

Research Article

IMPLEMENTATION OF NIGERIA BROADCASTING CODE: A PERSPECTIVE OF INTERNATIONAL BROADCASTERS

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ABSTRACT

Broadcast media are not just means of information, education and entertainment but also of influencing public opinions positively or negatively. It is a truism that Press Freedom is an integral part of democracy. However, an unguided Press can be a loose cannon and a mad watchdog that will be harmful to the owner and the society at large. It is the realization of this that makes government of every nation formulate guidelines that will give the broadcast industry a sense of direction. In Nigeria, the National Broadcasting Commission, (NBC), is saddled with the responsibility of the issuance of such guidelines known as Nigeria Broadcasting Code; the first of which was in 1993 and the latest in 2019. The code is expected to regulate all broadcast activities in Nigeria. This study assesses the application of the code to international broadcasters in Nigeria. Conceptual methodology was adopted for the study. The research is based on authoritarian and social responsibility theories. Findings show that international broadcasters cannot be regulated through Nigeria Broadcasting Code and that there are no clear cut international regulations the country can rely on in dealing with these trans-national stations in case of violations of provisions of Nigeria Broadcasting Code in their broadcasts. The study recommended the need for the National Broadcasting Commission to look critically into the lacuna in the Nigeria Broadcasting Code with a view to addressing it at the home front while the commission should take appropriate steps at the international conferences and conventions of broadcast media regulators with a view to coming up with appropriate measures to curb the alleged excesses of international broadcasters considering their increasing roles in Nigeria's media landscape.

Keywords: Broadcasting, Broadcasting Media, National Broadcasting Commission, Broadcasting Code, International Broadcasters, International Broadcasting.

INTRODUCTION

The common saying that "the world is a global village" seems to have been overtaken by time and events. The reality today is that the world has shrunk to the extent of becoming a global street or even room. Nowhere has this been made clearer than in the field of communication in general and broadcasting in particular. Today, broadcast signals can be received across far-flung places simultaneously. This is enabled by technology which made it possible for some Radio and Television outfits to transmit signals beyond the countries of their locations. Broadcasting establishments in this group de-territorialize media space in their broadcast activities. This is responsible for their recognition as transnational broadcast stations or international broadcasters. Ojomo and Olomjobi (2012) list such stations to include but not limited to British Broadcasting Corporation - BBC- world service, Voice of America, VOA, Cable Network News International, CCN, Radio Netherlands, Radio Beijing and Voice of Nigeria.

As the name suggests, international broadcasters engage in international broadcasting activities. Solo-Anaeto, Adekoya and Ajibola (2017) explain that the idea of international broadcasting stemmed from international communication. Edefejirhaye (2016) defines international broadcasting as "broadcasting across national frontiers to a foreign rather than a domestic audience." Lobato (2019) views broadcast media in this mode as transnational. A number of international broadcasters are not just beaming their signals to Nigeria but are also competing in all aspects with broadcast outfits based in Nigeria. Nigerian based broadcasters are regulated by the

National Broadcasting Commission, NBC, which according to Nwammuo and Ono (2021) was created in 1992. NBC came into existence via Decree 38 of 1992. The Decree was amended as an act of parliament of the National Assembly by Act 55 Of 1999 and now known as National Broadcasting Commission Laws of the Federation 2004, CAP N11. The Act provides NBC a range of functions which include advising the federal government on policy implementation on broadcasting; processing and recommending broadcasting license applications; regulating and controlling the broadcast industry; addressing public complaints; arbitrating in the industry's conflicts; guaranteeing and ensuring the liberty and protection of the industry with due respect to the law. Izuogu, Okolo, Ekong and Atekebo (2021) say the legal framework empowers the commission to also regulate broadcast media content and sanction broadcasters in case they violate the rules guiding their operations. This study primarily sets out to assess whether or not international broadcasters are also regulated by the NBC.

