaches. The automated solution results in less errors and a much faster overall porting experience for the subscriber.²⁰ This automation comes at a cost – software systems need to be developed, and modifications to operators' existing back-office systems need to be made to exchange the information. The manual approach can be troublesome – faxes can be lost, e-mails can be deleted, and in both cases, humans need to interpret and input the information into various systems and of course, a manual approach results in a much longer porting process.

Port Timing: The time it takes to complete a port varies as widely as the differences in the implementation of the process – from as little as two and a half hours to as lengthy as 30 days, with extreme examples of four months. How long the process should take needs to be determined by the regulatory agency and in part, by the operators.

Cooperation between Operators: Typically, competitors do not communicate, never mind cooperate.²¹ However, in the case of number portability, competitors need to cooperate to accomplish the porting process. The degree to which the operators cooperate has a direct correlation to the reliability and overall porting speeds. Although, two operators may be competitors, there is incentive to cooperate – the Old Service Provider assisting the New Service Provider in porting a subscriber will benefit next time the roles are reversed. Furthermore, two cooperating competitors can decrease the cost of porting for both operators.

This cooperation includes agreement on the forms to be exchanged, the method and protocol to be used for the exchange, time-frames for

²⁰ Ibid.

²¹ Ibid.

acknowledgement of the requests and responses, information to be used to validate the port request, valid reasons for rejection, hours / days of the week and holiday schedule to be observed in the porting processed. The need for cooperation is obvious – the degree to which competing operators agree to cooperate varies greatly by country, and even among operators within a single country²². However, it has been observed that those operators most willing to cooperate find that their ports go through quickly and reliably, resulting in a better porting experience for the subscriber.

Step Three: Network Routing Schemes: After the inter-operator communications (IOC) process has been completed and the port is in effect, calls made to the ported number must be re-routed – i.e. an incoming call must find its way to the New Service Provider. The routing information used prior to the implementation of porting would route the call to where it always went – the old service provider. Although, there are many variations and hybrids, routing of incoming calls in a ported environment. These can be categorized into three basic methodologies or schemes such as Onward Routing (OR), Query on Release (QoR) and All Call Query (ACQ).²³

a. **Onward Routing (OR):** In the Onward Routing(OR) scheme, calls generated from an originating network are routed just as if there was no porting, that is, according to the path indicated by the dialed digits. The donor network checks against an internal database, notes that the number has been ported, determines to which network the call should be routed and then routes (trunks) the call to the new network. The internal database may be a stand-alone database, shared by all switches belonging to that donor operator, or may be switch-resident, and only contain information about numbers ported out of that switch.

Most switches have some calls forwarding capability. Therefore, this method is a very quick and relatively simple to implement. It does not involve a centralized database, as does the other methods, and therefore does not require close cooperation among the competing operators²⁴. This scheme requires the setup of multiple call segments and can become very

²²Tekelec Communications Operators Guidelines for Number Portability (2nd Ed. ANSI Network ((2007) 12-14.

²³ Ibid.

²⁴Odi, J.N.andOnuoha, J.C.,‘A Review of Number Portability in Global System for Mobile’><http://www.ajocit.net/uploads/V5N3p3>>accessed on 25 June 2015.

inefficient with regard to transmission facilities (i.e. circuits and trunks) and switch resources (i.e. cards, racks, and memory). Furthermore, a donor network that loses subscribers may incur costs for additional transmission facilities and switch resources to handle the routing for subscribers that it has lost.

b. **Query on Release (QOR):** In the Query on Release (QOR) scheme, the originating network first routes the call as if porting had not happened. The donor network checks if the number was ported, and if so, the call is released back to the originating network. Note that the donor network does not keep track of where the subscriber has ported, just that the number is not resident on the switch. The originating network queries a centralized database, determines the revised routing to the new network and re-routes the call correctly. With Query on Release, circuits are allocated to the donor network but are released immediately rather than remain tied up for the length of the call as in Onward Routing (OR). Although, the donor network is still involved in each call, its involvement is minimized.²⁵

This method is more efficient in terms of circuit and transmission facilities. However, a new network element is needed – a centralized database. This requires that all operators must agree on a process by which the centralized database is updated and maintained – typically by agreeing on a third party to own and operate the database. Also, the costs to own and operate the centralized database must be borne by all the operators.

