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The Emergence of Tech Companies and Sustainable Legal Framework in Nigeria.

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Abstract
The Nigerian business space over the past decade has experienced explosion of Tech companies especially in Financial Technology and Educational Technology. In the financial technology services alone, there are more than 200 registered startups. With the drastic shift from industrial and information ages to digital age, the future is now tied to providing knowledge-based solutions to practical problems in finance, education, medicine, commerce and other critical areas of human endeavour. Nigerian entrepreneurs are now seeking for various ways through the use of technology to solve human problems. The rise of Nigerian Tech Startups has led to several spontaneous adjustments in the corporate and business regulation sector in Nigeria, for instance on the 18th of May 2022, the Federal Government approved tax reliefs for tech startups in the country. This article examines corporate regulations binding on these Tech companies, regulatory compliance for tech startups; it also considers extant and proposed laws intending to regulate the activities of these companies in Nigeria. The article concludes that in a developing country like Nigeria there is the need for innovation, growth, development and the legislature must make laws to promote these concepts because as more Tech companies emerge it is imperative to create a legal environment where they can thrive in a sustainable global economy and finally this article recommends the amendment of certain laws and enactment of more laws to regulate the activities of tech companies as this will enhance sustainable development of the sector to meet up with best competitive practices in developed economy.

Keywords: *Tech, Companies, Startups, Legislations*

1. Introduction

Due to the rise in the activities of startup Tech companies, it becomes imperative to look at the impact of their emergence on the laws governing such companies and how the companies have complied to these rules and regulations. There are several corporate legislations binding on Tech companies however the primary law governing companies in Nigeria is the Company and Allied

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Matters Act (CAMA) 2020, which deals with the various types of company structures, eligibility, process of regulation and rules for operation.

There are however others such as: Companies Income Tax Act, Investment and Securities Act, these companies also need to be registered under agencies like National Office for Technology Acquisition and Promotion (NOTAP) and the National Information Technology Development Agency (NITDA).

More than ever, innovation remains one of the key features of the 21st century, with technology startups developing solutions which companies are leveraging on to change their industries and consequently, improve service delivery and solve other socioeconomic challenges. Nigeria is not left behind with the steady rise of technology startups from Fin-Techs disrupting the financial services space to Agri-Tech. Despite the massive impact, these startups need the necessary Legal/Financial expertise to navigate the risk associated with their ventures.[1]

As more and more of these startups emerge, more rules and regulations must be developed to guide the innovative activities of these companies. For instance, there are currently no statutes specifically created to regulate electronic contracts and digital services, apart from the general laws regulating businesses and contracts in Nigeria. Although several of these startups and Fin-Tech companies predate most existing sector laws and regulations. Regardless of the year of incorporation or commencement of business, there are several legal requirements and obligations that must be complied with alongside mandatory legislation and guidelines that regulate the activities of these companies.[2]

The emergence of Tech companies has also given rise to new legislation like the Nigeria Startup Bill 2021 and the National Information Technology Development Agency Bill 2021.

2. Regulatory Compliance for Tech Startups

A Tech Startup has been defined as a company whose purpose is to bring technology product or services to the market.[3] These companies deliver new technology products or services or deliver existing technology products or services in new ways. Interestingly, even traditional non-tech-based companies are beginning to leverage on technology for things like e-commerce, digital marketing etc.

There are various regulations new Tech companies must comply with ranging from Company Registration Laws, Intellectual Property Laws, Taxation Laws, Data Protection Laws and Acquisition and Transfer Laws.

[1] Lateef Bamidele, 'Commencing Business in the Technology Space in Nigeria: Legal Guide'(2018) (1) Advocaat Law Practice <https://www.mondaq.com/nigeria/corporate-and-company-law/753842/commencing-business-in-the-technology-space-in-nigeria-legal-guide> accessed 30th May 2023.