STATEMENT OF THE PROBLEM

The sixth edition of Nigeria Broadcasting Code makes it clear that it is illegal for any person to operate or use any apparatus or premises for transmission of sound or video by cable, television, radio, satellite or other medium of broadcast from anywhere in Nigeria, unless licensed by the commission. Apart from being licensed, the code contains so many other regulations that all operators in Nigeria broadcast industry must abide with. As much as the rules are very clear on the broadcast media operating in Nigeria and to a large extent the online as well as web television outfits, the same cannot be said of popular international broadcasters whose signals are received in Nigeria.

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The question here is that considering the popularity of international broadcasters across the globe in the last decade as attested to by Widholm (2018), should these international broadcasters violate the broadcasting code of other nations where they are beaming their signals, like Nigeria for example, can the laws of such countries be applied to them in terms of control or sanctions? That is a question that has been begging for an answer in Nigeria as there is a dearth of research that discusses the implementation of Nigeria Broadcasting Code in relation to these international broadcasters. This study was therefore carried out to assess the implementation of the code in relation to international broadcasters transmitting to the Nigerian media space.

Objectives

The objectives of the study are stated below:

1. To examine the Nigerian Broadcasting Code in order to see whether or not it has provisions for licensing of international broadcasters.
2. To interrogate the extent to which international broadcasters observe the Nigeria Broadcasting Code.
3. To determine the possibility of the international broadcasters being sanctioned by the National Broadcasting Commission in case they violate regulations guiding broadcast industry in Nigeria.
4. To find out if there are international regulations through which international broadcasters can be held responsible for infractions of broadcast regulations in Nigeria.

Research questions

The research questions drawn from the objectives of the study are:

1. How does the incorporation status of international broadcasting companies affect their operations in Nigeria?
2. To what extent are international broadcasters observing the Nigeria Broadcasting Code in programmes as well as news and current affairs production and transmission?
3. In case of violation of the Nigeria Broadcasting Code by these international broadcasters, can the National Broadcasting Commission sanction them as they do to stations having their operational base in Nigeria?
4. To what extent do international regulations (if available) guide international broadcast operations?

METHODOLOGY

Conceptual method, described by Consultores (2020) as a methodology in which research is conducted through observation and analysis of information already present on a given topic, was used for this study. Conceptual research does not involve practical experiments. It is related to abstract concepts or ideas such as implementation of Nigeria Broadcasting Code from the international broadcasters' perspective.

Enago (2019) cited in Adelabu and Owolabi (2022) corroborates Consultores' definition and adds that conceptual methodology focuses on the concept or theory that explains or describes the phenomenon being studied. QuestionPro (2020) adds that this type of research relies heavily on previously conducted studies which save time, efforts and resources. Conceptual method is best suited for this study considering its nature, the time and resources available to carry it out. That is why it is chosen for the study.

Theoretical framework

Authoritarian and social responsibility theories were used for this study. While authoritarian theory deals with governments' regulation and control of the media via licensing, censorship, closure and other punishments (Ihechu and Okugo, 2013), social responsibility theory suggests freedom with responsibility which connotes that the media have an obligation to act for the benefit of the society (Mercy, 2019). Since the issues at stake here border on the implementation of Nigeria Broadcasting Code in relation to international broadcasters, the two theories are apt for the study.

LITERATURE REVIEW

International broadcasters have become key players in Nigeria's media space as they have huge listenership and viewership across the country. They have been slugging it out with community, local and national broadcast stations based in Nigeria in the areas of coverage and transmission of events at all levels. Some of them have gone as far as setting up special services for better positioning in Nigeria's broadcast industry. As attested to by Ogunseye (2018), BBC in 2018 alone established Igbo and Yoruba services. These are to complement the already existing Hausa and Pidgin services in order to spread their tentacles further. BBC Yoruba service organized political debates for leading candidates in Ekiti and Osun governorship elections in May and June 2022.

In Nigeria, broadcast activities, especially political broadcasts, are regulated by the National Broadcasting Commission which according to Alex-Adedipe and Aroh (2020) is legally empowered to create a code for regulating the broadcast industry in Nigeria. The code created by NBC is known as Nigeria Broadcasting Code with editions published in 1992, 1996, 2002, 2006, 2012 and 2019. Oтуру and Takuro (2020) say the code represents the minimum standards of broadcasting in Nigeria and provides appropriate sanctions in case of violations.

