



**CODE OF PRACTICE FOR INTERACTIVE
COMPUTER SERVICE PLATFORMS/
INTERNET INTERMEDIARIES**

ORIGINAL

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PREAMBLE

WHEREAS the National Information Technology Development Agency (NITDA, hereinafter referred to as the Agency) is statutorily mandated by the NITDA Act of 2007 to, inter alia; create a framework for the planning, research, development, standardisation, application, coordination, monitoring, evaluation and regulation of Information Technology practices, activities and systems in Nigeria and all matters related thereto and for that purpose, and which without detracting from the generality of the foregoing shall include, providing universal access for Information Technology and systems penetration including rural, urban, unserved and under-served areas;

RECOGNISING that many public and private organisations are gradually moving their businesses and information services online; that the internet is transforming the way we conduct our daily activities; that children have a significant presence online without the necessary supervision; that the information technology systems have thus become a critical infrastructure in our society that must be safeguarded, regulated, and protected against online harm;

COGNISANT of the importance of uninterrupted access to authentic alternative sources of information and ideas, disseminating those ideas, utilising a diverse media in a democratic society, and using the internet as a shared resource, including, to facilitate progressive public debates and open confrontation that encourages Nigeria's values in society; and

CONSCIOUS of the need to collaborate with Authorised Government Agencies and relevant Stakeholders to develop practices that will preserve and promote societal values in a democratic society and make the digital ecosystem safer for Nigerians.

The AGENCY hereby issues this Code of Practice by virtue of the provisions of section 6 of the NITDA Act 2007, in collaboration with the Nigerian Communications Commission and the National Broadcasting Commission, which shall come into effect on the date issued by NITDA.

OBJECTIVES OF THE CODE OF PRACTICE

The objectives of this Code of Practice are as follows:

- a. Set out best practices required of Interactive Computer Service Platforms/Internet Intermediaries.
- b. Set out best practices that will make the digital ecosystem safer for Nigerians and non-Nigerians in Nigeria.
- c. Set out measures to combat online harms such as disinformation and misinformation.
- d. Adopt and apply a co-regulatory approach towards implementation and compliance.

SCOPE AND APPLICATION

- a. This Code of Practice applies to all Interactive Computer Service Platforms/Internet Intermediaries, including entities that are their subsidiaries, affiliates, and agents in Nigeria.
- b. It also serves as a guide on steps to safeguard the security and interest of Nigerians and non-Nigerians living in Nigeria regarding activities conducted in the digital ecosystem.

DEFINITION

In this Code of Practice, unless the context otherwise requires:

"Authorised Government Agency" means the National Information Technology Development Agency (NITDA), Nigerian Communications Commission (NCC), National Broadcasting Commission (NBC), or any Agency authorised by its enabling law;

"Child" means any person defined under the Child's Right Act (CRA) 2003 as a Child;

"Child Inappropriate Content" means any content that is inappropriate for the viewing or consumption of a Child such as, sexually explicit content, child/adult pornography, images of violence/torture, semi-nude and/or nudity;

"Computer Resource" means Information Technology systems and devices, networked or not;

"Content" means electronic information uploaded or broadcasted by a User and hosted or transmitted by a Platform and any record of same;

"Court of record" means a superior Court of record, for instance, Federal or State High Court;

"Disinformation" means verifiably false or misleading information that, cumulatively, is created, presented, and disseminated for economic gain or to deceive the public intentionally and that may cause public harm;

"Government" means the Government of the Federal Republic of Nigeria or any person who exercises power or authority on its behalf, particularly an Authorised Government Agency;

"Harmful Content" means content which is not unlawful but harmful;

"Interactive Computer Service Platforms" otherwise referred to as a "Platform" in this Code, means any electronic medium or site where services are provided by means of a computer resource and on-demand and where Users create, upload, share, disseminate, modify, or access information, including websites that provide reviews, and gaming Platforms;

"Internet Intermediary" otherwise referred to as a Platform in this Code, includes, but is not limited to, social media operators, websites, blogs, media sharing websites, online discussion forums, streaming Platform, and other similar oriented intermediaries where services are either enabled or provided and transactions are conducted and where Users can create, read, engage, upload, share, disseminate, modify, or access information;