[2] Chinedu Ozor and Toluwalase Adeyemi, 'Overview of the Nigerian Legal Framework for Technology Startups and Fintech Companies' (2020) (1) DCSL https://portal.dcsl.com.ng/data/resources/_1608128642_96GUWD7BF1.pdf>accessed 30th May 2023

[3] Tech Startups, 'Tech Startups meaning-what are Tech Startups?' (2022) Tech Startups, <https://techstartups.com/whats-are-tech-startups/> Accessed 31st May 2023.

For Fin-Tech Startups, the legal and regulatory frame work is that which is generally applicable to Financial Institutions, such as The Central Bank of Nigeria (CBN) Act 2007[4], The Banks and Other Financial Institution Act (BOFIA) 2020and all subsidiary instruments stemming from same are all relevant to non-bank led startups providing digital equivalents of offline financial services. This frame work brings with it mandatory obligations such as Know Your Customer (KYC) and Anti-Money Laundering (AML) requirements that must be strictly adhered to.[5]

Compliance refers to the practice of obeying rules or request made by people in authority. Every company has specific compliance obligations that it must comply with to keep its licenses.[6]

Under the Company and Allied Matters Act (CAMA) 2020 startups must take note of the different companies under the CAMA and their minimum capital share, companies are also required to file annual returns once a year at the Corporate Affairs Commission. This is important because it informs the commission and the general public that the company is still active. Failure to do this leaves the company liable to a penalty as may be prescribed by the commission. New companies are not required to file annual returns in the year of their incorporation or in the following year, as long as it holds her First Annual General Meeting (AGM) within 18 months of incorporation.

Regulation is important but it is imperative that regulatory environment promotes growth, funding, staffing and eventually viability of startups i.e. enable startups achieve scalability within the shortest time, and for that to happen, regulations need to stimulate growth and boost investors' confidence, while protecting customers and society.[7]

In shaping the future of the tech industry legislative bodies and policy makers must make laws and policies that advances innovation and growth, these companies should in turn be proactive and anticipate these regulatory laws.

3. Extant Laws and Regulatory Bodies for Fin-Tech Companies

The main regulators of the Fin-Tech sector in Nigeria are the following:

A. The Central Bank of Nigeria (CBN)
B. The Nigerian Deposit Insurance Commission (NDIC)
C. The Nigerian Communication Commission (NCC)
D. The Securities and Exchange Commission (SEC)
E. The National Information Technology Development Agency (NITDA)
F. The National Insurance Commission (NAICOM)
G. The Federal Competition and Consumer Protection Commission (FCCPC)
H. The Corporate Affairs Commission (CAC)
I. The Federal Inland Revenue Service (FIRS)

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[4] CAP C4 L.F.N 2004

[5] Olumide Mustapha, 'The legal Consideration of Running a Fin-Tech Startup in Nigeria' (2017) Tech-point Africa, <https://www.techpoint.africa/2017/03/28/fintech-startup-legal-considerations/> Accessed 31st May 2023

[6]Oyetola Muyiwa Atoyebi 'Setting Up a Compliance Framework as a Startup'(2022) <https://lawpavillion.com./blog/setting-up-a-compliance-framework-as-a-start-up/> Last assessed 21st May 2023

[7] Dayo Okusami and Munachi Michael 'Regulating Startups to Death: The Curious Case of Nigerian Regulators' (2021) Templars law, 3

J. The National Office for Technology Acquisition and Promotion (NOTAP)

A. Central Bank of Nigeria (CBN)

The CBN under the CBN Act[8] has primary responsibility for regulating lending and payment financial services in Nigeria. The CBN is the principal regulator mandated to issue Licenses to banks and other financial institutions by virtue of the Banks and Other Financial Institutions Act, 2020 (BOFIA). Fintech companies offering financial services to Nigerian customers must obtain the appropriate licenses and comply with CBN's applicable Guidelines.[9]

B. Nigerian Deposit Insurance Commission (NDIC)

The NDIC under the NDIC Act [10] is responsible for insuring all deposit liabilities of licensed banks and other deposit receiving financial institutions in Nigeria. Fintech companies that are in business of obtaining and saving money deposited by Nigerian customers, such as Payment Service Banks, must be registered with the NDIC, pursuant to Section 15 of the NDIC Act, 2006.