Sanctions for the breaching of the code can result from direct observations by NBC or proven complaints from stakeholders, concerned institutions, groups or individuals. For example Nwachukwu (2019) reports that four major television stations in the country; Nigeria Television Authority, NTA, African Independent Television, AIT, Channels Television and Television Continental, TVC – were sanctioned in the run-up to the 2019 general elections for allowing hate speeches by politicians from both the ruling All Progressives Congress, APC, and the main opposition party, Peoples Democratic Party, PDP, to be aired on their networks. Two months later, Agency Report by Premium Times showed that 45 broadcast stations, which again include the big four – NTA, AIT, Channels and TVC news, were fined Five hundred thousand Naira each "for ethical infractions in relation to 2019 general elections." This was confirmed, among others, by Akeju (2019). Also as reported by Ukpe (2020), the NBC fined AIT, Channels, TVC and Arise News for allegedly using unverifiable footages from social media in their reports on #EndSARS protests.

Virtually all international broadcasters covered the above events, most especially the #EndSARS protests. Despite, all the complaints of the Government of the Federal Republic of Nigeria against their reportage as clearly shown in the case of CNN, there is no record of NBC sanctioning any of them. It is on record that Nigeria's Minister of Information, Lai Mohammed, in the thick of the #EndSARS crisis had addressed a world press conference in Abuja where he harped on the need to sanction CNN for what he termed unprofessional reportage:

Like everyone else, I watched the CNN report. I must tell you that it reinforces the disinformation that is going around, and it is a blatantly irresponsible and a poor piece of journalistic work by a reputable international news organisation....This is very serious and CNN should be sanctioned for that (Nwabuikwu, 2020).

The minister was referring to the usage of alleged UNVERIFIABLE FOOTAGES of the shooting of innocent young Nigerians by the country's security operatives in a CNN report. Having realised that it would be difficult to carry out the threat of sanctions, the Minister forwarded a protest letter to CNN's headquarters in the U.S. The CNN did not just stand by its report but also went further to dare the Nigerian government to do its worst by running a second report titled "CNN EXCLUSIVE – HOW A BLOODY NIGHT OF BULLETS AND BRUTALITY QUASHED A YOUNG PROTEST MOVEMENT." More damaging footages were used in the second report. Despite the above threat, there is no record of sanctions against CNN by the NBC over its alleged "professional erring." On July 22, 2022, barely a week after the Osun Governorship election, Ismail Omipidan, the Chief Press Secretary to the then Governor, Adegboyega Oyetola, raised an ethical issue against BBC Yoruba in a Press statement widely used by Nigerian Newspapers, broadcast and on-line media:

This is not the first time the service (BBC) will deliberately publish falsehood against my principal, our Governor, Adegboyega Oyetola, or misrepresent him. If the campaigns were still on, I probably would have concluded that it was part of the game. But campaigns are over now. This is where I find its (BBC's) report today, claiming that Oyetola is owing salaries as distasteful, absurd and unprofessional. Thankfully, I have seen a few comments under the posting saying Oyetola is not owing.

The BBC Yoruba service did not react to the allegation. That speaks volumes as there are times that silence may not be golden. The report, if true as alleged, raised ethical issues of fairness, justice and balanced reporting. If that report had come from any Nigeria based broadcast medium, what would have happened would have been straight complaints to NBC by the Oyetola's government and the commission would have been compelled to investigate the allegation as well as sanction the station if found wanting. As reported by Adams in the Daily Gist of July 28, 2022, the Government of the Federal Republic of Nigeria cried blue murder on the documentaries tagged BANDITS WARLORDS OF ZAMFARA, produced by BBC and aired by BBC, Daily Trust and Trust Television Network, on terrorism and banditry in Nigeria. Addressing a press conference in Abuja, the Minister of Information, Lai Mohammed said:

Let me assure you, they will not get away with this naked glorification of terrorism and banditry in Nigeria. When otherwise reputable platforms like BBC give their platform to terrorists, showing their faces as if they're Nollywood stars... I want to assure them that they won't get away with it. The appropriate sanctions will be meted.