"Large Service Platforms" (LSP) means an Interactive Computer Service Platform/Internet Intermediary whose registered Users in Nigeria are more than one million (1,000,000);

"Misinformation" means the unintentional dissemination of false information;

"Obligations of Interactive Computer Service Platforms" means responsibilities prescribed in this Code which Platforms are required to practice and uphold in making the digital ecosystem safer;

"On-Demand" means any electronic service provided by means of a computer resource at the individual request of a User;

"Online Harm" means an action or inaction with a reasonably foreseeable risk of having an adverse physical or psychological impact on individuals;

"Person" means a natural person or legal person;

"Prohibited Materials" means content or information that a Court of record declared to be against the sovereignty, public interest, security, peace, or is otherwise prohibited by applicable Nigerian laws;

"Recipient" means a natural or legal person who receives data;

"Rules" means a Platform's community rules, community guidelines, privacy policies, terms of service, or any related condition for access and usage of its services;

"Unlawful Content" means any content that violates an existing law in Nigeria;

"User" means any person resident in Nigeria who is registered or unregistered with a Platform and uses, accesses, publishes, shares, transacts, views, displays, engages, downloads, or uploads any information on the Platform;

"User Account" means a User's registered account with a Platform.

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Part I

OBLIGATIONS OF INTERACTIVE COMPUTER SERVICE PLATFORMS/INTERNET INTERMEDIARIES

All Interactive Computer Service Platforms/Internet Intermediaries (Platforms) are obliged to abide by Nigerian laws and not deploy or modify their Platform in any way that will undermine or interfere with the application and/or enforcement of the law, and where applicable shall:

1. Act expeditiously upon receiving an Order from a Court of record directing a Platform to provide any information under its domain or any assistance to any Authorised Government Agency for the purpose of carrying out an investigation, combating cybercrimes, or prosecuting an offence.
2. Act expeditiously upon receiving a notice from an Authorised Government Agency of the presence of unlawful content on its Platform. A Platform must acknowledge the receipt of the complaint and take down the content within 48 hours.
3. Act expeditiously upon receiving a notice from a User of the presence of unlawful content on its Platform. A Platform must acknowledge the receipt of the complaint and take down the content as soon as reasonably practicable.
4. Act expeditiously upon receiving a complaint by a User or Non-User to remove, disable, or block access to non-consensual content that exposes a person's private areas, full or partial nudity, sexual act, deepfake, or revenge porn, where such content is targeted to harass, disrepute, or intimidate such User or non-User. A Platform must acknowledge the receipt of the complaint and take down the content within 48 hours.
5. Not be held liable where it takes down unlawful content based on a substantiated notice. A notice shall be deemed substantiated where such notice from a User contains an identification of the unlawful content at issue by Uniform Resource Locators or a unique identifier. A substantiated notice from an Authorised Government Agency shall contain the following in addition to the proviso above:
 - a) Identification of the timestamp for the unlawful content at issue.
 - b) A clear statement of the basis of the legal claim and supporting rationale.
 - c) The title of the law violated detailing, the specific section and subsection where necessary.

6. Disclose the identity of the creator of information on its Platform when directed to do so by an Order from a Court of record. Provided that an order of this nature shall apply but not limited to preventing, detecting, investigating, or prosecuting an offence concerning the sovereignty and integrity of Nigeria, public order, security, diplomatic relationships, felony, incitement of an offence relating to any of the above or in relation to rape, or child sexual abuse.
7. Exercise due diligence to ensure that unlawful content is not uploaded to their Platform. No liability shall be incurred by a Platform where such Platform can demonstrate that due diligence and all reasonable steps have been taken to ensure that an unlawful content is not uploaded
8. Provide a dedicated channel that is available all the time where an Authorised Government Agency can lodge or forward a request or complaint against contents that are unlawful or harmful.
9. Provide a complaint resolution mechanism for Users to lodge complaints.
10. Notwithstanding the Clauses above, make provision for a User to apply for a review or appeal of the removed content. A User shall state the reasons why the User believes that such a content was removed erroneously. Where such an application for review by a User is successful, a Platform shall put back the removed content as soon as reasonably practicable.