C. Securities and Exchange Commission (SEC)

The SEC is vested with authority under the Investment and Securities Act[11] is the securities and capital markets regulator in Nigeria pursuant to the Investments and Securities Act 2004 (ISA). Fintech companies desirous of raising capital from the capital market must register their securities with the SEC and comply with the ISA and the rules made thereunder.

D. Corporate Affairs Commission (CAC)

The CAC is vested with power under Part A of the CAMA [12] to carry out the incorporation of and official record-keeping for all Companies and Allied Matters Act, 2020. Fintech companies (including banks) must be incorporated at the CAC to carry on business in (as distinct from doing business) Nigeria except otherwise exempted from this requirement by the Minister of Trade, Industry and Investment (see Sections 78 & 80 of CAMA 2020)[13]

E. The Nigerian Communication Commission (NCC)

The NCC is empowered by the Nigerian Communication Act, 2003 to regulate the telecommunications industry in Nigeria, thus Fintech companies offering services that involve the use of mobile networks or mobile phones are subject to NCC's regulatory purview and must obtain operating licenses from the NCC. For Instance, companies that operate mobile payments must be licensed by the NCC pursuant to the License Framework for Value added Service (VAS). The NCC VAS regulation defines a VAS provider as a person or organization engaged in the provision of Value-added mobile/fixed services.[14]

F. The National Insurance Commission (NAICOM)

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[8] CAP C4 LFN 2004

[9] Favour Ogini, Samuel Dunmade and Titilola Hassan, 'Fintech Laws and Regulations' (2022) |Nigeria Global Legal<https://Insights,www.globallegalinsights.com/practice-areas/fintech-laws-and-regulations/nigeria/amp> accessed 24th March, 2023

[10] NDIC Act 2006

[11] ISA 2004

[12] CAMA 2020

[13] *Ibid Pg. 4*

[14] *Ibid Pg. 4*

The NAICOM was established by the NAICOM Act, 1997 with the responsibility for ensuring the administration, regulation and control of insurance business in Nigeria. Thus, where an insurance tech company carries on insurance business, it will require a license from NAICOM.[15]

G. The Federal Competition and Consumer Protection Commission (FCCPC)

The FCCPC was established by the Federal Competition and Consumer Protection Act, 2018 ("FCCPA"). The FCCPA provisions extend to Fintech companies that do not qualify as banks or other financial institutions as defined by BOFIA and to this extent prohibits anti-competitive practices in the Fintech space. The practices covered include price-fixing market division and exclusive dealing agreements that have anti-competitive effect. The regime here is as yet relatively undeveloped. Much about the regime is unclear.[16]

H. The National Office for Technology Acquisition and Promotion (NOTAP)

The NOTAP is the primary legislation in Nigeria which regulates the transfer of technology agreements. The NOTAP provisions extends to Nigerian Fintech companies entering into any technology transfer agreements in their business with foreign entities.[17]

I. The Federal Inland Revenue Service (FIRS)

The FIRS is the federal tax regulator in Nigeria; Fintech companies are required to remit income, withholding, value added and stamp taxes to the government through the FIRS. Pay-as-you-earn taxes are remitted to the state (not federal) internal revenue services for the location where the employee in question works.

There is no single primary statute specifically targeted towards Fintech companies in Nigeria, there are however several statutes and regulation guiding the Fintech Space.