The allegation by the Federal Government of Nigeria should be critically seen from the point of view of the following provisions in the Nigeria Broadcasting Code:

3.1.1. "No broadcast shall encourage or incite to crime, lead to public disorder or hate, be repugnant to public feelings or contain offensive reference to any person or organisation, alive or dead or generally be disrespectful to human dignity."

3.12.2. "The broadcaster shall not transmit a programme that incites or likely to incite to violence among the populace, causing mass panic, political and social upheaval, security breach and general social disorder."

Akpan (2022) quoted Kadaria Ahmed who once worked with the BBC and is currently a member of the Board of International Press Institute as well as the Chief Executive Officer of Radio Now 95.3FM, Lagos, as describing the contentious documentary as "irresponsible reporting" that BBC would not have ventured to in Britain "if terrorists were killing and kidnapping British citizens, especially young children" adding that "the BBC would not enable interviews by the perpetrators, particularly if they were still roaming footloose and fancy-free, without an iota of remorse for their crimes and also carrying out many more. The trauma to the psyche of the British public will be unbearable, and the BBC would not be willing to pay that price or the legal consequences sure to ensue." Kadaria Ahmed concluded by saying that "Here in Nigeria, concerns about the impact of the amplification of terrorists' voices will have on victims, their families and the public appear to be a secondary consideration to the BBC's hearing from the bandits first-hand accounts and justification for their murderous activities."

A report by Adeniyi (2022) shows that the Federal Government carried out the threat against all the broadcast outfits alleged of the above infractions through the NBC which fined each of them N5m each with the only exception being the BBC. Those fined were PAY TV platforms which include Multichoice Nigeria Limited, owners of DSTV; Telecom Satellite Limited (TSTV); NTA- Star Times Limited, and Trust Television Network (Trust TV). While they were all sanctioned for carrying the documentary produced by BBC AFRICAN EYE, on their platforms and channels, BBC that should have been the principal culprit did not receive the bitter dose. The cases cited above are few out of many. The question here is why would the international broadcasters escaped sanctions on issues that their counterparts in Nigeria would pay dearly for? Findings of this study should be able to answer that question and others.

Findings

1. Thorough analysis and critical assessment of the various editions of the Nigeria Broadcasting Code published in 1993, 1996, 2002, 2012 and 2019 clearly show that the mandate of the National Broadcasting Commission, NBC, which is responsible for the issuance and implementation of the code does not cover the licensing of international broadcasters. For instance, while section 2.0.2. of the code says "it shall be illegal for any person to operate or use any apparatus or premises for transmission of sound or video by cable television, radio, satellite or other medium of broadcast from anywhere to Nigeria, unless licensed by the commission", none of the international broadcasters transmitting their signals to Nigeria is actually licensed by the National Broadcasting Commission. The Director, Broadcast Policy and Research of the National Broadcasting Commission, Mrs. Stella Erhunwunsee in an interview with this researcher confirms that as a policy, the commission does not license international broadcasters as according to her their operational bases are beyond the shores of the Nigeria nation state as they only beam their signals through satellites to the country. Her counterpart in-charge of Investigation and Enforcement, Mrs. Sussan Obi, confirmed the above.

To answer question (1) which is "How does the incorporation status of international broadcasters affect their operations in Nigeria?" it will be seen that international broadcasters are not incorporated in Nigeria. However, their non-incorporation does

not stop them from transmitting to Nigeria. It must also be pointed out that their non-incorporation status gives them wide latitude of operations without legal hindrances or encumbrances. This makes them to be as free as air to the extent of operating with unfettered freedom, not minding the existing code guiding the broadcast stations in Nigeria. For instance in August, 2022, the NBC revoked the operational licenses of fifty-three Nigeria based broadcast stations for failing to pay their operational license renewal charges said to run to billions of Naira (Usoro, 2022). None of these international broadcasters was listed among the offenders not because they paid the fees but because that section of the code does not apply to them.