A special note on a hybrid model is known as Call Drop Back or Return to Pivot (RTP). As in OR, in RTP, the donor operator maintains an internal database, which is used to look-up new routing information. The call is released back to the originating operator along with the new routing information that is also passed back to the originating operator. The originating operator in turn uses the routing information provided by the donor network to reroute the call. Therefore, a centralized database is not needed, and a circuit from the donor operator to the new operator is not required in RTP. However, major changes to the signaling protocol are necessary to make this scheme happen and this is why it has not been widely adopted. OR is efficient when a limited number of ported numbers exist, by

²⁵ Ibid

comparison, query on release becomes more cost effective as porting becomes more common.²⁶

c. **All Call Query (ACQ):** In the scheme known as All Call Query (ACQ), the originating network does not route calls to the donor network. In fact, once a number has been ported, the donor network is not involved at all. The originating network queries a centralized database and the call is re-routed to the new network. There are two forms of All Call Query – in one, literally all calls are queried, in the other, the line range in which the number belongs is checked to see if that line range is eligible for porting prior to the database query. In reality, where ACQ is used, most operators query all calls to simplify administration.

As in Query on Release, there is a process to update and maintain the database and a third party to own and operate the database. All the operators must agree upon this. In Query on Release, the costs to own and operate the database must be borne fairly by all the operators. As porting volumes increase, query on release becomes the most efficient scheme for call routing. In some cases, countries have started with onward release when porting volumes were low and have migrated to all call query as volumes have increased. In some countries, query on release and all call query coexist and the choice of implementation is left to each operator.²⁷

5. THE GENERAL PORTING GUIDELINES

Part IV of the Mobile Number Portability (MNP) Regulations²⁸ provides for the general porting guidelines. The provision of the Regulation 14 is to the effect that Mobile Number Portability service to all subscribers should be collective responsibility of all mobile service providers and the Number Portability Clearing House (NPC) administrator on a non-discriminatory basis, within the timescales set out in the business rules. The nature of the porting process is 'recipient led' and shall be initiated by the subscriber upon a visit to the recipient operator's representative office, customer care shop, or retail point of sale. Only porting request from eligible subscribers shall be processed by the recipient operator.

²⁶Syniverse Tech, *A global Perspective on Number Portability*(1st Ed.Syniverse Publication 2006),3-14.

²⁷ Ibid.

²⁸ See generally, Regulation 14 of the Mobile Number Portability Regulations 2013 made pursuant to the Nigerian Communications Act 2003.

The Regulation also requests every mobile service provider to ensure that its network enables a subscriber to send the porting approval Short Message Services (SMS) at no charge to the subscriber even where the subscriber has a zero credit balance. A donor operator may, however, not deliver the Short Message Services (SMS) if the subscriber is already barred or suspended from making out-bound calls or sending Short Message Services (SMS).²⁹

Every subscriber shall be eligible to make a request for porting its mobile number, provided that in the case of a mobile number which has been ported earlier a period of 90 days must have expired from the date of activation of its mobile number after its last porting. Also, to be eligible for porting request, the Mobile Number must have been registered on the subscriber information database and the subscriber's identity details must match with those held by the donor operator and the subscriber information database, in accordance with the Mobile Number Portability process requirements as determined by the Commission in the Business Rules. The Mobile Number must be active.³⁰ There must be no pending request for change of ownership of the Mobile Number and porting of the concerned Mobile Number has not been prohibited by a court of law³¹.

5. 1. Porting Approval

Upon the receipt of the completed porting application form and the accompanying documents, the recipient operator shall confirm the eligibility of the subscriber based on the above criteria set out in Regulation 15 and upon such confirmation, send a porting approval request message to the number portability clearing house. The recipient operator shall, at the successful initiation of the porting process, issue the subscriber a new Subscriber Identity Module (SIM) Card. However, the procedure as observed in practice is that any subscriber who wishes to port his number would first have to visit the recipient service provider to make his intention known. The subscriber is given a form to fill his personal details and would be asked to send "port" to short code 3232. When this is done, interconnect clearing house, the company with the hosting right to manage exchange of

²⁹ Ibid.

³⁰ That is, not blocked or subject to restricted service provisions by the current Mobile Service Provider at the time the porting request is submitted.

³¹ Regulation 15 of the Mobile Number Portability Regulations 2013 made pursuant to the Nigeria Communications Act 2003.

traffic for the mobile number portability scheme, will then send a message to the telecoms operator, informing it of the intention of the subscriber to port from its network to another network.