They include the Companies and Allied Matters Act 2020, The Investments and Securities Act 2007, The NAICOM Act, the BOFIA, the EFCC Act 2004, the Finance Act 2021, CBN Regulations etc. There is yet neither a policy document nor regulations focused on addressing the issues likely to be posed for Fintech Companies by the advent of the Metaverse.[18]

The technology industry is growing at such a rapid pace and the laws in Nigeria have not been able to keep up with this growth, there is hence no adequate Legal or institutional framework to govern and regulate the activities and operation of this companies. Currently, the main laws governing Tech companies in Nigeria are:

A. Company registration laws which are embedded in the Companies and Allied Matters Act CAMA 2020

B. Intellectual Property Laws such as the Nigerian Copyright Act, Patent and Design Act, Trademark Acts

C. Taxation laws

[15] *Ibid Pg. 4*
[16] *Ibid Pg. 4*
[17] *Ibid Pg. 4*
[18] *Ibid Pg. 4*

D. Data Protection Laws such as the Nigeria Data Protection Regulation 2019, The Cybercrimes (Prohibition and Prevention) Act etc.
E. Acquisition and Transfer Laws such as the NOTAP Act.

A. Company Registration Laws

The very first provisions to be aware of is the Companies and Allied Matters Act 2020.

The Act was established to provide commercial and business services including e-commerce, the Corporate Affairs Commission requires that all such businesses or persons be registered as an entity under a category in the Companies and Allied Matters Act, the category of business is dependent on the structure of the business, size and goal. Section 18(2) of the CAMA 2020 now makes it possible for or only one Member or Shareholder to establish a private company.[19]

The Companies and Allied Matters Act 2020 is one of the most power legislation aiding the advancement of tech companies in Nigeria, for instance Section 175(1) of the CAMA[20] provides that instruments of transfer of shares shall include electronic instruments of transfer. Companies are able to record equity such as preferred shares, ordinary shares, convertible notes as digital shares, and issue them accordingly. A number of developed countries have since advanced towards digitization and Nigeria is following in this pattern with the advantage and convenience of electronic shares. Electronic shares have quite a number of advantages over paper issued shares, one of which is that they cannot be easily lost or stolen as compared to the paper certificates. It is also easier to track and manage electronic shares by companies.

Also Section 101 of the CAMA provides that an electronic signature is deemed to satisfy the requirement for signing. In Section 240(2) of the CAMA private companies may conduct its meetings virtually so long as it is conducted in accordance with the Articles of Association of the company. By Section 731(2) of the CAMA company records can be maintained in electronic format.

B. Intellectual Property Laws.

Tech companies should also register their trademarks, trademarks are images, logos, pictures, symbols, names, signs, designs, colours, sounds and jingles etc. which distinguish a product or service from others. By registering trademarks under the Trade Marks Act, the owner retains exclusive right of use and can institute legal action against anybody who infringes on this right. The Copyright Act [21] classifies computer programmes also refer to as software's as literary works which are eligible for copyright protection.[22]

C. Taxation Laws

Tech companies are also governed by taxation laws, the Federal Government through establishment of the Nigerian Investment Promotion Commission (NIPC) released guidelines for pioneer status incentives, which include, among other things:

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[19] Olajumoke Ogunfowora, '5 Legal Provisions Tech Startups Should Know About February' (2022) <https://aocsolicitors.com.ng/5-legal-provisions-tech-startups-should-know-about/>accessed 31st May 2023
[20] Companies and Allied Matters Act 2020 herein called CAMA
[21] CAP C28 LFN 2004
[22] *Ibid Pg. 7*

a) A three-year tax holiday from the initial stage
b) Ten Percent withholding tax would not be deducted from dividends paid to company shareholders.

Another tax law which is levied on ICT Companies is called the Information Technology Tax, this tax is payable by specified companies (GSM service providers and all telecommunications companies, cyber companies and internet providers, pension managers and pension related companies, banks and other financial institutions and insurance companies) who have an annual turnover of One Hundred Million Naira (N100,000,000). The companies are to pay a levy of one percent (1%) of their annual profit before tax to the National Information Technology Development Fund (NITD Fund). This tax when paid is tax deductible for company income tax purpose.[23]

D. Data Protection Laws

The NITDA Act empowers the National Information and Technology Agency (NITDA) to issue guidelines to cater for electronic governance and monitoring the use of electronic data exchange. Deriving from this provision, NITDA then developed and issued the Nigeria Data Protection Regulation 2019.