- 2 Receiving applications from would-be operators in the broadcast industry in Nigeria, processing such applications and recommending same to the President for approval are fundamental to the operations of the National Broadcasting Commission. If international broadcasters cannot be licensed by the commission, by implications they cannot be regulated by the NBC. None of the editions of the Nigeria Broadcasting Code has clear-cut provisions for the regulation of international broadcasters. It was only in the amendment to the sixth edition of the code, which had been declared null and void by a court of competent jurisdiction, that there seemed to be a weak clause which provides that:

International broadcasters who transmit signals to Nigeria are required to take cognizance of Nigeria's broadcasting law and international principle of reciprocity.

It must be noted that the aforementioned provision is not categorical as to whether or not international broadcasters should observe or adhere to the Nigeria Broadcasting Code the way it is stated unambiguously in the case of broadcasters in Nigeria in their programmes as well as news and current affairs production and transmission. The few instances of complaints from the Nigerian government against BBC and CNN earlier cited would have confirmed that. To make the matter worse, the amendment where the clause cited is contained, according to Obiora (2022), has been nullified by the Federal High Court sitting in Lagos with Justice Ambrose Lewis-Allagoa as the presiding judge. In effect the portion is no longer in existence in the eyes of the law and therefore cannot be applied by the NBC. So to answer research question (11) which is "To what extent are international broadcasters observing Nigeria Broadcasting Code in programmes as well as News and current affairs programmes' production and transmission?" it is not in doubt that international broadcasters do not fully observe Nigeria Broadcasting Code. This is due to the fact that they are not really duty bound to do so going by the provisions of the regulations. According to the amendment to the Nigeria Broadcasting Code, which is even ineffective now due to the court ruling, international broadcasters are only expected to "take cognizance of Nigeria's broadcasting law and international principles." This might have been responsible for international broadcasters going far beyond the regulatory limits of broadcasters in Nigeria in the coverage and broadcast of certain events which the government has always considered as offensive.

- 3 Further findings show that it has been practically impossible for the National Broadcasting Commission to sanction international broadcasters anytime they are alleged of violations of Nigeria Broadcasting Code in terms of imposing fines on them, suspending or withdrawing their operational licenses or closing their operational premises. Quoting the Director of Broadcast Policy and Research of the National Broadcasting Commission,

Mrs. Stella Erhunwunsee "We (NBC) don't license them, so we don't sanction them." That explains why all threats of sanctions by the Nigerian government have been of no positive effect. Thus the government has been like a toothless bulldog which can only bark but cannot bite. It must also be stated that even if the Nigeria Broadcasting Code states sanctions against "erring" international broadcasters, the effective enforcement of such may raise conflict of laws and other jurisdictional matters in the light of the fluid nature of international broadcasting. However, the NBC's Director of Broadcast Monitoring Mrs. Franca Aiyetan said international broadcasters operating on Direct-to-Home Digital Satellite Broadcast (DBS) platforms or Satellite-to-Cable-Service licensed by the commission can be indirectly held responsible for infractions of the code. The platforms on which such offensive items are used can be mandated to yank off such international broadcasters or in extremely bad cases the operating licenses of the Digital Satellite Broadcast outfit carrying the offensive transmission can be withdrawn by the NBC. However, before those steps will be taken such platforms would have been made to pay fines as it was in the case of the PAY TV platforms fined N5m each for airing BBC's documentary on THE BANDITS WARLORDS OF ZAMFARA.

Therefore, the answer to research question 3 which states that "In case of violation of the Nigeria Broadcasting Code by these international broadcasters, can the National Broadcasting Commission sanction them like broadcasting stations having their operational base in Nigeria and licensed by the commission?", is capital no. As shown in the third finding, international broadcasters cannot be subjected to the various classes of sanctions for different breaches of the regulatory laws by the NBC, contained in chapter 15 of the sixth edition of the Nigeria Broadcasting Code, the same way the commission sanctions broadcast establishments in Nigeria.

