

Broadcast Regulation in Nigeria: An Assessment of NBC's Monitoring, Sanctions and Public Complaints

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Abstract

Established in 1992 by decree 38, the National Broadcasting Commission (NBC) is Nigeria's apex regulatory body for the broadcast industry and draws its powers from the NBC Act Cap N11, Laws of the Federation of Nigeria, 2004. The Act empowers it to among others license, monitor and regulate the industry as well as receive complaints from the general public. Unfortunately, the Commission faces challenges in executing its mandates especially regulating certain content, particularly political which is increasingly becoming too pervasive. This is in addition to incessant accusations against the Commission for inaction in favour of certain interests whereas the public who are the complainants have the right to lodge complaint with the Commission and it is its statutory responsibility to act on it. In view of this, this paper had using survey and content analysis reviewed the performance of the NBC in the areas of monitoring, sanction and complaint with particular reference to the 2023 general elections. For the survey, 140 questionnaires were administered with a return rate of 100%. Similarly, Weekly Monitoring Reports covering the 2023 electioneering period were content-analysed. The study found that 782 sanctions were imposed on broadcasters across the country. Of this, 52% were 'warnings' and 18% 'caution'. There was a drought in complaints lodgment by the public with the year 2022 recording only 9. From the survey, it was found that 90% of the Respondents have never complained about the content or conduct of the broadcasters to NBC. The paper therefore, recommends that the public shall be socially responsible to lodge complaints to the regulator for any content or conduct that is not in tandem with their cultural, social and political values. However, NBC shall sensitize the public to feel free to lodge complaint with the Commission using available mechanism for accountability.

Keywords: complaints, monitoring, sanctions, 2023 elections, NBC

Introduction

Established in 1992 to regulate the broadcast industry by the military government of President Ibrahim Badamasi Babangida, National Broadcasting Commission (NBC) is over three decades in existence. The mandates as contained in the decree no. 38 of 1992, now NBC Act Cap N11 Laws of the Federation (LFN) of Nigeria, 2004 is to amongst others license, monitor and regulate the broadcasting sector. This had greatly liberalized the industry and paved way for participation of private broadcasters. Prior to the liberalization of the broadcast sector in Nigeria, it was an exclusive preserve of government at state and federal level.

Even though one of the principal ideas of establishing the NBC was to open up space for private investors in the broadcast sector, the government felt the need to curb excessive freedom by empowering the National Broadcasting Commission to regulate the activities of both private and public broadcast stations after the deregulation of the broadcast industry (1999 Constitution FRN as amended). This is in addition to global shift from communism to liberal-capitalism owing to the collapse of USSR and the rising of USA at the global political stage.

Since its establishment, the Commission has licensed over a thousand broadcast stations and it currently has 777 (as of September, 2023) functional stations across the country that transmit programmes on daily basis (NBC, 2023). Broadcast regulation has been herculean task, with the NBC being perceived as over-regulating one of the most fundamental human rights, freedom of expression (Ezeigbo, 2024; Saidu, 2005; Ukah, 2011; Gambo, 2013). While, some stakeholders point accusing fingers at the Commission for over-regulation, some others feel that the NBC is performing its functions in line with the law establishing it (Sani, 2017).

In justifying the need for regulating broadcasting, Disu (2016), asserts that regulation is needed to check or minimize spread of hate speech. They added that spoken words are often 10 times worse than the written words, thus making a contrast with print media. This buttresses the imperative of broadcast regulation to societal development.

However, in the course of performing its responsibilities, NBC on many occasions had been dragged to courts in a challenge to some decisions it took especially with regard to sanction. For example, after the 2019 general elections, the NBC was dragged to Federal High Court Abuja by Media Rights Agenda for fining broadcast stations that violated the Nigeria Broadcasting Code's (the Code's) provision which prohibits partisan broadcast on Election Day. The Court's presiding Judge, Justice James Omotosho in his May 2023 ruling held that NBC lacks the judicial powers to impose penalties. He therefore set aside the N500, 000.00 fines imposed on 45 broadcasters in 2019 elections (Media Rights Agenda vs. NBC, 2023).

