

## PRIVATIZATION AND COMMERCIALIZATION OF ENTERPRISES IN NIGERIA: A LEGAL APPRAISAL\*

### Abstract

*Government of ownership and participation in the economy can in some cases be divested to the private sector. This is usually done with the aim of embracing free enterprise and ultimately, increased market forces. It is focused at downplaying the influence wielded by government in the affected sectors of the economy in order to enhance private sector ownership, participation and control. Over time, it has been observed that the productivity of most public enterprises is adversely affected by poor management, ineffectiveness in resource utilization, limited growth, improper decision making and continuous misuse of government resources. Over time, the overall performance of government enterprises has epitomized inefficiency, characterized by a display of ineptitude in services delivery. It is unfortunate that despite all the effort by government in terms of resource allocation, the productivity of these enterprises keeps waning. To salvage this dire situation, the government has transferred the ownership of some of the government owned enterprises to the private sector while others were converted to profit making enterprises through the process of commercialization. The study traced the genesis of the privatization and commercialization process as well as the legal and institutional framework that gave legitimacy to the process, more particularly in the electricity and communication sectors. It was found that in spite of the provision of the various laws which has resulted in improved, more measures still need to be put in place in terms of monitoring and supervision of these enterprises by the relevant government agencies. The enactment of the Electricity Act 2023 is a welcome development and it is believed that proper implementation of this Act will bring a complete overhaul in the electricity sector and improve the overall consumer experience in this sector.*

**Keywords:** Privatization, Commercialization, Enterprises, Nigeria, Legal Appraisal

### 1. Introduction

It is the responsibility of every responsible government to ensure that the citizens are provided with the right social amenities, consequently various government agencies are set up to fulfill such purposes. Some government agencies have at one time or the other undergone changes in ownership and status in the form of privatization and commercialization all in a bid to curb inefficiency, boost productivity in order to enhance service delivery. The process of privatization divests government of ownership and participation in a particular sector of the economy. This process is particularly tailored towards embracing free enterprise and to ultimately enhance market forces. It is primarily targeted at downplaying the role played by government in the affected sectors and encouraging private participation and control.<sup>1</sup> Public enterprises in some cases are faced with maladministration, poor resource utilization, retardation, bureaucracy and continual misuse of the State's resources to the extent that they are not able to generate any form of revenue for the government.<sup>2</sup> Privatization and commercialization ensure increased economic growth and expansion thereby increasing the Gross Domestic Product of a nation.<sup>3</sup> It is evident that an increase in GDP has a cumulative positive effect on the economic outlook of a country in form of increased employment engagements, improved living standard and an overall enrichment in the quality of life of the citizenry. Government relinquishes its stake on assets such as airports, seaports, energy infrastructures, refineries, schools, hospitals and others. These are the tools through which the process of privatization and commercialization are actualized in order to pave way for greater private participation.<sup>4</sup>

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<sup>1</sup>C Oden, Effect of Privatization and Commercialization of Government Owned <https://www.projecttopics.org/effect-privatization-commercialization-government-owned> > assessed January. 9, 2024

<sup>2</sup> *Ibid*

<sup>3</sup> S O Zakari, Privatization and Commercialization of Enterprise in Nigeria. < <https://www.academia.edu> > assessed on January 13, 2024

<sup>4</sup> (n 3)

## 2. Definition of Terms

### Privatization

This is the transfer of the legal right of ownership and control of a business, enterprise, sector, agency or public enterprise previously reposed on the state to the private sector.<sup>5</sup> It consists of a series of actions or steps taken by private investors in acquiring government owned companies or organizations.<sup>6</sup> Again, privatization encompasses all the procedure through which the private sector takes over the management of activities that were formerly within the reins of the public sector through the process of management contracts, sub- contracting, concessions and various forms of leases.<sup>7</sup> Through this process, the management and control of public enterprises is transferred to private businesses in order to engender increased competition.<sup>8</sup> The Supreme Court in *Cooperative and Commerce Bank (Nigeria) Limited v. Attorney General of Anambra State* held that privatization is the relinquishment of part or all of the equity and other interests fully or partly held by Federal Government or its agency to the private sector.<sup>9</sup> Under the privatization policy, the government puts measures in place to ensure that public entities become more competitive through the minimization or outright elimination of government ownership and control. Thus, the ownership, management and control to state owned enterprises are transferred to the private sector.<sup>10</sup> Privatization invariably cuts back the expenditure of government as assets which were previously owned and controlled by the government through the public sector are confined to private ownership and control. That way, the public sector is adequately positioned for economic development.<sup>11</sup> The appeal of privatization lies in the fact that resources are better allocated and managed by the private individuals who control has been relinquished to. Privatization therefore is a means through which a country attracts foreign investors and this enhances the process of economic globalization. This in turn translates into improved goods and services, competitive pricing and ultimately to the satisfaction of the needs of the consumer.<sup>12</sup> Privatization can be full or partial.