Part II

ADDITIONAL OBLIGATIONS

Where applicable, Platforms shall:

1. Publish on their website, application, or both, the rules for access or usage of its Platform by any person or entity opting to use its services. These rules should be easily accessible.
2. Inform Users through the terms of service not to create, publish, promote, modify, transmit, store, or share any content or information that:
 - a) is harmful to a child;
 - b) could cause any physical or psychological harm to another User directly or indirectly;

- e) the User is not the lawful owner and to which no authorisation was secured from the lawful owner;
 - f) is false or misleading;
 - g) compromises the security or undermines the unity, or sovereignty of Nigeria or promotes the act of terrorism; and
 - h) instigates public disorder or interferes with an ongoing investigation.
3. Label and censor, redact, or provide access control such that an inappropriate content is not viewable to a child.
 4. Carry out a risk assessment to determine whether a content is harmful, upon receiving a notice. A Platform shall take steps to mitigate and manage the impact of such content and ensure that the community rules or guidelines specify how children and adults will be protected from harmful content that they may encounter. In assessing such content, a Platform shall consider:
 - a) The nature of the content, and if there is a material risk of it having a direct or indirect physical or psychological impact on a child or an adult.
 - b) That there is a material risk of the content's dissemination having a physical or psychological impact on a child or an adult. Consideration should be given to:
 - i. The level of risk or harm posed by the content;
 - ii. The potential reach and interaction with the content.
 - c) The socio-cultural peculiarities of Nigeria.
 5. Preserve disabled or removed content, and any related record as required by applicable law.
 6. Display a label to a disabled or removed content, stating grounds for such action.
 7. Preserve any information concerning a person that is no longer a User of a Platform due to withdrawal, termination of registration, or for any other reason, as required by applicable law.
 8. Regularly inform Users that access and usage to the Platform is subject to compliance with rules and regulations. Where a User fails to comply, the Platform reserves the right to terminate the User's access to the Platform.
 9. Inform Users whenever there is a change or update to their rules.

10. File an annual compliance report with NITDA that indicates:

- a) Whether the Platform is a Large Service or not.
- b) The number of closed and deactivated accounts in Nigeria;
- c) Number of removed content with and without notice or Court order;
- d) Number of contents removed and re-uploaded;
- e) Information on how children and adults are protected from harmful content that they may encounter;
- f) Information on the number of complaints registered with a Platform;
- g) Number of resolved and unresolved complaints;
- h) Awareness report on disinformation and misinformation;
- i) Number of contents taken down due to disinformation and misinformation where technically possible; and
- j) Any other relevant information.

Part III

LARGE SERVICE PLATFORMS (LSP)

Large Service Platforms shall, in addition to the obligations stated above:

1. Be incorporated in Nigeria.
2. Have a physical contact address in Nigeria.
3. Appoint a Liaison Officer who shall serve as a communication channel between the government and the Platform.
4. Provide the necessary human supervision to review and improve the use of automated tools to strengthen accuracy and fairness, checkmate bias and discrimination, to ensure freedom of expression and privacy of Users.
5. On-demand, furnish a User with the information on why they get specific advertisements on their timelines.
6. NITDA may require a Platform whose registered Users are less than one million (1,000,000) to comply with the obligations of a Large Service Platform where it appears necessary to preserve the sovereignty, security, public order, foreign diplomatic relations, and integrity of Nigeria.

Part IV

PROHIBITION

A Platform shall not continue to keep prohibited materials or make them available for access when they are informed of such materials. Prohibited material means content or information that a Court of record declared to be against the sovereignty, public interest, security, peace, or is otherwise prohibited by applicable Nigerian laws.