This has further brought to fore, the accusation from various quarters against the regulator of violating the principle of natural justice. It is said by some school of thought, that the Commission is not applying the fair hearing doctrine as it arrests, institutes charges and prosecutes violators (Media Rights Agenda, 2023). NBC has defended its actions, thus making the issue contentious. However, the Code empowers the public to lodge complaints to the regulator. The Commission is bound by the Code when it becomes necessary to receive complaints concerning a matter that is at variance with the Nigeria Broadcasting Code and act as prescribed by Section 14.0.1:

Pursuant to section 2(1) (f), (n), (q) of the Act, the Commission shall receive, consider and investigate complaints and where necessary arbitrate or impose sanctions for non-compliance with the following (a) content of broadcast, (b) conduct of the broadcaster, (c) terms, conditions and obligation of the broadcast licence; (d) the Act, the Code and any other regulation of the Commission.

Sequel to this, the Commission is empowered by the Act to receive complaints and also arbitrate where necessary. The Commission ensures that all parties are taken into consideration while resolving complaints that are at variance with the code. Consequently section 14.3.1 (c & d) states that the Commission shall “Promptly investigate or arbitrate on the matter within a reasonable period and notify the parties of the progress of the investigation, findings and action taken”.

This provision suggests that the Commission involves parties in taking decisions on any particular matter of public concern. Where need be, the public, broadcasters and stakeholders are invited by the Commission to speak on issues of concern. This is because; the Commission is empowered by law to arbitrate on issues that relate to broadcast content (NB Code, 2019).

However, the regulator is equally facing the challenge of public perception and low returns in lodging complaints about the content and conduct of broadcasters to the Commission by the public. Section 2(1) (f) of the NBC Act empowers the Commission to receive, consider, investigate, and arbitrate where necessary. In view of the foregoing, this paper reviews the performance of the NBC in select-areas of monitoring, sanctions and complaints with the following research questions:

1. To what extent did NBC apply sanctions to erring broadcasters during the 2023 general elections?
2. How did the public utilize the complaints mechanism of the regulator during the 2023 general elections?
3. What is the level of awareness of the Residents of FCT and Environs on the rights to Complaint about the Broadcasters to the Regulator?

This paper is guided by social responsibility theory which postulates that both the regulator and the regulated have responsibility of ensuring adherence to the concomitant laws, guidelines for the development of the broadcasting industry and maintenance of public order. The Commission cannot effectively execute its mandate without public understanding of the need to monitor airwaves together and report accordingly for a safer and saner broadcasting environment.

In addition to the Content Analysis deployed for data gathering, a snap short survey was also conducted to determine the level of awareness of the residents of the Federal Capital Territory (FCT) and Environs on the rights to complaint about broadcast content or conduct to the NBC using Kobo Collect application. The survey is to help to further interrogate and find the reason why there was drought in Public Complaint lodgment.

To answer the questions FCT and environs were purposely selected because of its cosmopolitan nature, many public servants and the presence of over 40 broadcast stations. A small sample of 140 was selected using simple random sampling from *Garki*, *Karu* and *Kubwa* wards to represent Abuja Municipal Council and Bwari LGA while *Maraba* and *Masaka* represent Karu LGA of Nasarawa state because of its proximity to FCT.

The study was able to achieve 100% return rate and were analysed using the descriptive statistical tool in the Kobo Collect electronic application and following is the summary of the outcome:

Value of Information regulation

Information is a critical nerve of human existence, just as human beings thirst for water, so do they seek information within and around their environment. This has made the media a very close companion to people. People want to be free to air their views on certain issues that affect them. The sensitive nature of content dissemination to the well-being of the society, made the authorities to regulate the process, and also hold onto the ownership of the media.

While some people see broadcast regulation as cage, prison and a chain that prevent them from certain action that is good for them, Disu (2016) opines that broadcast media should be regulated to curtail hate speech and other harmful broadcasts. Regulation does not just protect the society from harmful content; it also promotes the virtue and norms that the society represents. Regulation involves receiving complaints from the publics, promoting local content, serving as a gatekeeper for every content that does not represent the norms and values of the society.