The recipient network will then give the subscriber a new SIM card and a confirmation text is sent to the subscriber. It takes 48 hours to complete the porting exercise. Although, there are no charges attached to porting phone numbers. A porting number must spend 90 days before it can make another request for porting.³²

Mobile number portability is available to both 'pre-paid' (pay-as-you-go) and 'post-paid' mobile customers. It is also available to simple/single number or complex/multi-number customers. Individual numbers are ported separately except when the numbers may share the same porting request form.³³ It must be noted that a subscriber can no longer cancel porting after the Short Message Service (SMS) has been sent. Pre-paid customers would not be able to take outstanding credit with them and also text messages which might have been sent to the customer prior to porting, but not delivered, may be lost.³⁴

5.2. Rate of Porting in Nigeria (Percentage)

As at May 2013, Etisalat Nigeria has recorded the biggest gain of 44 percent of the overall subscribers that have switched service providers. Mobile Telecommunication Network (MTN) topped the losers table when it recorded a 49 percent switch to other networks in May, 2013 while Global Communication (GLO) followed by recording 23 percent losses, Air Telecommunications (AIRTEL) Nigeria was number three overall with 17 percent losses, and Etisalat Nigeria came last on the loser table with 11 percent.³⁵

According to statistics,³⁶ a total of 13,923 subscribers ported from one network to another network between May and June, 2013. 7,164 subscribers ported in May, while 5759 ported in June, 2013. According to the Nigerian

³² Adebayo O., 'How to Port', South Africa Journal of T. Mobile Number Portability (2000).

³³ <<http://www.mnp.com/ng/ntwks/al>>accessed on 24 June 2015.

³⁴ <<http://www.premiumtimesng.com/home/news>>accessed on 27 June 2015.

³⁵ <<http://www.nigeriafinder.com/mobilenumbersportability>>accessed on 27 June, 2015.

See also <<http://www.africatelecomit.com/etisalat>>accessed on 27 June 2015.

³⁶ <<http://www.news24.com.ng/etisalat-leads>>accessed on 27 June 2015.

Communications Commission (NCC), statistics has shown that Etisalat got 44 percent porting into its network in May and 50 percent in June, 2013. Mobile Telecommunication Network (MTN) received 10 percent porting in May and 9 percent in June, 2013. Airtel received 29 percent porting into the network in May and, 12 percent in June, 2013.

5.3. Issues while Porting

In Nigeria, while porting, no charge or fee is expected from the subscribers. In other words, a subscriber is not liable to pay the network operators when porting. However, since a new Subscriber Identity Module (SIM) card is required to port, network operators may choose to either sell the new SIM card or issue it for free to the subscriber. In case of any complaint, the following should be noted:³⁷

- Complaints specifically related to the porting process should be directed to the recipient operator who has submitted the porting transaction to the central order handling system, whereas, non-porting related complaints relating to the provision of services are to be directed to the customer's complaint.
- In the case where it is unclear to whom the complaint should be directed, for instance, where the cause of the complaint occurred during the porting process and the complainant is unclear who his contracted service provider was at the particular time the issue occurred, then the complaint should be directed to the recipient operator. However, the recipient and donor operator should cooperate in good faith to resolve the complaints between them and the complainant.
- If the complaint cannot be resolved between the recipient and donor operators, then, the complaint should be sent to the Nigerian Communications Commission (NCC) for resolution.
- Complaint received by Nigerian Communications Commission should be passed to the relevant mobile service provider where this is appropriate. Complaints received by the Consumer Protection Council of Nigeria (CPC) should be passed to the relevant mobile service provider or the Nigeria Communication Commission (NCC) where this is appropriate. Complaints that are not in relation to a particular mobile service provider, but are made in relation to the mobile number

³⁷ See generally, Business and Port Order Process, Regulations 8 (1)-(6) of the Mobile Number Portability Regulations 2013.

portability process as operated and managed within Nigeria, should be dealt with by the Consumer Protection Council of Nigeria (CPC).

- Complainants should be kept abreast of the progress of their complaint through resolution.
- In the case, where a complaint cannot be resolved to the satisfaction of the complainant, it is the responsibility of the operator to whom the complaint is addressed to inform the complainants of their rights in relation to appeals and/or escalation.³⁸

6. BENEFITS OF NUMBER POTABILITY

Regulatory agencies mandate Number Portability because it is good for consumers. It eliminates a particular barrier unique to the telecommunication industry, that is, the ownership of the phone number. However, additional reasons to mandate and implement Number Portability include market, regulatory and operator benefits.³⁹ All these are discussed below:

Consumer Benefits

Number Portability clearly benefits the consumer. At the individual subscriber level, the biggest impact to changing phone numbers is not to the subscriber but to those individuals in the subscriber's circle of friends, family and acquaintances. Updating written address books, changing programmed contacts lists and remembering the new number, are all unnecessary burdens. For a business, the scope of changes forced by a change in phone number is even more considerable: business cards, stationary, print advertising, Web sites, signage, the sides of delivery vehicles and invoices. All the changes that affect a business contribute to the reason why a business, in general, would not change service providers if it means also changing phone numbers.