### Commercialization

This is the positioning of a business or enterprise to maximize profit.<sup>13</sup> It is the process of reorganization of a business formally owned by the central government either partially or wholly for commercial purposes. In this case, the government halts every form of grant or allocation to the commercialized enterprise.<sup>14</sup> This presupposes that the commercialized enterprise is able to generate its own revenue and is financially self-sufficient. Further, commercialization entails the running or managing of a venture for financial gain.<sup>15</sup> The whole aim of commercialization is the attainment of effectiveness and efficiency through the use of improved management skills which emphasizes high performance index.<sup>16</sup> Commercialization is the means through which government owned enterprises are repositioned and redirected towards the maximization of profit. Consequently, the process of commercialization ensures that government enterprises undergo certain reforms which subject them to market discipline but without changing their status they still remain public enterprises.<sup>17</sup> Such enterprises are bolstered financially, hence they are financially self-sufficient in both its recurrent as well as capital expenditure needs having been reorganized to maximize profit. As such they have a well-managed business portfolio and are expected to run like every other private business. Commercialization can be partial or full. Partial Commercialization is a process where the government relinquishes some of its decision-making powers to the management of the commercialized enterprise and the commercialized enterprise runs as a full commercial venture.<sup>18</sup> The government may release grants to them for the financing of major projects. However, the commercialized enterprises are expected to generate

<sup>5</sup>Privatization and Commercialization; Conceptual Clarifications <https://www.martinslibrary.blogspot.com> assessed on January 29, 2024

<sup>6</sup> < <https://dictionary.cambridge.org/dictionary/English/privatization> > assessed on January 30, 2024

<sup>7</sup> P Guislain, *The Privatization Challenge* ( 4<sup>th</sup> edn, Washington D C: World Bank Regional and Sectoral Studies 2001) 10

<sup>8</sup> O Igbuzor, Privatization in Nigeria; Critical Issues of Concern to the Civil Society < <https://lungarpages.com> > assessed on February 9, 2021

<sup>9</sup>(1992) 8 NWLR (Pt 261) 528

<sup>10</sup> (n 3) 2

<sup>11</sup> *Ibid*

<sup>12</sup> *Ibid*

<sup>13</sup> (n 7)

<sup>14</sup> Decree No 25 of 1998

<sup>15</sup> < <https://www.lexico.com/definition/commercialization> > assessed on January 13, 2024

<sup>16</sup> (n 3) 3

<sup>17</sup> *Ibid*

<sup>18</sup> (n 8)

enough revenue to cover all their running expenditure.<sup>19</sup> Full Commercialization on the other hand is one devoid of government interference. Though still fully owned by the government, it is expected to fully maximize profit and at the same time fulfill both its capital and recurrent expenditure.<sup>20</sup>

### 3. The Distinction between Privatization and Commercialization.

The process of commercialization is driven by the maximization of profit resulting in a change of administration whereas privatization is the sale of shares in a public enterprise to the private sector.<sup>21</sup> While privatization may involve the sale of enterprises previously owned by government, commercialization repositions these enterprises towards yielding better financial returns for the government.<sup>22</sup> Privatization ensures that the control and decision making required in the running of the privatized firm is no longer within the ambit of the government or its agencies.<sup>23</sup> Commercialization on the other hand, repositions the firm but unlike privatization, the government remains the sole owner of the business as government continues to have a financial stake in the commercialized.<sup>24</sup> The two processes are aimed at achieving effective resource allocation and management aimed at poverty reduction and improving the economic indices of a country.<sup>25</sup>

### 4. Legal Framework for Privatization and Commercialization in Nigeria

Privatization and commercialization is governed by a few legislations which will be discussed hereunder