The extent to which the NBC performed this job over the years as a broadcast regulator, such as its role in handling complaints, monitoring of broadcast content, and sanctioning of erring broadcasters is one cardinal thing the paper wishes to analyse. This work provides insight to the public on the activities of the Commission, and how they can be part of the regulation process. Some of the tools the Commission uses for regulation comprises the 1999 Constitution of the Federal Republic of Nigeria (as amended), the NBC Act Cap N11 LFN, 2004, the Nigeria Broadcasting Code (The Code), the 2022 Electoral Act, Advertising Regulatory Council of Nigeria (ARCON) Act, NAFDAC Act and several other Extant Laws.

At the global stage, for example in the United Kingdom Office of Communication (Ofcom) regulates broadcast content, telecommunication, postal services, radio communication and spectrum management. It is also saddled with the responsibility of receiving complaints from the public. In regulating the broadcast media, OFCOM makes use of a broadcasting code, and it has the power to issue licence and revoke same, impose fines and sanctions. Ofcom is independent, and gets funding from fees paid to it by companies it regulates.

This is same as the Federal Communication Commission (FCC) in the United State of America with the power to grant and revoke broadcast licence, impose fines and sanctions and enjoys independence (David, 2014). Interestingly, FCC is empowered by FCC Law, section 312(g) to cancel broadcast license if not put to use or has been silent for over a year. Just like Ofcom, FCC gets funding from regulatory fees.

Findings from Content Analysis

Nigeria conducts elections periodically; after every four years. Another cycle of the election was in the first quarter of 2023 where Presidential, National Assembly, Gubernatorial and State Assemblies elections were held. The Commission keenly monitored it with Officers assigned to cover places where the elections have taken place.

In addition to the routine monitoring activities, the Commission inaugurated Special Monitoring and Complaints Committee to handle major national violations and serve as

central committee for zonal coordination for the 2023 general elections which covered 150 days before polling day.

Table 1: Overall breaches and sanctions during the 2023 general elections

TEN ZONES						
Categories	Caution	Warning	Fine	Referral to HQTRs	Query	Total
Excessive Advert	46	112	14	12	13	197 (25.2%)
Unfair Remark	21	67	6	29	10	133 (17%)
Staff Voice	9	37	2	4	7	59 (7.5%)
Inciting Remark		18	2	3	4	27 (3.5%)
Derogatory Remark	2	17		10		29 (3.7%)
Praise Singing	1	22	1		2	26 (3.3%)
Unsubstantiated Remark	7	18		16	9	50 (6.4%)
Hate Speech		2	1	2	10	15 (1.9%)
Partisanship	3	9	1		4	17 (2.2%)
Use of Minors		5		6		11 (1.4%)
Campaign B4 Time		2		2		4 (0.5%)
Back to Back	30	27		1	7	65 (8.3%)
Hyping/Superlative in ads		8	1	4		13 (1.7%)
Fake News			1			1 (0.15%)
Unprofessionalism	4	17	1	1	1	24 (3.1%)
Indecent Content	4	6		1		11 (1.4%)
No ID in ads	11	35		3	2	51 (6.5%)
Ads in partisan programme	1	2	1	1		5 (0.6%)
Unauthorised result declaration			1			1 (0.1%)
Imbalance	1					1 (0.1%)
Hurtful archival material			3	1		4 (0.5%)
Campaign 24 hours to election		3	27	5		35 (4.6%)
Use of religion in campaign		2	1			3 (0.4%)
Sub-Total	140 (17.9%)	409 (52.3%)	63 (8.1%)	101 (12.9%)	69 (8.8%)	782 (100%)

Source: Fieldwork by NBC

The table above indicates that, a total of 782 political breaches were monitored and duly sanctioned across the country.

This means that almost each of the functional broadcast stations in Nigeria had committed at least one breach during electioneering. Out of the 782 sanctions, 409 were issued ‘warnings’ which represents 52% of the overall sanctions. Similarly, 140 ‘cautions’ were issued to violators as a reprimand representing 18% of all the sanctions imposed on violators during the 2023 general elections.

Sometimes zonal offices refer some heavy breaches to the headquarters for action. For this category, a total of 101 referrals were made representing 13%. Another sanction tool used during the election was ‘query’. Query is a fair hearing mechanism by the Commission to broadcasters possibly to assuage accusations of being an ‘arrestor, prosecutor and jury’.