Market Benefits

With the advent of Number Portability, there is a more competitive market place. The mobile industry is already a highly competitive industry in Nigeria and world over. However, while some would consider mobile industry a completely free market, operators become even more focused on subscribers. Rather than continuing price wars, in countries where Mobile Number Portability has been implemented, operators tend to start consumer

³⁸ Ibid.

³⁹ Odii, J.N. and Onuoha, J.C., "A Review of Number Portability in Global System for Mobile" <<http://www.ajocit.net/uploads/V5N3p3>> accessed on 25 June 2015.

loyalty programmes, improve customer service, reduce hold times, increase outbound calling programmes, focus on renewal incentives, work to improve network coverage, roll-out additional differentiated services such as Wi-Fi agreements, push-to-talk service, 3G, and other customer-pleasing new functionalities.⁴⁰

Regulatory Benefits

The infrastructure developed for Number Portability has been used to solve other problems in some countries. Where directory number resources (i.e. number ranges) were being exhausted, the infrastructure to make Number Portability possible was also used to allow numbering plan administrators to assign numbers in a more efficient manner (to assign a block of 1,000 numbers to an operator rather than a block of 10,000 numbers). In another example, in countries where the mandate for Number Portability also included fixed-to-mobile as well as mobile-to-fixed porting, the regulatory agency could encourage greater competition to incumbent fixed operators. With fixed-to-mobile portability mandated, mobile operators become a competitor to fixed service, since the subscriber can change from fixed to mobile easily, and of course, keep the same directory phone number.

Operators Benefits

On the surface, it would seem that Number Portability is a financial and implementation burden to operators; and with the increased competition, it lowers prices and hence lowers margins. Certainly, some operators have argued that the implementation of number portability is cost prohibitive and would be bad for consumers since the cost of implementing number portability would have to be paid for by subscribers, and could ultimately put the operator out of business. However, some operators have used the mandate for number portability as an opportunity to gain market share and target high Average Revenue Per Unit (ARPU) subscriber as well as multi-line business customers. As with any market where a barrier to competition is lifted, some of the free market agents will gain while other will lose. In U.S., operators who took a proactive stance in preparing for number portability were able to increase net additions in the face of increased competition. This was through a combination of customer service improvements, network improvements, targeted advertising, focus on fixed-

⁴⁰Ibid.

to-mobile porting (also known as displacement), and to a lesser degree, more competitive rate plans.⁴¹

7. CHALLENGES OF PORTING IN NIGERIA.

On the challenges bedeviling Mobile Number Portability (MNP), it has been observed that same will not improve the quality of services at the various networks because of the fact that poor services are caused by many factors which include: poor electricity supply, delayed access in getting permit to lay cables among others.⁴² Another factor is due to the fact that demand is far much higher than supply. The issue of service quality may not be addressed by the introduction of mobile number portability but it may address customer care. This is one of the many challenges of porting system in Nigeria.

Onwudiwe⁴³ pointed out another challenge in porting numbers, which is the issue of sending Short Message Services (SMS) to effect porting. Many of the Short Message Services (SMS) got delayed in most cases and officials of Interconnect Clearing-House of Nigeria (ICN) never received some Short Message Services (SMS), informing them of the porting exercise carried out for most subscribers.

Another challenge is the issue of the filter, which occurs as a result of wrong spelling of name(s) and details.⁴⁴ Other challenges include poor education on how the porting process works, its newness to the Nigeria environment, the periods and then, most Nigerians still go about with dual Subscriber Identification Module (SIM) phones or an outright of three to four mobile phones for each of the networks available.

8. CONCLUSION

This paper has discussed Mobile Number Portability. One of the tenets that have been observed is that number portability is inevitable. As subscribers become aware of number portability in other countries, they too begin to ask: 'Why can't I keep my number when I change service providers'? Number portability lifts a barrier to competition, which is

⁴¹ <<http://www.neustar.biz/us/report-fin>>accessed on 25 June 2015.

⁴² This observation was made by Mr. LanreAjayi, the President of the Association of Telecoms Companies of Nigeria (ATCON) at a forum organized by ICT Publishers Alliance in Lagos May 2011.

