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BY

1. INTRODUCTION

There is no doubting the fact that telecommunications is not merely an international issue; it is commercial in nature, involving the government, the regulatory authorities, the telecommunications network service providers and end users of telecommunications services in commercial activities.

Hence, this work, laced with statutory and judicial authorities, provides answers to many questions on telecommunications with particular reference to dispute resolution by arbitration.

2. MATTERS CONNECTED WITH TELECOMMUNICATIONS

In the realm of telecommunications, the term "matters connected with telecommunications" as an expression when examined synthetically, imports matters that are related to or show some affinity or intertwine or have some semblance or interrelationship with telecommunications.¹ Matters connected with telecommunications are therefore matters arising out of or pursuant to telecommunications.

a) any matter arising out of telecommunications interconnection³

defined the phrase "connecting with or pertaining to banking" the definition is equally useful in defining the phrase "connected with telecommunications."

The word "Telecommunications" is a co-joint of two words: "tele" and "communications". While tele means "far" or "distance", "communications" means any communication whether between persons and persons, things and things or persons and things in the form of sound, data, text, visual image, signals or any other form of the combination of those forms. See also Section 157 of the Nigerian Communications Act Cap N97 Laws of the Federation of Nigeria in 2001.

³ Interconnection is the physical and logical linking and connection of communications system used or operated by the same or different licensees in order to convey messages to and from the respective systems for the provision of service. See particularly the cumulative effect of the provisions of Section 157 of the Nigerian Communications Act

- b) disputes connected with interconnection agreements⁴
- c) Issues of interconnect rates⁵
- d) Matters of rights and obligations of telecommunications' subscribers⁶
- e) Matters arising out of interconnect indebtedness⁷
- f) Rights and obligations of parties subject to telecommunications law and policy⁸
- g) Licensing of Telecommunications operators by regulatory authorities.⁹
- h) Disputes about discriminations in fixing charges¹⁰

[illegible]

⁴ Telecommunications Interconnection Agreements between BellSouth Corporation v. Mcom Wireless (PTY) Limited (2003)2 CLR 1172.
TLR 54; *Botswana Telecommunications Corporation v. Matcom Wireless (PTY) Limited*, see supra.
⁵ Interconnection Agreements are agreements freely entered into and in good faith by those who are
⁶ Interconnection Operators or licensees for the purpose of providing telecommunications services to
Ariyosun, "Interconnectivity Agreements- An Appraisal", being a seminar paper presented at the ILM Class of
Aviation and Communication Law 2003/2004 Academic Session, Faculty of the Master of Law (LL.M.) Degree, p.4. See
life-life in partial fulfillment of the requirements for the award of the Master of Law (LL.M.) Degree; *Re: Petition of MCI*
also following cases on matters or disputes connected with inward or outward interconnection agreements: *Re: Decision of MCI*
Telecommunications corporation for Arbitration of certain terms and conditions of a proposed agreement with Bell
South Telecommunications, Inc. concerning interconnection regulatory authority (as Arbitrators) sourced from the
of 1996 delivered on 7th March 1997 before the Tennessee Regulatory Authority (as Arbitrators) sourced from the
of 1996 delivered on 7th March 1997 before the Tennessee Regulatory Authority (as Arbitrators) sourced from the
internet <http://www.state.in.us/tara/orders/1999/99032712.pdf>, accessed on 25 December 2008. *Re: Arbitration of*
the Interconnection Agreement between BellSouth Telecommunications, Inc. and Time Warner Telecom of America,
South, L.P. pursuant to Section 252(b)(3) of the Telecommunications Act 1996 delivered on 4th August 2000 before the
Tennessee Regulatory Authority, Nashville, Tennessee USA (as arbitrator), sources from the internet, <http://www.tn.gov>,
accessed on 25th December 2008.

South, L.R. Pursuant to the order of the Tennessee Regulatory Authority, Nashville, Tennessee (USA) dated 25th December 2008.