In considering what prohibited material is, consideration should be given to the laws of Nigeria, including but not limited to the following:

1. The Constitution of the Federal Republic of Nigeria 1999;
2. Nigerian Communications Act;
3. National Broadcasting Commission Act;
4. Nigeria Broadcasting Code;
5. Cybercrimes (Prohibition, Prevention, etc.) 2015;
6. Advance Fee Fraud and other Fraud Related Offences Act 2006;
7. Nigeria Data Protection Regulation 2019;
8. Terrorism Prevention Amendment Act 2022;
9. NCC Consumer Code of Practice Regulations 2017; and
10. Federal Competition and Consumer Protection Act (FCCPA) 2018.

In all instances, when a Platform has been informed of the existence of Prohibited Material, the Platform is under obligation to remove the content within the time stipulated by a Court of record.

Part V

MEASURES ON DISINFORMATION AND MISINFORMATION

Disinformation and misinformation are multidimensional growing problems that do not have a single root cause or solution. The National Information Technology Development Agency (NITDA), Nigerian Communications Commission (NCC), and the National Broadcasting Commission (NBC) are conscious of the fact that optimal responses to disinformation and misinformation need to be multivariate, requiring Platforms to work collectively with Stakeholders to combat disinformation and misinformation.

All Platforms are encouraged to:

1. Acquaint themselves with indigenous and contextual manifestations causing disinformation and/or misinformation and factors motivating its spread in Nigeria.
2. Collaborate and invest in continuous and consistent research with Stakeholders such as Data scientist, indigenous academics, researchers, media organisations,

journalists, civil society organisations, and government agencies on the causes and implications of disinformation and misinformation in Nigeria and provide effective responses.

3. Provide Stakeholders such as Data scientist, indigenous academics, researchers, media organisations, journalists, civil society organisations, and government agencies, access to the necessary data, excluding proprietary data, to facilitate research in combatting disinformation and misinformation.
4. Independently organise and conduct media literacy programme that educates Users on critical thinking and informed decisions when they encounter false information online.
5. Collectively collaborate with indigenous media organisations, academics, journalists, civil society organisations, authorised government agencies, and other Stakeholders to organise and conduct a media literacy programme educating Users on critical thinking and informed decisions when they encounter false information online. Authorised Government Agencies and relevant Stakeholders are encouraged to participate and facilitate in the actualisation of these programmes, ensure media coverage to the society, and in case of a collective programme, oversee and keep a register and report of the programme.

Where applicable, all Platforms shall:

1. Provide Users with easily accessible tools to report disinformation and/or misinformation and improve access to National and International authoritative sources where applicable.
2. Engage the services of certified fact-checkers to identify information targeted to disinform or misinform Users in Nigeria. Where information is reported and confirmed to be false, adequate measures should be taken to provide a correct or factual version of events from National and International authoritative sources where applicable.
3. Where information that is reported by an Authorised Government Agency to a Platform is confirmed to be false and is likely to cause violence, threatens the unity, peace and security of Nigeria, the Platform shall caution the publisher and remove the content as soon as reasonably practicable.
 - a) A User shall not be liable, without intent, for merely redistributing through intermediaries, the content of which they are not the author and which they have not modified.

4. Take reasonable steps to ensure that disabled or removed content are not found in search, feeds, or other distribution channels.
5. Put in place measures to address and close accounts and sources that amplify disinformation and misinformation.

Part VI

MISCELLANEOUS

1. This Code of Practice may be reviewed and amended by the National Information Technology Development Agency (NITDA) from time to time.
2. Non-compliance with this Code shall be construed as a breach of the provisions of the Nigerian Communications Act (NCA) 2003, National Broadcasting Commission (NBC) Act 2004 and National Information Technology Development Agency (NITDA) Act of 2007.
3. Nothing in this Code shall impose criminal liability on an individual or individuals representing the Platforms in the course of discharging their duties.

THIS INSTRUMENT WAS SIGNED THIS 26TH DAY OF SEPTEMBER 2022

Prof. Isa Ali Ibrahim (Pantami) PhD, FCIIS, FBCS, FNCS
Minister of Communications and Digital Economy of the Federal Republic of
Nigeria

Kashifu Inuwa Abdullahi, CCIE
Director General/CEO

National Information Technology Development Agency (NITDA)