The Cybercrimes (Prohibition and Prevention) Act criminalizes data privacy breaches. It prescribes that anyone or service provider in possession of any person's personal data shall take appropriate measures to safeguard such data.

The fundamental purpose of the CPPA is to establish a framework for the prohibition, prevention, detection, prosecution and punishment of cybercrimes in Nigeria. It imposes an obligation on mobile networks; computers and communications service providers to store and retain subscriber information for a period of two years. [24]

E. Acquisition and Transfer Laws

The NOTAP Act[25] as well as the revised guidelines made thereunder provide the regulatory framework for the regulation of transfer of technology and/or expertise between offshore service providers and Nigerian Companies. NOTAP registers technology transfer agreement in sectors like manufacturing, Information communication technology (ICT), finance and insurance, oil and gas, power and energy etc.

This Act establishes the National Office of Technology Acquisition and Promotion (NOTAP), which facilitates the flow of foreign technology into Nigeria. NOTAP also registers all contracts for the transfer of technology to Nigerian partners and seeks to promote locally generated technologies.

The NOTAP Act specifies the types of agreements that must be registered with NOTAP. These includes the use of trademarks, the right to use patented inventions, and the supply of technical expertise, engineering and machinery.

[23] *Ibid Pg. 7*
[24] *Ibid Pg. 7*
[25] CAP N62 LFN 2004

It is important that all Tech startups before commencing operations go through all relevant legal provisions such as the ones mentioned above in to her to comply with the law as well as avoid civil liability or in some cases criminal charges for breach of any given regulation.[26]

4. Proposed Laws and Regulations for Tech Startup Companies

There are two major bills seeking to regulate the activities of startups in Nigeria they are the Nigeria Startup Bill 2021[27] and the National Information Technology Development Agency (NITDA) Bill 2021.

5. The Nigeria Startup Bill (NSB) 2021

The Nigeria Startup Bill project is managed by the ventures platform foundation and supervised by the presidential strategic Advisory Group (PSAG) comprising of stakeholder representatives from the public sector and Tech startup ecosystem in Nigeria.

Government authorities and Tech ecosystem organizations are also partnering with PSAG to ensure that the NSB reflects global best practices and perspectives from countries like Senegal and Tunisia that have enacted their startup laws. Apart from being the first joint initiative between the government and the tech ecosystem, the NSB will provide startups with regulatory clarity, improved access to capital, and an enabling environment to drive sustainable growth and scalability. Since the commencement of the drafting process of the NSB in July 2021, the Bill has received a collection of inputs from several members of the Tech ecosystem and government through a series of town hall meetings, webinars, and rallies. Although the draft law may not provide answers to all the problems confronting the typical tech startup, it promises realistic provisions to issue relation to incorporation, fundraising, licensing, growth and operations and exits.

The bill is suited for startups as it seeks to solve the regulatory, financial and structural constraints that have plagued the Nigerian ecosystems over the years. The bill is set to create an enabling environment for startups, as well as facilitate the rebuilding of the Nigerian economy on a step by step basis. In all, the view is expressed that the bill is indeed a welcomed innovation[28]

The bill seeks to harmonize all pieces of legislation towards incentivizing and protecting investments in innovation, increasing industry, government engagement, building Nigeria through talent development and encouraging investments in infrastructure as a tool for economic stability. Notable provisions of the draft legislation include the creation of National Council consisting of individuals from both the private and public sectors, to advise regulators.[29]

The Nigeria startup Bill (NSB) 2021 is a joint initiative by President Muhammadu Buhari and a group of technology practitioners and policymakers which aims to provide an enabling environment for startups in Nigeria. The ultimate goal is to position Nigeria as Africa's leading digital technology centre. The NBS aim to tackle issues many Tech startups are currently facing in Nigeria and to ensure that Nigeria is a startup friendly environment for both founders and