#### Public Enterprise and Procurement Act<sup>26</sup>

This is the primary Act that regulates Privatization and Commercialization in Nigeria which was formerly the Privatization and Commercialization Decree.<sup>27</sup> The Act established the Bureau of Public Enterprises and the National Council for Privatization.<sup>28</sup> The responsibility of the Council includes: establishing the economic and social objectives of any enterprises which is to be commercialized or privatized;<sup>29</sup> approval of policies, guidelines and choice of investors;<sup>30</sup> approval of legal framework regulating the process of privatization and commercialization;<sup>31</sup> establishing the mode of divestment, approval of prices of shares and assets and advising the government accordingly<sup>32</sup> *inter alia*. Similarly, the Bureau is saddled with other responsibilities which includes; advising and implementation of the Council's policy on privatization and the approval of a public enterprise to be privatized;<sup>33</sup> advising the Council on the nature of capital restructuring suitable for each public enterprise and ensuring hitch free sales of shares and assets for the public enterprise to be privatized;<sup>34</sup> recommendation of the services of consultants and experts needed for the process of privatization such as bankers, issuing houses, stockbrokers, solicitors as well as supervising of the actual sales and ensuring the participation of both Nigerians and foreigners in accordance with the applicable laws.<sup>35</sup> The implementation of the Council's policies on commercialization and preparation of the relevant enterprise for commercialization falls within the purview of the Bureau.<sup>36</sup> It keeps proper records of accounts of commercialized enterprise and puts measures in place to ensure that commercialized enterprises are managed prudently in accordance with credible commercial and financial practices.<sup>37</sup> Disputes between the

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<sup>19</sup> M Garba, Privatization and Commercialization in Nigeria < [www.academia.edu](http://www.academia.edu) > assessed on January 7, 2021

<sup>20</sup> (n 8)

<sup>21</sup> (n 3)3

<sup>22</sup> B C Onuoha and others, 'The Impact of the Politics of Privatization and Commercialization of Public Enterprises in Nigeria on the Level of Productivity and Economic Viability: A Case Study of ALSCON and NITEL' (2017) (5) (1) *African Asian Policy Review* 45

<sup>23</sup> E C Osamor, Legal Brief Nigeria < <https://ecosamor.com> > assessed on January. 3, 2024

<sup>24</sup> (n 8) 94

<sup>25</sup> *Ibid* 46

<sup>26</sup> The Public Enterprise and Procurement Act 1998

<sup>27</sup> Privatization and Commercialization Decree No 25 1998

<sup>28</sup> (n 26) s9(1) otherwise known as the Council

<sup>29</sup> *Ibid* s11 (a)

<sup>30</sup> *Ibid* s 11 (b) (c)

<sup>31</sup> *Ibid* s 11 (d) €

<sup>32</sup> *Ibid* s11 (f)

<sup>33</sup> *Ibid* s 12 (a) (b) (c)

<sup>34</sup> *Ibid* s 13 (d) (e)

<sup>35</sup> *Ibid* s 13 (f) (h) (i)

<sup>36</sup> (n 26) s 14 (a) (b)

<sup>37</sup> *Ibid* s 14 (d) (g)

enterprises, the Council and the Bureau are settled amicably through the process of arbitration.<sup>38</sup> The Act lists the public enterprises to be partially privatized under part 1 of the Act<sup>39</sup> while those to be fully privatized are listed under part 2.<sup>40</sup> Similarly, enterprises in Part 1 of the second schedule shall be partially commercialized while those in part 11 of the second schedule shall be fully commercialized.<sup>41</sup> The mode of privatization provided under the Act includes; sale of shares through public issue or private placement which has to be carried out through the capital market.<sup>42</sup> Every privatized enterprise shall be managed by strategic investors.<sup>43</sup> Shares allocation shall be in accordance with the provisions of *section 2* and this shall done on basis of equality of the states of the federation including the Federal Capital Territory.<sup>44</sup> Furthermore, not less than one percent of the shares of the privatized enterprise shall be reserved for the staff of such an enterprise and the said shares shall be held in trust for the staff by the public enterprise.<sup>45</sup> In cases of oversubscription, the individual who purchased such shares shall not hold more than 0.1% equity shares in such an enterprise.<sup>46</sup>

#### **Public Utilities Protection Act<sup>47</sup>**

A wide definition of privatization may include all forms of Public Private Partnership which is governed by the Public Utilities Protection Act. According to the Act, public utilities include any electric light, telephone, telegraph, water, sewerage, cable or wireless service, system or undertaking and any other service system.<sup>48</sup>