- 4 Although the Nigeria Broadcasting code in section 11.11 states that "Pursuant to international convention relating to terrestrial and satellite broadcasting, no broadcaster shall distribute signals not meant for the Nigerian territory", there is neither a proper definition or classification "...of signals not meant for the Nigerian territory", nor the sanctions for the international broadcast outfits that violates it. Most of the existing international conventions such as International Telecommunication Union (ITU), World Intellectual Property Organization (WIPO), based in Geneva, Switzerland, the United Nations Creativity Collection relating to the distribution of programme-carrying signals by satellite, otherwise known as Brussels convention, the Rome convention, the Trade-Related aspects of Intellectual Property Rights (TRIPS) and the European Agreement on Satellite Broadcasting exist to defend broadcasters' rights, copyright issues and implementation of freedom of expression across the countries of the world with little or no provisions to take care of likely, perceived or alleged breaching of regulations of countries international broadcasters beam their signals to. The same goes for International Professional bodies for journalists such as International Federation of Journalists, International Press Institute, IPI and International Society of Journalists all of which set professional and ethical standards for the practitioners. Even when the second rule as contained in the International Professional Society of Journalists' Guidelines after "the people's right to know" states that Journalists should not cause harm in their reportage, there is no evidence that any international broadcaster has been held responsible in Nigeria for broadcasts packaged by their men that

are capable of causing or have actually caused harm(s) to Nigeria as a nation or Nigerians as a people.

Thus in answering research question (1V) which is "To what extent do international regulations (if available) guide international broadcast operation?", the fourth finding has indicated that there are no clearly specified regulations spelling out sanctions for breaching of regulatory laws of the foreign countries international broadcasters transmit to.

RECOMMENDATIONS

The impacts of direct broadcasting by Satellite or Satellite-to-Cable Service to the Nigerian territory are enormous on the social, cultural, economic and political lives of the citizenry. Today, international broadcasters do not just transmit foreign contents to Nigeria; they gather contents from the country which they aired back to the country and to other nations of the world. Due to advancement in technology, they are received all over the country. In fact it must be stressed that the reach of international broadcasters are far better than most of the Nigeria based broadcasters whose areas of coverage are communal, local, regional or at best national. The wider reach of the international broadcasters compared to those based in Nigeria partly accounts for their popularity in the country. The fact that they can cover what broadcasters in Nigeria will fret or dare not do also endear them to the Nigerian populace. All of these lead to patronage by advertisers who see them as the media of first choices. It must be clearly stated that apart from private and public enterprises, industries, banks, GSM providers, States and Federal Governments or their agencies also patronize international broadcasters, at times to the detriments of those based in the country, in the placement of advertisements or outright sponsorship of programmes. Needless to say that such placement of advertisements and sponsorship of programmes attract high airtime fees paid in foreign currencies. When such monies are collected by international broadcasters, they remit it to their countries of operation to the detriment of Nigerian economy. If international broadcasters enjoy so much privileges in Nigeria, then nothing should stop them from not just observing but also obeying the rules guiding the broadcast industry in the country to the letter and per chance they violate any of the provisions of the Nigeria Broadcasting Code, they should be made answerable for their errors of omission or commission. At the home front, the Nigerian government, should through the National Broadcasting Commission, work on the lacuna in the existing broadcast regulations to make this possible.

Investigations in the course of this study reveal that there are international conferences and conventions that regulators of various countries attend where issues affecting the broadcast industry worldwide are raised, discussed and decisions taken on them. Nigerian regulators should use such international gatherings of regulators to present position papers on the experience(s) of the National Broadcasting Commission on one hand and the Nigerian government on the other hand in the hands of international broadcasters. This should be with a view to sponsoring a move to see how their activities allegedly violating Nigeria Broadcasting Code can be addressed through appropriate rules at the international level. This becomes utterly necessary in view of the series of allegations of infractions against international broadcasters not just by the Government of the Federal Republic of Nigeria but also state governments except these allegations are just mere crying wolves where none existed. It is possible that other countries are equally experiencing what Nigeria is going through with international broadcasters and also grumbling in helplessness waiting for whom to bell the cat. Such countries will not find it difficult to rally round Nigeria

if and when the recommended move is made at international conferences and conventions of broadcast regulators across the world

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