Determination on the 2nd day of January 2004 and thereafter.

others. The Interconnection rate took effect from 1st day of January 2004 and thereafter.

licensed mobile and fixed operators services, otherwise known as subscribers or customers have their rights and

⁶ The end users of telecommunications provision for the law, hence the law makes provision for consumer affairs wherein the objections. They are protected under the law, hence the law makes provision for quality service and deal reasonably with service providers are duty bound to meet such minimum standards of quality service and deal reasonably with service providers and adequately address consumer complaints. See also Section 164 of the Nigerian Communications Act 2004.

consumers and adequately address consumer complaints. See also Section 164 of the Nigerian Communications Act 2004.

the telecommunications sector, not in the least is interconnection fees chargeable to which has resulted in high

[illegible][illegible]

⁸ It is the duty of the Regulatory body of the communication sector to grant and regulate licences for telecommunications sub-sector of any nation in accordance with the provisions of the Communications Act 2003. See Section 4(1) of the Act. The Commission is the Regulatory body of the communication sector with licence terms and conditions by licensees. See Section 4(1) of the Act. It is the duty of the Regulatory body of the communication sector with licence terms and conditions by licensees. See Section 4(1) of the Act. It is the duty of the Regulatory body of the communication sector with licence terms and conditions by licensees. See Section 4(1) of the Act.

¹⁰ See Section 27F of the British Telecommunications

- i) Disputes between a designated telecommunications operator and an end user or subscriber concerning the amount of the charge which the operator is entitled to recover from the end user in connection with the provision of any relevant service¹¹
- j) Matters concerning terms and conditions of facilities access¹²
- k) Issues of resale of telecommunications service¹³
- l) Disputes arising out of installation of network facilities¹⁴

Above are few examples or instances of matters connected with telecommunications. The instances are not exhaustive. It is therefore submitted that once a matter is in respect of any matter arising out of the above, it can conveniently come within the purview of matters connected with telecommunications.

3. ARBITRATION IN THE NIGERIAN TELECOMMUNICATIONS SUB-SECTOR

The Nigerian Communication Act of 2003 is the current principal law regulating the telecommunications industry in Nigeria. Other statutory instruments, regulations and guidelines on telecommunications derive their validity under the Act which empowers the commission to make and enforce regulations and subsidiary legislations as may be necessary to give full force and effect to the provisions of the Act.¹⁵ The Act also empowers the commission to issue directions in writing to any person regarding the compliance or non-compliance with any licence conditions or provisions of the Act or its subsidiary legislation.¹⁶ Thus, by Section 73 of the Act:

The Commission shall have powers to resolve disputes between persons who are subject to this Act (the parties) regarding any matter under this Act or its subsidiary legislation.

The above quoted provision is in the nature of administrative remedy which must first be exhausted before a party can approach a court of law. In exercise of its powers to resolve disputes between persons who are subject to the Act, it is strongly observed that the commission has the unfettered discretion to invoke the provision of Section 4(1) of the Act and resort to arbitrations.

Thus, the commission has the function of "examining and resolving complaints and objections filed by and disputes between licenced operators, subscribers or any other person involved in the communication industry, using such dispute-resolution methods as the Commission may determine from time to time including mediation and arbitration"¹⁷ (Underlining mine for emphasis)

The above provision is clear without a scintilla of doubt that arbitration as a dispute resolution mechanism cannot be swept behind the closed doors of secrecy in resolving disputes connected with telecommunications. It should be noted, however, that before disputes can be resolved by the Commission, the parties must have made an attempt to resolve the dispute between them through negotiation before the involvement of the commission.¹⁸ This, no doubt, is

statutory intention to have disputes resolved by Alternative Dispute Resolution rather than a court of law.

In a bid to protect the subscribers to telecommunications network service and ensure quality of service, the commission also welcome complaints from subscribers¹⁹ regarding the conduct or operations of licensed telecommunications network service providers, and in order to achieve this purpose, the commission has the power to:

establish procedures or guidelines for the making, receipt and handling of complaints of consumers regarding the conduct or operation of licensees and may, in its discretion, institute alternative dispute resolution process for the resolution of the complaints or disputes provided that the licensee's dispute resolution procedures shall first have been exhausted by the consumer without resolution of the complaint before presentation of the complaint to the commission.²⁰

As a complement to the above, the commission may designate an industry body to be a consumer code for the purpose of consumer affairs (that is consumer protection and quality of service).²¹

The foregoing is a manifestation of legislative intention to dissuade parties from ventilating their grievances in a court of law, since parties must first resort to alternative dispute resolution mechanisms of which arbitration is one, to ventilate their grievances.