#### **Utilities Charge Commissions Act<sup>49</sup>**

The Act established the Utility Charge Commission<sup>50</sup> whose duties amongst others include the evaluation of tariffs charged by any public utility company with a view to advising the Federal Government on any acceptable increase and this shall be done on a continuing bases.<sup>51</sup> The Commission also keeps surveillance on charges and proposes measures to regulate same in order to ensure that consumers are not exploited.<sup>52</sup>

#### **Federal Competition and Consumer Protection Act**

One of the objectives of privatization and commercialization as earlier stated is to improve efficiency, increase competition by eliminating monopolies of all kinds. This is regulated by the Federal Competition and Consumer Protection Act.<sup>53</sup> In the area of competition, the Act prohibits every restrictive agreement; agreements in restraint of competition.<sup>54</sup> The Act further prohibits the abuse of dominant position by firms<sup>55</sup> and empowers the Commission to investigate monopoly situations.<sup>56</sup> The Commission and the Tribunal are vested with oversight functions.

### **5. Privatization in the Power Sector**

The Nigeria Electricity Power Authority<sup>57</sup> was listed as one of the companies to undergo partial privatization under the Public Enterprise Procurement Act.<sup>58</sup> NEPA was run as a government monopoly and was funded by the government through budgetary allocations. It was responsible for the generation, distribution and transmission of

<sup>38</sup> *Ibid* s 27

<sup>39</sup> *Ibid* s1(1)

<sup>40</sup> *Ibid* s 1(2)

<sup>41</sup> *Ibid* s 6 (1) (2)

<sup>42</sup> *Ibid* s2 (1) (2)

<sup>43</sup> *Ibid* s 4

<sup>44</sup> *Ibid* s 5 (1) (2)

<sup>45</sup> *Ibid* s 5 (3)

<sup>46</sup> ( n 26) s 5(4)

<sup>47</sup> Public Utilities Protection Act 1984

<sup>48</sup> *Ibid* s 2 (1)70

<sup>49</sup> Utilities Charge Commissions Act 1992

<sup>50</sup> *Ibid* s1

<sup>51</sup> *Ibid* s 6(a)

<sup>52</sup> *Ibid* s 6 (d) (i) (ii)

<sup>53</sup> The Federal Competition and Consumer Protection Act 2018

<sup>54</sup> FCCPA s 59

<sup>55</sup> *Ibid* s 72

<sup>56</sup> *Ibid* s 76

<sup>57</sup> Created by Decree No. 24 of 1972 (NEPA)

<sup>58</sup> (n 43)

electric power throughout the country.<sup>59</sup> Several efforts were made by the government to manage electricity maintenance, generation and distribution yet the needs of Nigerians remained unmet. The capacity of the power company to generate, distribute and transmit electrical energy was grossly limited due to low power generating plants, increased energy losses and theft, overloading which resulted in rationing of power, frequent power outages, old equipments, inappropriate tariffs, low capital efficiency, poor maintenance of facilities and a lot of other factors.<sup>60</sup>

Sequel to the above, the Electric Power Sector Reform Act of 2005<sup>61</sup> was enacted. The Act has now been repealed and in its place, the Nigerian Electricity Act 2023<sup>62</sup> was enacted. The Electricity Act 2023 provides a comprehensive legal and institutional framework to guide the operation of a privatized, contract and rule based and competitive electricity operations as well as attract investment in the electricity sector.<sup>63</sup> It further provide policy and regulatory measures to expand power transmission networks; measures to scale up power transmission in Nigeria; provide consequential, transitional saving and provisions with regards to the repealed ERSRA 2005; provide a competitive electricity market.<sup>64</sup> The Act provides in Section 15, that the Transmission Company of Nigeria TCN which was the successor company that was issued transmission license shall issue such license as specified by the Commission and also take the necessary steps as provided under the CAMA to incorporate an ISO as a company limited by shares which shall have governance and ownership structure. Immediately after the incorporation, an application shall be made to the Commission to license such company as an Independent System Operator to provide market and systems operations as provided under the Act.<sup>65</sup> The TCN shall thereafter relinquish all the assets and liabilities previously held by it in terms of market and systems operations.<sup>66</sup>