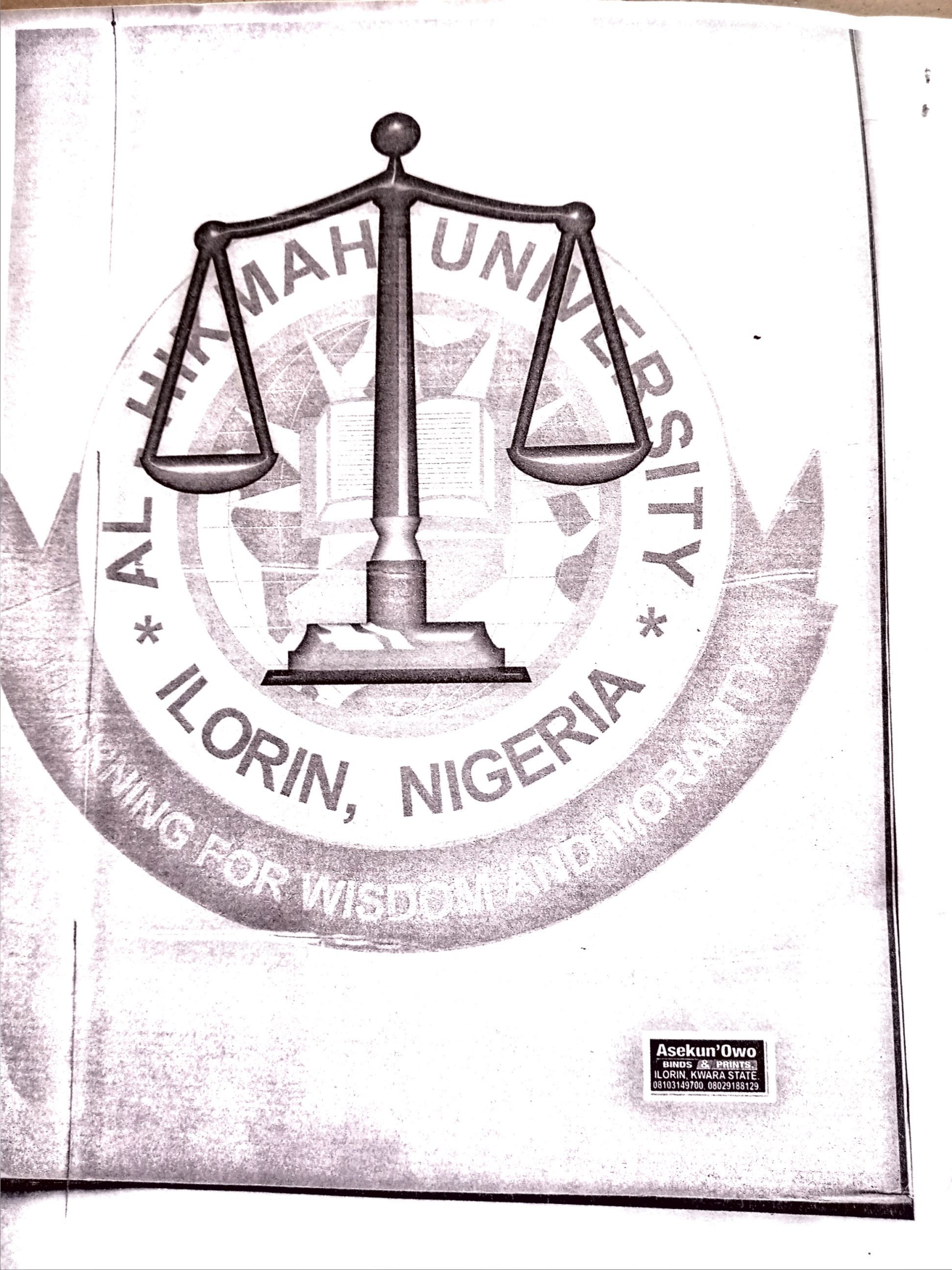
⁴³ Uche Onwudiwe is the Chief Operating officer at Interconnect Clearing House Nigeria (ICN).

⁴⁴ <<http://www.thisdaylive.com/articles/ajayi;-number>>accessed on 27 June 2015.

unique to the telecommunications industry. The increasing competition is always in the best interest of consumers.

The principle of number portability is fully applicable to mobile telecommunications. Many operators have claimed that Mobile Number Portability (MNP) is unnecessary and is an unwarranted expense, using assertions that the sector is highly competitive. Some mobile operators have gone to considerable trouble to make mobile number portability difficult and have discouraged customers from exercising this right. They have suggested alternatives such as personal numbering and Universal Personal Telephony (UPT). However, these are not substitutes for Mobile Number Portability, but are expensive, value-added services. Mobile number portability should therefore strongly be encouraged by governments and Regulatory Agencies to recognize that Mobile Number Portability (MNP) is an essential part of the competitive framework and should be made legally binding on all operators and service providers.

Mobile Number portability is a fundamental prerequisite for true competition in the telecommunications sector. Without this facility, users are locked into their existing suppliers and can change operator with disruption and large expense.



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