From the foregoing, it appears the powers of the commission are too enormous. This is because an aggrieved party to any dispute arising out of telecommunications can only approach the commission for resolution of the dispute after he might have attempted to settle same between the disputing parties to no avail.

To further buttress this point, even if a party is still disgruntled by the decision of the commission, the party may still apply to the same Commission for review of its decision.²²

The crucial issue is: if the commission commits a wrong against a telecommunications operator or subscribers, how can the same commission make a fair and just decision?

¹¹ See Section 27G of the British Telecommunications Act 1984

¹² See Section 252(b) of the US Federal Telecommunications Act of 1996.

¹³ *Ibid.*

¹⁴ See Chapter iv of the Nigerian Communications Act Cap N 97 LFN 2004.

¹⁵ See the combined effect of Sections 4(1), 70, 99 and 120 of the Act. Thus, in exercise of its powers under the Act of the commission has issued the Telecommunications Network Interconnection Regulations 2003 which was later Act; the Universal Access and Universal Service Regulations 2007, pursuant to Section 99 of the Nigerian Communications (Enforcement Processes, Etc) Regulations of 2005 pursuant to Section 70 of the Act; the Interconnection Rate Determination made on 2nd December 2003 with commencement date as 1st January 2004 and the Competition Practices Regulations 2007 pursuant to Sections 70 and 90 of the Act.

¹⁶ Section 4(1) of the Act.

¹⁷ Section 4(1) of the Act. See also Section 76(1) of the Act

¹⁸ Section 74(1) of the Act

The issue as it appears to me is whether, a person can seek judicial remedy before seeking the resolution of the dispute by the commission? The NC Act as I had ruled in the Econet case and the MTN cases (citation to be supplied) envisages only judicial review as the form that litigation concerning communication matters would take. This is clear from provision (sic) 86 of the Act.

The procedure to be followed before a matter is due for judicial review includes those set down in section 73-78 of the Act, section 73 is very clear that the commission has the resolving power. The wording in section 75(1) "and requested by either or both parties to intervene therein" appears to be the issue. To my mind, this bit cannot be read in isolation.

The first thing the law requires to disputing parties is to trying (sic) resolving the dispute before first involving the commission section 74(1). It is only when this fails that section 75 (1) will come into play.

There is no ambiguity in these provisions. An aggrieved person has only judicial review as his remedy before the court and by virtue of section 138 only the Federal High Court has jurisdiction to entertain this. However before a party can approach the court for judicial review, they must have first attempted to resolve the dispute between themselves when this fails, they could then either both or one of the parties request the commission to intervene and if still dissatisfied, then the decision of the commission could be subject to judicial review²⁵

In Nigeria, therefore, the law allows parties to ventilate their grievances through an arbitration for resolution of disputes connected with telecommunications.

4. DISPUTE RESOLUTION PROCESS BY ARBITRATION IN TELECOMMUNICATIONS- THE NIGERIAN EXPERIENCE

As part of its efforts at enhancing and achieving its set aims and objectives, and pursuant to its powers to make and publish regulations and guidelines necessary to give full effect to the provisions of the Nigerian Communications Act, the Nigerian Communications Commission made Dispute Regulation Guidelines in September 2004 with procedure for arbitration.

Thus, the Arbitration process commenced by filling of a petition for arbitration in six copies with the commission pursuant to section 4(1)(p)²⁶ and 75(2)²⁷ of the Act by any party to the negotiation process where the negotiating process fails to reach an agreement within a period of ninety days. The petition shall include:

- a. Details of the negotiation history, including any mediation process
- b. A detailed statement identifying all unresolved issues and including all relevant documentation concerning those unresolved issues
- c. A statement indicating the position of each of the parties concerning the unresolved issues including proposed remedies and copies of all relevant documentation relied upon or pertaining to those issues
- d. The non petitioning party may respond to a petition for arbitration within a period of twenty-one days after the petition is filed in accordance with the Act, NCC regulations and guidelines and may present any additional issues and provide relevant documentation it wishes to have considered during the negotiation pertaining to any of the issues. The

²⁵ See also the following cases: *Blue-Chip Communications Co. Ltd v. Nigerian Communications Commission* (2004)1 ILR, 23 @ 44-41, *Econet Wireless Nig. Ltd v. NCC* (No 2) (2004)1 TLR 42 @ 52

²⁶ By Section 4(1)(p) of the Act, the Commission has the function of "examining and resolving complaints and communications industry, using such dispute resolution methods as the commission may determine from time to time including mediation and arbitration"

²⁷ Section 75(2) of the Act gives the commission power to "publish guidelines setting out the principles and procedures that it may take into account in resolving disputes or a class of disputes"

non petitioning party shall file the response in six copies at the Commission and at the same time serve copies on all parties to the negotiation process. Proof of serve should be obtained and filed at the Commission.