The Act recognizes the validity of the pre-privatization and post-privatization reforms of National Electricity Supply Industry with regards to the unbundling of the authority into 18 companies inclusive of the transfer of assets and liabilities as well as the staff of Power Holding Company of Nigeria, the licensing of the 18 new successors from PHCN to generate, transmit and distribute power as well of the Integrated Power Project to boost infrastructure; establishment of the Nigerian Electricity Liability Management Company to assume liability of all PHCN noncore assets, formation of the Power Training Institute of Nigeria; the establishment of an entity in charge of bulk procurement and disposal of electricity which is the Nigerian Electricity Bulk Trading PLC.<sup>67</sup> For the continued development of the electricity sector, the Commission will continue to have responsibility for the post-privatization stage of Nigerian Electricity Supply Industry.<sup>68</sup> Under the repealed Act, the issuance of transmission license rested on the Transmission Company of Nigeria. The TCN under the current Act under its terms of license shall incorporate an ISO as a company limited by shares after which the incorporated company shall be licensed by the Commission to perform such functions provided under the Act. The assets and liabilities previously held by the TCN shall be transferred to the ISO with particular reference to market system operations and functions while the TCN shall retain its transmission functions.<sup>69</sup>

The Act made provision for the licensing of electricity operations in Nigeria. The states of the Federation are empowered to make laws and set up an enabling market for electricity generation, transmission, distribution, systematic operation and supply within their territories. Only a person who has been duly licensed for these purposes can go into the operation, transmission, construction, distribution, supply, system operation and trade of electricity.<sup>70</sup> A person who has not been issued a license may construct a electricity generating plant not exceeding one megawatt and if the person is into electricity distribution, such person may distribute electricity not exceeding 100 kilowatts or

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<sup>59</sup> J. Iheme & J. Ebohon, 'Nigerian Electric Power Sector Reforms: What should form Key Objectives' (33) (2005) *Energy Policy* 1213

<sup>60</sup> *Ibid* 1216

<sup>61</sup> Electric Power Sector Reform Act of 2005 cap 8 LFN 2004

<sup>62</sup> The Nigerian Electricity Act 2023

<sup>63</sup> ( n 62) s 1

<sup>64</sup> *Ibid* s1(a) (b)(c) (d) (f)

<sup>65</sup> *Ibid* s 6 (1)

<sup>66</sup> *Ibid* s 6(2)

<sup>67</sup> *Ibid* s 6

<sup>68</sup> ( n 62) s 7

<sup>69</sup> *Ibid* s 15 (1) (2)

<sup>70</sup> *Ibid* s 63 (1) (a-f)

any other capacity that the Commission may allow in the absence of a license.<sup>71</sup> A person may engage in electricity distribution, supply and all the incidental services under the law enacted by the State House of assembly. However, this provision does not envisage inter-state distribution or any form of distribution outside the borders of Nigeria.<sup>72</sup>

A licensee is expected to abide by the terms and conditions stipulated in the licensing agreement<sup>73</sup> and failure to abide by the provision of this section will result in disconnection or seizure by the Commission. The Commission may also in the interest of leniency, direct the violator to acquire the requisite licenses.<sup>74</sup> The Commission may grant generation license,<sup>75</sup> transmission license,<sup>76</sup> systems operation license,<sup>77</sup> distribution and supply license<sup>78</sup> and trading licenses.<sup>79</sup> The licenses so far granted are not transferable under any terms whatsoever.<sup>80</sup> However, the licenses may be renewed at the expiration of the term granted<sup>81</sup> or subject to amendment as the case maybe.<sup>82</sup> The Commission and Independent System Operators have a continued responsibility of electricity generation from renewable energy sources.<sup>83</sup> The Act provides for private investment in electricity transmission<sup>84</sup> as well as ensures a fair spread of investment.<sup>85</sup> The Federal and State governments may enter into public-private partnership agreement for investment into the transmission network.<sup>86</sup> The Commission is charged with ensuring that there is competition within the power sector and shall report same to the Minister.<sup>87</sup>