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[26]*Ibid Pg. 7*

[27] Now NSA 2022

[28] O.M Atoyebi S.A.N, 'Nigerian Startup bill 2021: Comparative Analysis' (2021) Omaplex Law, 1- 5

[29] Inyene Ibanga, 'The Nigerian Startup Bill and the Regulatory Framework, Premium Times' (2021) <https://www.premiumtimesng.com/opinion/495348-nigerian-startups-bill-and-the-regulatory-framework-by-inyene-ibanga.html>, accessed 31st may 2023

investors to carry out business since its launch in May 2021 by the presidency the bill has gathered support from all participating ministries, departments and organization as well as from both chambers of the National assembly.[30]

The Nigeria Startup Bill was passed into law on October 19, 2022 and currently referred to as The Nigerian Startup Act[31].

6. NITDA Bill 2021

The NITDA Act 2007 which establishes the National Information Technology Development Agency (NITDA) as the agency to oversee Nigeria's Technological Transformation is quite outdated, and to keep with the pace of innovation that has swept the country, NITDA task itself to review these laws and make them more beneficial for Startups.

This new bill NITDA Bill 2021 wants tech companies operating in Nigeria to get a license, pay pre-tax profits levies and sanction whoever operates contrary to the new Act. Section 6 of the Bill details the powers accrued to NITDA. Some of them include the power to fix Licensing and authorization charges, collect fees and penalties and issue contravention notices and non-compliance with the Act.

The agency says it also reserves the right to "enter premises, inspect, seize, seal, detain and impose administrative sanctions on erring persons and companies who contravene any provision of the Act", subject to a court order.

In Section 13, NITDA proposes establishing a fund (The National Information Technology Development Fund) to carry out the country's digital economy objectives.[32]

The bill declares that tech companies making an annual turnover of 100 Million Naira ($200,000) will have to pay a levy of 10% of their profit before tax. The proposed bill carries a lot of regulation for individuals and corporate carrying out Tech related activities.

Meanwhile some Tech Enthusiast like Eche Enziga for Flutterwave staff and Prosper Otemuyiwa Ex-Andelan in the country are critical of the proposed NITDA (Repeal and Re-enactment) Bill because they believe that the bill has provisions overlapping on the regulatory functions of other agencies, the provisions in the Bill are ambiguous, unclear, nebulous, fluid and capable of exerting substantial regulatory conflict in the system.[33]

The planned NITDA Bill 2021 is seriously generating heat in the industry over its possible overlapping and over bearing effects on some functions, which industry analysts claim would cause serious friction in the sector if not expunged or simplified.[34] The proposed drafted bill is

[30] Tomisin Awosika, 'A Bill for startups' (2022) <https://www.republic.com.ng/june-july-2022/the-nigeria-startup-bill/, accessed 31st May 2023

[31] NSA 2022

[32] Tage Kene-Okafor, 'A Leaked Bill for Nigerian Startups'(2021) <https:// www.techcrunch.com/2021/08/17/a-leaked-bill-for-nigerian-startups-reveals-a-theme-of-licenses-fees-fines-and-sentences/amp/>accessed May 31st 2023

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[34] Adeyemi Adepetun, 'How Proposed NITDA Bill 2021 is Unsettling the ICT Sector' (2021) <https://www.guardian.ng/technology/how-proposed-nitda-bill-2021-is-unsettling-ict-sector/> accessed May 31st 2023