- e. In the event that a response is not filed the arbitrator shall determine the matter on the basis of the documents before it and in accordance with the Act and applicable NCC regulations and guidelines
- f. The Commission shall appoint an Arbitrator it determines to be qualified who may be a person from the Commission's Staff or outside the Commission within a period of 14 days after the petition has been filed
- g. The Arbitrator shall conduct the arbitration in accordance with the provision of Section 76 (2)²⁸ of the Act and to that end adopt procedures appropriate to the case with the aim of achieving the just, speedy and economical resolution of the issues or disputes
- h. The parties to the proceedings shall bear equally all costs and fees of the arbitrator, that of any technical experts and consultant retained to assist the arbitrator and the administrative fees of the Commission as fixed by the Commission in accordance with the scale in force at the time of the commencement of the proceedings
- i. Each party shall bear the legal and any other costs incurred by the party to present its petition or response to a petition filed against it
- j. As soon as practicable the Commission shall request the parties to pay in equal shares the costs of the arbitration
- k. The Arbitrator shall have the power to issue an interim ruling where a dispute directly affects the ability of a party to continue to provide uninterrupted services to its Customers
- l. The Arbitrator shall issue its final decision and file same with the Commission not later than six months after the filing of the petition for arbitration which period may be extended by the arbitrator after due consultation with the Commission
- m. The Arbitrator's decision must be reasoned, ensure the resolution of issues presented by the parties such that the resolution meets the requirements of the Act, NCC regulations and guidelines and indicate schedules for the implementation of the decision²⁹

Above is the procedure for Arbitration under the Nigerian telecommunications Industry.

5. ARBITRATION IN THE UNITED KINGDOM TELECOMMUNICATIONS DISPUTE RESOLUTION PROCESS

As a result of the liberalization of the telecommunications market in the UK, coupled with the privatization of the British Telecommunications (BT), new legislation was enacted for the regulatory framework of telecommunications industry, which hitherto abolished the British Telecommunications' exclusive privilege with respect to telecommunications, and this is the British Telecommunications Act of 1984.³⁰

The Act makes provisions for dispute resolution mechanism in telecommunications sub-sector of which arbitration is a key player. The 1984 British Telecommunications Act also makes provision for the appointment and functions of a Director General of Telecommunications.³¹

²⁸ Section 76(2) of the Act provides that "The commission, in carrying out its functions under subsection (1) of this section, shall always be guided by the objective of establishing a sustained dispute resolution process that is fair, just, economical and effective and that shall not be bound by technicalities, legal form or rules of evidence and that shall at all times act according to the ethics of justice and the merits of each case"

²⁹ See generally Salako Adeolu, "Dispute Resolution in Telecommunications Industry", being a seminar paper presented to the Aviation and Communication Law Class, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Nigeria in partial fulfillment of the requirements for the award of LL.M Degree Pp.13-15.

³⁰ See John Angel & Ian Wulden, *Telecommunications Law Handbook* (Blackstone Press Limited, London 1997) p. 5.

³¹ The British Director General of Telecommunications is otherwise known as and called simply "the Director". See Section 1(1) of the British Telecommunications Act of 1984.

Under the Act,³² the Director³³ has a duty to appoint an arbitrator to settle disputes as may be specified by the Act as between a customer and any designated operator. Thus, Section 27f of the Act³⁴ provides for the power of the Director to appoint an arbitrator to determine the allegations or disputes about undue preference and discrimination against customers in respect of charge applied or to be applied in connection with the provision of telecommunications service in question³⁵ and the decision of the Director or the arbitrator so appointed by him shall be final.³⁶

The Director also has the power, which may be conferred on him by regulations made by the secretary of State, to determine billing dispute or appoint an arbitrator to determine same and the determination of the Director or such an arbitrator is final and enforceable.³⁷

Similarly, under the British Telecommunications Act,³⁸ each designated operator may settle criteria to determine whether a customer is required to pay a deposit before being provided with relevant service and if so, the amount which he is required to pay and if the customer is aggrieved by such a decision of the designated operator to pay deposit, or the amount he is required to pay he may refer the matter to the Director, who may appoint an arbitrator to consider whether the criteria settled by the operator have been applied correctly or are inappropriate.