## 6. Nigerian Telecommunications Sector

The privatization of NITEL was sequel to Public Enterprise and Procurement Act.<sup>88</sup> The telecommunications industry just like other state owned enterprises operated as a monopoly dishing out poor quality services fraught with exorbitant rates, poor infrastructure, misappropriation of funds with little or no technological advancement while the rest of developed countries enjoyed wireless technological innovation as a result of competition in the sector making way for enhanced efficient.<sup>89</sup> All these led to the promulgation of the Nigerian Communications Decree<sup>90</sup> which was subsequently replaced by Nigerian Communications Act 2003.<sup>91</sup> The Act established the Nigerian Communications Commission which is saddled with the following responsibilities; issuance of licences to telecommunications operators; assignment of frequencies, facilitation of private sector participation and investment in the telecommunications sector; establishment and enforcement of technical and operational standards and practices; ensuring that the interest of consumers are protected through enforcing service standards and pricing regulations; designing and maintenance of a national numbering plan; arbitration between operators, carriers and consumers; and; generally regulating all telecommunications licensees and service providers.<sup>92</sup> The activities of the Commission commenced in 1993 while the privatization process started in the year 2000. With this in place, the grant of licenses to GSM companies began in earnest. Under the Act, no person shall operate a communication facility or any related services without obtaining a license from the Commission.<sup>93</sup> The Commission shall issue individual or class license for the operation of communications services and shall also publish regulations in that

<sup>71</sup> *Ibid* s 63 (2) (a)

<sup>72</sup> *Ibid* s 63 (2) (b)

<sup>73</sup> ( n 62) s 64 (1)

<sup>74</sup> *Ibid* s 63 (4)

<sup>75</sup> *Ibid* s65 (1)

<sup>76</sup> *Ibid* s 66

<sup>77</sup> *Ibid* s 67

<sup>78</sup> *Ibid* s 68

<sup>79</sup> *Ibid* s 69

<sup>80</sup> *Ibid* s 70

<sup>81</sup> *Ibid* s 73

<sup>82</sup> *Ibid* s74

<sup>83</sup> *Ibid* s 80

<sup>84</sup> *Ibid* s 109

<sup>85</sup> *Ibid* s110

<sup>86</sup> *Ibid* s112

<sup>87</sup> *Ibid* s121(1)

<sup>88</sup> (n 26) part 1

<sup>89</sup> Privatization of Telecommunications < <https://casestudyaidz.xyz/privatization-of-telecommunications-> > assessed on February 10, 2021

<sup>90</sup> Nigerian Communications Decree 75 of 1992

<sup>91</sup> Nigeria Communications Act 2003 Cap N97 LFN 2004

<sup>92</sup> *Ibid* s 3

<sup>93</sup> *Ibid* s 31 (1)

regards.<sup>94</sup> Licenses are issued by the Commission *inter alia* on the need to promote fair competition and investment in the communication industry and on the need to provide modern, qualitative and readily available communications services in all parts of the country.<sup>95</sup> Again, the Commission may vary, modify revoke the procedure or directions for the issuance of license<sup>96</sup> and can also make regulations regarding any of its activities.<sup>97</sup> In the same vein, the Commission shall have the sole and exclusive power to manage and administer the frequency spectrum for the communications sector and in that regard to grant licenses for and regulate the use of the said frequency spectrum.<sup>98</sup>

## **7. Conclusion and Recommendations**

From the above, it is clear that privatization and commercialization is imperative in boosting the economic development of every nation. Privatization and commercialization has greatly improved market efficient, quality of service and has boosted government revenue to a great extent. Ultimately, consumers in the telecommunications sector have a number of service providers to choose from which has enhanced competition, resulted in fair prices, better quality of service, innovation and consumer satisfaction. The Electricity Act recognized the existing privatization process that was set in motion by the earlier legislations and has also made several laudable provisions. Most of the provisions discussed above are geared towards improved private sector participation in the area of generation, distribution transmission and systems operations under the supervision of the Commission and the Minister where applicable. The registration of ISO by the TCN for electricity generation as well as generation of electricity from renewable sources are strong pointers to the privatization and commercialization drive of the Federal Government and the need for improved private participation. The Nigerian Communications Commission has played a huge role in the supervision of licensees in providing improved services to telecommunications consumers, ensuring the deployment of technological innovations and has also generated revenue for the government through fines and other payments over the years. The Electricity Act is still new and the provisions are yet to be tested. However, it is believed that the provisions will bring greater and better consumer satisfaction and improved service delivery.

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<sup>94</sup> *Ibid* s32 (1) s 33(1)

<sup>95</sup> (n 91)s 33 (3) (d) e)

<sup>96</sup> *Ibid* s 54

<sup>97</sup> *Ibid* s70

<sup>98</sup> *Ibid* s 121(1)