however set to consolidate the agency's regulatory powers to include emerging technologies and digital economy development, providing the agency with administrative enforcement, powers and defining the objectives of the agencies among others. Going by the focus of the proposed law, it is surprising to notice the sudden wave of anxiety and trepidation within the Nigerian Tech community over a purportedly drafted proposal in circulation, which they say is harmful and would pose a serious threat to Startups. Going by the proposed NITDA Bill, stakeholders believe the agency's focus is about Nigerian Tech companies obtaining licenses, paying pre-tax profit levies and imposing sanctions on individuals and companies that operate contrary to the provisions of the new Act. They Cited Sections 6, 13,20,21 and 22 of the NITDA Bill 2021 which cover NITDA's powers, classes of licenses and authorizations including offences and penalties amongst others, are the contentious provisions causing apprehension.[35] As part of the commitment of the National Information Technology Development Agency (NITDA), Nigeria for the first time, has joined the Tech world in show casing its Tech ability at the 2021 Consumer Electronics Show (CES) Exhibition a platform where the world's biggest brands meet for business, new partners, and the best innovators.[36]

7. Challenges of Implementation of Extant Laws and Regulations for Tech Companies.

There are certain areas in which regulators face challenges while implementing laws and regulations, issues may arise from Internet Governance, Internet Banking, Digital Signature, Computer and Cyber Crimes, Electronic Commerce, Data Protection and Privacy, Electronically Generated Evidence, Tele-medicine and Intellectual property etc. because laws have not been made to capture these activities, Apart from the Cyber Crimes (Prohibition and Prevention) Act 2015 , the provisions of Section 84 the Evidence Act 2011 on electronically generated evidence, the Nigeria Data Protection Regulation 2019, there exist few legislation regulating other digital and technological activities in Nigeria.

To this end it is pertinent to state that more laws should be made to solve legal needs in the technology space.

The Data Protection Bill, 2020 is a proposed law which is intended to guide data protection and privacy in Nigeria and replace the Nigeria Data Protection Regulation, the objectives of the bill are to create a regulatory framework for the protection and processing of personal data and to safeguard the rights and freedoms of data subjects which are guaranteed under the Nigerian Constitution.

The Tech space will continue facing challenges if the right framework is not in place, in many ways, the Nigerian Tech space regulators are also on the learning curve and they are striving to keep up with the pace of change, there have been certain positive attempts. For example, the Central Bank announced that it had begun implementation of its digital currency called eNaira with a partner called Bitt Inc. Despite this progress however, regulation has remain largely erratic

[35] Inyene Ibanga, 'The Facts on NITDA Amendment Bill and Tech stakeholders' (2021) <https://prnigeria.com/2021/08/20/nitda-amendment-tech-stakeholders-/>, accessed May 31st 2023.

[36] Marketing Edge,'NITDA Sponsors Nigeria to Join CES 2021 Tech Startups, Marketing Edge 2020' (2021) <https://www.marketingedge.com.ng/nitda-sponsors-nigeria-to-join-ces-2021-tech-startups> accessed May 31st 2023.

and inconsistent, and skewed towards protecting existing institutions and the administration[37]- for example the Ban on crypto currencies to protect traditional banks. Regulatory bodies have also focused more on taxes and fines rather than innovative approach to the growth and development of these companies.

8. Challenges of Tech Companies in Nigeria

Nigeria may be able to boast good numbers of tech startups in Africa, but lags in a number of other significant areas, the major challenges directly impacting the Nigeria tech companies are further considered as follows:

A. **The Challenging Environment:** The tech space in Nigeria contends with the frustrating process of conducting business, a number of promising tech startups in Nigeria with the potential to immensely drive profit to the Nation's economy stopped operation because of the government's inconsistent approach to policies that relate to tech support. An example is the clamp down on crypto firms by the Central Bank of Nigeria.

B. **Poor Electricity:** Inadequate electricity is another major problem facing the tech companies in Nigeria. Often times, these firms incur additional costs when they resort to an alternative means of generating electricity for their firms outside the country's supply, this would mean a shortage in funds that could be invested in the growth of their firms.

C. **Access to Funding:** Tech firms in Nigeria complain of the difficult process they undergo to obtain loans from banks. It's not news that the banks in Nigeria are always reluctant about loaning to small enterprises for fear of bad loans, this makes it tougher for startup tech firms to convince the banks that they are trustworthy.