Depending on the conclusion of the arbitrator, he has the power to determine whether the consumer is to be required to pay such deposit and if so, the amount he is to be required to pay. Such a decision by the arbitrator is final and enforceable.

Another very important aspect of the UK telecommunications affairs is the mandatoryness of the licensee of Telecommunications services to include provisions of reference of any dispute relating to the provision of those services which does not involve a complicated issue of law or a sum greater than such sum as the Director may from time to time determine to an inexpensive independent arbitration procedure in the standard terms and conditions on which it provides Telecommunications services.³⁹

Above is an overview of the relevant provisions of the UK Arbitration in Telecommunications.

³² British Telecommunications Act 1984.

³³ That is the Director-General of the British Telecommunications.

³⁴ See footnote 32.

³⁵ Section 27f of the British Telecommunications Act 1984 provides:

- (1) Any dispute, of a kind to which this section applies, between
 - (a) a person ("the customer") who is, or wishes to be, provided with any relevant service by a designated operator, and
 - (b) that designated operator,
 may be referred to the Director by either party
- (2) This section applies to any dispute as to whether the designated operator
 - (a) has exercised undue discrimination against the customer in respect of charges applied or to be applied, in connection with the provision of service in question,
 - (b) has shown undue preference to any other person in respect of such charges, to the detriment of the customer,
 - (c) has applied, or proposes to apply any charge in connection with the provision of the service in question to the customer which is neither specified in, nor determined in accordance with a method specified...
- (3) Where a dispute is referred to him under this section, the Director, or an arbitrator (or in Scotland and arbuter) appointed by him, shall determine whether the customer's allegation is well founded and, if it is, make such order as he considers appropriate.

³⁶ See Section 27 (1)(7)(b) of the British Telecommunications Act 1984.

³⁷ See Section 27 (1)(7)(a)(b) of the British Telecommunications Act 1984. Note that by virtue of Section 27 (G)8 of the Act, no designated operator can commence proceedings before any court in respect of any charge in connection with the provision by him of any relevant service unless, not later than 28 days before doing so, the customer concerned was informed by him, in such forms and manner as may be prescribed by regulations made by the US Secretary of State of his intention to commence the proceedings, among other conditions precedent.

³⁸ See the cumulative effect of the provisions of Section 27 (1), (1)(1), (2), (3) and 6 of Act 1984.

³⁹ See condition 28, schedule 1 part 2, made pursuant to Section 8 of the British Telecommunications Act 1984.

It can therefore be seen that the UK Telecoms Law gives the Director General of Telecommunications enormous powers in settling disputes arising out of Telecommunications. He may exercise the powers by himself or appoint an arbitrator.

6. ARBITRATION IN THE UNITED STATES TELECOMMUNICATIONS DISPUTE RESOLUTION PROCESS

The US Telecommunications industry is being regulated by the Telecommunications Act of 1996. Before the 1996 Act, operators of long distance service were not allowed to offer local distance services and vice-versa.⁴⁰ To encourage the local service operators to connect rival operators, the 1996 Act allowed them to venture into long distance services on the condition that they connected entrants.

Thus the telecommunications industry in the US is underscored by an interconnectivity regime that has substantially reduced entry barriers, thus facilitating a robust telecommunications⁴¹ market. Hence, of all disputes associated with telecommunications in the US, not in the least in seriousness is interconnection or interconnection agreement among service providers.

This may also be the basis for the much more reference being made to Arbitration in settling disputes connected with telecommunications in the US. This also explains the legal regime of the United States telecommunications sector which mandates every operator to furnish communications services upon reasonable request and to establish physical connections with their operators.⁴²

Thus, in the US, there are Incumbent Local Exchange Telecommunications Carriers (ILEC) and Competing Local Exchange Telecommunications Carriers (CLEC), and the law makes it a duty on both the ILECs and CLECs to negotiate in good faith the terms and conditions of agreements regarding facilities access, interconnection, resale of services and other arrangements contemplated by the law, and if the parties are unable to reach an agreement voluntarily, either party may petition the State Commission for arbitration.⁴³ Hence petition for arbitration in telecommunications disputes among the United States operators are usually and necessarily brought pursuant to the provision of Section 252 of the 1996 Act.⁴⁴

In the US therefore, unlike the UK situation whereby the Director General of Telecommunications may appoint an arbitrator to arbitrate on telecommunications disputes, there is no such Director General in the US telecoms industry but a regulatory authority acting as an arbitration panel.