This recorded 69 frequencies representing 9%. Fine was the least sanction tool meted out to violators by NBC during the elections and it has recorded 63 frequencies representing 8%. The data gathered shows that ‘excessive ads’ (political jingles that exceed the stipulated 60 seconds duration) recorded the highest sanction of 197 which represents 25% of the entire sanctions imposed across Nigeria. Followed closely is ‘unfair remarks’ with 133 sanctions representing 17%. Unfair remarks refer to unjust attacks on individuals or organizations through broadcast.

Surprisingly, the long-established breach ‘back-to-back’ political advertisements (Scheduling competing political content back-to-back) recorded 65 sanctions which is 8%. The culture of using broadcast staff to visually or vocally feature in political advertisements is still un-tackled by the regulator. It attracted 59 sanctions representing 7.5%.

The breaches have shown how unprofessionalism is gradually returning to our airwaves in spite of torrent of engagements with stakeholders particularly broadcasters by the regulator to entrench professionalism.

Table 2: Proportion of Sanctions across the 10 Zonal Offices during the 2023 general elections

Zone	No. of Stations	Frequency of breach	Percentage
Abuja	124	191	24.4%
Benin	64	11	1.4%
Enugu	99	108	13.8%
Ibadan	112	10	1.3%
Jos	58	69	8.8%
Kaduna	106	182	23.3%
Lagos	67	35	4.5%
Maiduguri	45	48	6.1%
Sokoto	34	34	4.4%
Uyo	68	94	12%
Total	777	782	100%

Source: fieldwork by the Commission

Out of the 782 breaches recorded, Abuja zone recorded 191 sanctions which is the highest number of violations in the 2023 general elections by a Zonal Office. The high frequency can be argued to have arisen from the high number of functional broadcast stations in the zone that is controlling four states and the FCT, namely, Kwara, Kogi, Niger, Nasarawa and the Federal Capital Territory.

Kaduna zone was the next in recording high number of breaches and it was not surprising being a politically volatile geo-political zone with very high voting strength, the North-West. The zone has Kaduna, Kano, Katsina and Jigawa states under it. Kano had a presidential candidate under NNPP, while Katsina had the sitting president. The zone had an avalanche of broadcast stations that produce many political programs (using *Sojojin Baka*) more than any other NBC zone. This may have greatly contributed to more violations being recorded.

The NBC zones with fewer political breaches and sanctions are Ibadan and Benin which can be attributed to having one of their sons among the leading contenders in the presidential election. It could also be due to receptivity to the trainings and sensitization programmes by the NBC and partners.

Drought in Complaint Lodgment

In Nigeria, the public are not aware that they are part of the regulatory process. The NBC is not the only body saddled to monitor erroneous broadcast content that are not in line with our norms, values and the Nigeria broadcasting Code. Section 14.2.1 of the Code states that “Any person, group of persons or institutions aggrieved, may lodge a complaint with the Commission within 14days of the occurrence of the act or omission, a complaint received after 14 days specified in 14.2.1, shall not be entertained by the Commission” (p. 179).

Despite the fact that the NBC Act empowers the public to send in their complaints, it is unfortunate to say that the public does not adequately utilize complaint mechanism. Onusi (2009) noted that Nigerians are indifferent in partaking in regulatory activities through monitoring and complaint lodgment as obtained in some developed countries.

Therefore, the public should note that they are joint partners with the NBC in weeding away content that are not in line with our laws and rules, because the Commission has been mandated by law to receive complaints.

Section 2(1) (f) of the NBC Act empowers the Commission to receive, consider and investigate complaints from individuals and bodies corporate or incorporate regarding broadcasters. The Commission does these through her relevant online channels, offices in the zones, and state offices respectively. Complaints can be sent to the Commission using the format in Section 14.1.1 of the NB Code which states that:

The format for reporting complaint to the Regulator shall be in oral or written form and must contain amongst others the “name of the broadcaster, title of the programme, date and time of the broadcast, essence of the complaint or observation” such as lack of fairness, obscenity or technical shortcomings and so on. Others include name and address, telephone number and/or e-mail as well as signature of the Complainant (The Code, 2019 p 178).