D. **Poor Internet Quality:** Despite the fact that Nigeria has the largest number of online users in Africa, the quality of internet services in the country is still poor. The reason for the penetration of internet service across the country is that there is an increase in the number of those who use mobile date over broadband user. While mobile data can work effectively for an individual, it cannot serve large organizations or businesses that require a lot of people being online at the same time.

E. **Identity Management:** By January 2021, Nigeria's population was estimated to be about 209 million people, and in the same year, only about 46 million people have been successfully documented digitally in the country's database as citizen. The statement to employ the use of the National Identification Number linked with a user's sim as a means of identification for delivery of service within the country was first issued in 2018. After three years the approach to utilizing the digital identity strategy for identity management is still a challenge.

F. **Government Policies:** The government needs to be consistent with regulating policies that would encourage tech firms for a change, and not appear like a killjoy working hard to frustrate the talents that should sprout from the country's tech space. The operating environment can be friendlier to innovations and creativity with the kind of policies created by the government.

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[37] Control risks Group Holding,'Regulatory Risk in Tech to Continue Rising with Growth of Sector, Control Risks' (2021) <https://www.controlrisks.com/our-thinking/insights/regulatory-risks-in-tech-to-continue-rising-with-growth-of-sector/>accessed May 31st 2023

The challenges faced by the tech space in the country all lie within the environment and so, their possible solutions are not far-fetched from the environment.

9. Conclusion

In a developing country like Nigeria there is the need for innovation, growth and development and the legislators must make laws to promote these concepts. As more Tech companies emerge it is imperative to create a legal environment where they can thrive.

Though Nigeria has one of the fastest developing technological economies in the Middle East and Africa (MEA) markets, the tech development in the country is still not mature enough, the reason according to the Tech entrepreneurs is that the supporting strictures to a strong tech economy are still lacking in Nigeria.[38]

In view of this, it is therefore the duty of the Legislature and executive to work hand in hand to create a better Tech environment for Tech companies. Since Laws and regulations can both be detrimental and beneficial the growth of the economy.

10. Recommendation

To foster growth and development in the Tech space we recommend that the Nigeria Startup Bill be passed into law only after careful deliberations and scrutiny, we also recommend the amendment and simplification of Section 6, 13, 20 and 22 of the NITDA Bill 2021 which has been declared ambiguous and conflicting with other laws in force. Since laws may be detrimental or beneficial to the growth of the Tech companies it is important to posit that these laws and regulations should not only focus on penalties and sanctions but should also promote and support growth, development, digital economy, innovation and solve problems. Also other legislation can be made in respect of this.

The following recommendations have been proposed to help regulators achieve better result:

A. Government authorities should aim for synergy across regulatory bodies, if regulatory bodies and their functions can't be merged.

B. Collaboration and communication with key stakeholders should be prioritized, a cohesive, multi-stakeholder approach to policy and regulation will go a long way. However, this communication has to be two-way - startups and investors (individually or as groups and association) should also be deliberate in engaging and educating regulators on how best they think they should be regulated

C. To carry out their jobs, regulators need to understand and appreciate the role of technology in building their economies. One example that they can lean on is Singapore's MAS, which staffs some of its workers in private companies for some time to help them understand new technologies

[38] Zakariyya Adaramola, 'Nigerias economy and tech ecosystem' (2021) <https://www.dailytrust.com/nigerias-economy-and-tech-ecosystem> accessed May 31st 2023

D. Regulation should be multi-staged to match the company's growth. At the early stage, when the impact of the company's activities is minimal, there should be relaxed regulation. Growth indicators include revenue, number of employees, years in operation. etc.

Startups and investors need to be pragmatic and realize that they are not operating in an ideal environment, particularly those expanding to new markets; they should be highly cautions and engage the regulators at every step of the way. They can also acquire a new company to get around complicated regulatory environments.