⁴⁰ Hon Tony Anyanwu, "Interconnectivity and Competition: What Nexus?" (2006) Vol. 1 Journal on Communications Law of & Policy (Mark Anthony Law Publications Ltd) p.18.

⁴¹ Ibid.

⁴² Ibid. p.16.

⁴³ This is the cumulative effect of the provisions of Sections 251 and 252 of the US Federal Telecommunications Act of 1996.

⁴⁴ The following US cases are arbitration decisions of United States Federal Telecommunications Act of 1996: Re: Petition for Arbitration of the Interconnection Agreement between Bell South Telecommunications, Inc and Time Warner Telecom of the Mid-South, L.P., Docket No. 99-00797 delivered on August 4, 2000 (See <http://www.state.tx.us/tra/orders/1999-9900797p.pdf>, accessed on 25 Dec. 2008); Re: Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc, Docket No. 99-00377 delivered on August 4, 2000 (See <http://www.state.tx.us/tra/orders/1999-990037750.pdf>, accessed on 25 Dec. 2008); Re: Petition for Arbitration of the Interconnection Agreement between Bellsouth Telecommunications, Inc, and Intermedia Communications, Inc, Docket No. 99-00797 delivered on June 25, 2001 (See <http://www.state.tx.us/tra/orders/1999-990091823.pdf>, accessed on 25 Dec. 2008). For a list of other US cases on arbitration decisions on telecommunications disputes, see generally <http://www.state.tx.us/tra/arbitration.htm>, accessed on 25 Dec. 2008.

7. SUMMARY AND CONCLUSION

This piece of work has attempted to appraise the place of arbitration in telecommunications sector of the economy vis-à-vis resolution of disputes arising out of, or connected with, telecommunications matters by arbitration.

The work has examined what matters are connected with telecommunications to warrant a resort to arbitration for resolution; the place of arbitration in the telecommunications dispute resolution process; the impact of arbitration in dispute resolution in telecommunications; a juxtaposition of the law and policy of arbitration as a dispute resolution mechanism in the international environment with particular reference to the United States and United Kingdom.

The need to insert arbitration as one of the dispute resolution mechanisms in interconnectivity agreements among the network service providers is also not to be over emphasized so as to bring the nations telecommunications sector in line with international standards. The effect of the failure to refer telecommunications disputes to arbitration is also a major discourse.

It cannot be disputed that the Nigerian Communications Commission has enormous power under the Nigerian Communications Act. Under the Act, whether there is an express agreement that dispute should be referred to the commission or not or whether parties should first attempt settlement of disputes between themselves or not is immaterial.

This is not very good a provision because agreement between parties must be respected. A situation where the law already stipulates how grievance should be ventilated does not allow parties to freely enter into agreement. The law has not taken into consideration urgent situations whereby following the stringent dispute resolution processes under the Act may result in delay which may eventually cause irreparable damage or loss to the aggrieved party.

Similarly, the idea of ventilating all grievances connected with telecommunications before the commission after attempt by the parties might have failed may not be appropriate in all circumstances. A dispute involving the commission itself as a disputing party cannot, by any stretch of imagination, be properly and fairly dealt with by the commission. There should be an independent body when the matter involves the commission as a party, to have fair and just decision. The commission cannot be a judge in its own cause.

It is highly recommended that Arbitration clause should be made a necessary provision in interconnection agreement among operations while the operators and subscribers be allowed to approach the court without necessarily approaching the commission first, subject, of course, to the agreement of the parties.

It is submitted that approaching the commission by the subscribers first before going to court may delay the course of justice. The provisions curtailing the access to court are unnecessary intrusion on the parties' right to freely enter into binding agreement.

The overall interest of the subscribers coupled with the need to have efficient and effective telecommunications system must be of paramount importance if the aims and objectives of meeting up with international standard would be achieved.