In spite of this complaint mechanism, the data available to the Commission shows that there is drought in public complaint lodgment. For example, in 2022 there were only 9 complaints based on the data received and investigated by the Commission.

Table 3: Complaint Lodgment to the Commission in 2022

S/N	NATURE OF COMPLAINT	FREQUENCY
1.	Inciting	1
2.	Unfairness	2
3.	Defamation	1
4.	Unprofessionalism	5
TOTAL		9

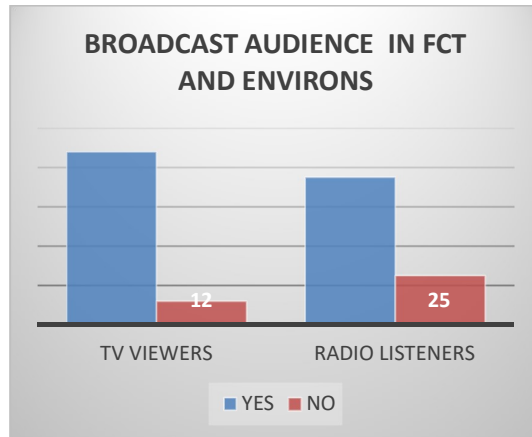
Source: NBC

Out of the 9 complaints received in 2022, 3 were from South-West, 2 from North-Central, 1 each from North-East, South-East and South-South. The Commission received one complaint on an online content which it dealt with accordingly.

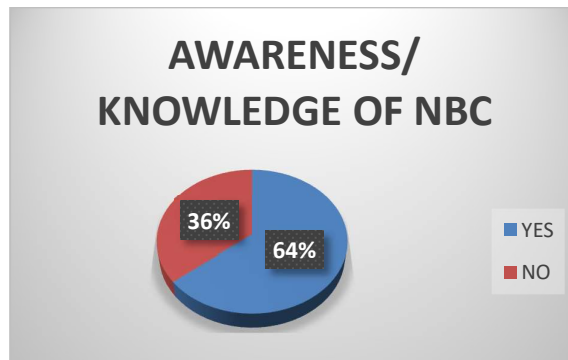
Findings on Public Awareness on Complaint Lodgment

It is important to note that 53% of the respondents were Male and 47% female. 51% have tertiary education and 41% secondary. However, 36% of the respondents are business people, 13% works with private sector, 12% housewives, 11% Civil Servants and 9% Artisans.

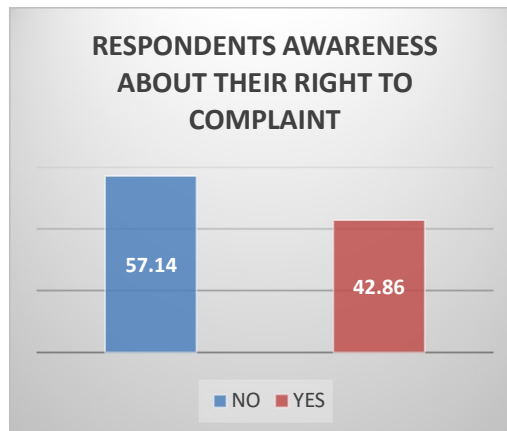
The survey indicates that the residents of FCT and Environs are active broadcast audience. Television Viewers constituted 88% while Radio Listeners accounted for 75%.



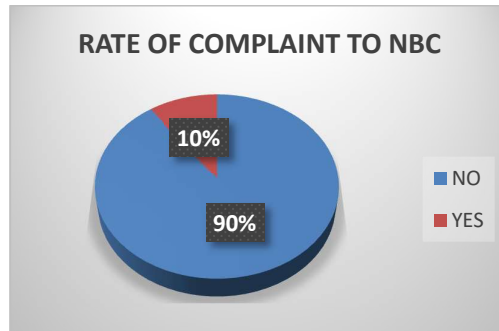
The survey found that 64% of the Residents sampled are aware of the existence of the NBC.



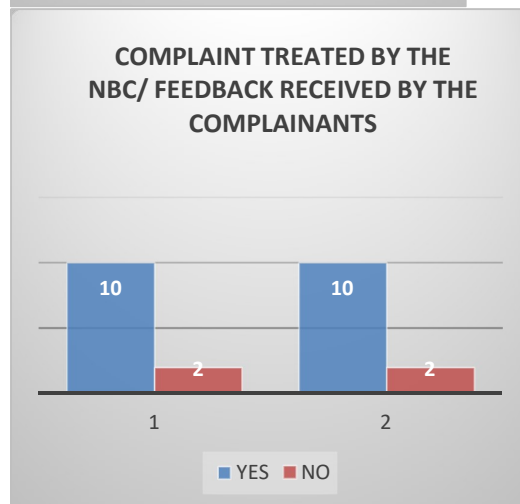
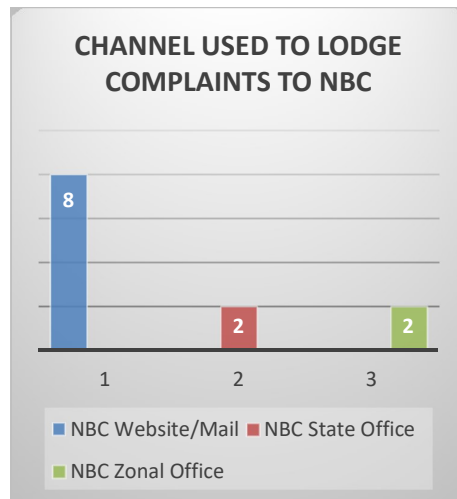
It discovered that, there was low awareness among the people on their rights to complain about broadcast related issues to NBC. This is because majority of the Respondents (57%) are not aware of their rights to make complaints. This partly confirmed why there is no public complaint culture about broadcast media.



A significant majority (90%) of the Respondents have never complained about the broadcasters. Hence, it underscored the need for intensive enlightenment of the public.



Only 12 out of the 140 Respondents have lodged complaints about Broadcasters to NBC. Of this number: 8 channeled their complaints via the NBC Website and 2 each filed their own via the State and Zonal Offices of the Commission in that respect; 10 confirmed that their complaints were treated by NBC and they have received feedback on the outcome.



The low-profile awareness of the residents and how they utilize the complaint mechanism of the Commission requires further research to holistically inquire on the reasons behind.

Conclusion

The National Broadcasting Commission exists because the place of a regulator in a multicultural society as ours cannot be over-emphasized. The Commission has done a lot in its regulatory function to protect and promote the values of the society. It has over the years protected the Nigerian airwaves from external interference, and any content that is capable of plunging the society into a state of anarchy. Based on the Act establishing the Commission, the NBC has the power to receive complaint and also act on it by a means of sanction.

Therefore, the Commission goes beyond the role of an ombudsman to see through the eyes of objectivity, balance and fairness in the broadcast content that goes into the society, knowing that an unguarded media is capable of destroying a country with many diversities, like ours, that is blessed with vast potentials and greatness. The role of the NBC is far above gratification and monetary gain.

The alarming escalation of political broadcast violations is worrisome and calls for deliberate research effort to find the motive behind recurring breaches against the provisions of the Code by broadcasters. The Commission is encouraged to partner with academic community in this regard.

In view of the escalating trend of breaches, the academic community especially communication scholars are enjoined to institutionalize the teaching and practice of the Nigerian Broadcasting Code and the NBC Act at all levels.

The drought in complaint lodgment is against the international best practice, where complaint-based regulation is the norm. Therefore, the public should feel free to lodge complaint with the Commission on the content or conduct of any broadcast station using available mechanism for accountability.

However, with the findings that 57% of respondents are not aware of their rights to make complaints and the fact that 90% of them have never complained about any broadcast or broadcaster, partly confirms why there is low public complaint culture in the country. Therefore, there is a need for NBC to embark on adequate sensitization of the public. This is in addition to maintaining an active user-friendly Websites and provision of toll free line, social media handles for mobilization, use of broadcast channels and opinion leaders to influence the public to partner with it as it regulates the industry.

The findings show that the Commission utilizes carrot approach in its sanctions more than the stick approach. Therefore, media rights groups should synergise with the Commission to instill professionalism in the industry as against unnecessary litigations.

The Nigerian public must understand that they are partners with the NBC, and therefore ensure that they work with the Commission to weed off contents that are not in line with our norms and value as a nation.

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