

# **ALTON**

**ASSOCIATION OF LICENSED TELECOMMUNICATIONS  
OPERATORS OF NIGERIA (ALTON)**

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**POSITION PAPER ON DESIGNATION OF  
TELECOMMUNICATIONS INFRASTRUCTURE AS  
CRITICAL NATIONAL INFRASTRUCTURE**

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**SUBMISSION TO HONOURABLE MINISTER OF COMMUNICATIONS &  
TECHNOLOGY**

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## 1) Introduction

The term “Critical infrastructure” is usually employed to describe assets which are essential for the effective functioning of any society or economy. These assets are identified as the basic facilities, services and installations critical to the social and economic well-being of any State. They represent utility assets or ‘public works’ which are indivisible from the efficient operational activities of any society. It is universally accepted that any nation’s health, wealth and security depend upon the production and distribution of certain goods and services. The array of physical assets, functions and systems across which these goods and services move are considered critical infrastructures. Such infrastructures are identified as the most critical to any society and are prioritized based on the level/impact of risk associated with their loss to attack or disaster.

Examples of critical infrastructure are globally accepted to include the following amongst others:

- **Electricity** generation, transmission and distribution;
- **Gas** production, transport and distribution;
- **Oil** and oil products production, transport and distribution;
- **Communications** systems
- **Water** supply
- **Agriculture**, food production and distribution;
- **Public health** (hospitals, ambulances);
- **Transportation** systems (fuel supply, railway network, airports, harbours, inland shipping);
- **Financial Services**(banking, clearing and exchanges services);
- **Security services** (police, military and civil defence).

It has been noted that in view of the pivotal role played by these assets in assuring the seamless operation of any society, the current global trend is for governments to put in place aggressive programs or agencies to oversee the protection of such Critical National Infrastructure (CNI). These protection strategies are aimed at according CNI physical and virtual protection from both man-made, physical events and acts of nature that could disrupt their provision.

CNI are complex and often interconnected, which means that a disruption in one may often lead to disruption in others. Such disruptions may be caused by any number of factors e.g. poor design, operator error, physical destruction due to natural occurrences (flood, earthquake, etc.), or physical destruction due to intentional human actions (terrorist attacks, theft, vandalism, untoward interventions etc.). Protection strategies are thus measures which are taken to guard against and/or quickly respond to these threats. Such measures are designed primarily to improve reliability and safety of CNI. They are also focused on ensuring the continuity of CNI in the face of such threats.

This paper will focus specifically on communications infrastructure as critical national assets which warrant the highest levels of protection in view of their significance to the efficient functioning of any society. In this regard, it is notable that while there may be slight variances in the lists of

identified critical infrastructures from one jurisdiction to the next, communications remains constant on the CNI list of every country which has in place a framework for CNI protection.

The importance attached to communications is appropriate in view of its particular supportive role in relation to other critical infrastructures, social and economic activities. The pivotal role played by communications cannot be overemphasised. Communications can be described as an adhesive which holds other composite systems in our society together. Communications provides the conduits through which communications between and within other sub-systems, which enable effective functioning of society at large. In this regard, ALTON notes therein that a breakdown in the communications system can lead to a breakdown in many other societal systems which depend upon communication and exchange of information to function successfully.

ALTON thus believes that the most significant component of a Critical Infrastructure Protection (CIP) strategy should be the institution of legislation which sets out the following:

- Clear definition of infrastructure to be accorded protection
- Identified threats/risks to critical infrastructure (theft, vandalism, intrusive acts of MDAs, etc.)
- Mitigation of such threats/risks
- Responsible authorities for mitigation enforcement
- Integration of CIP to identified sector infrastructures
  - Policy development procedures
  - Analysis and warning
  - Compliance
  - Response and recovery
- Definition of roles and responsibilities of stakeholders
- Rights of action of affected parties
- Severe/criminal sanctions for infractions
- Development of a National Infrastructure Assurance/Protection Plan

## 2) The Nigerian Experience

It is internationally acknowledged that communications is a powerful, progressive tool of socio-economic development. This perception has been demonstrably reinforced by the Nigerian experience since the inception of communications generally and particularly in relation to the introduction of mobile telephony services in the last decade. The boost to socio-economic development (e.g. in terms of job creation, security, social cohesion), the impact upon culture and quality of life and the contribution to Gross Domestic Product (GDP) are gains which have been recorded by the industry as a direct result of the advent of mobile telephony in Nigeria.

Sadly however, a majority of industry stakeholders have failed to recognize the inimitable role played by mobile communications in the long-term socio-economic development of the nation and instead perceive the successes of the industry as opportunity to generate short term and other immediate pecuniary benefits. This skewed perception results in undue interference in the

operations of communications networks by various strata of society, and particularly agencies of government.

On the one hand, the various Ministries, Departments and Agencies (MDAs) of Governments see an opportunity to generate revenue from the operations of telecoms operators through the imposition of illegitimate levies and taxes. Failure to yield to such illegitimate demands often results in disruptive enforcement actions by the MDAs, which go as far as forcible sealing of telecoms sites or removing components of site installations in their bid to compel compliance. Their continued intervention in telecoms operations results in network quality service impacting disruption of services, commensurate increase in operating expenses and the general cost of carrying on communications business in Nigeria.

On the other hand, the permeating philosophy amongst individual members of the public is that communications operations are 'cash cows' which should be milked to generate high returns without any consideration for the socio – economic benefits derived from the operations of the industry and the high cost of operations borne by the industry. This attitude results in disregard for communications operations and installations. The seeming lack of enlightenment on the part of the general public spurs some individuals to perpetrate intentional acts such as theft of site generators, diesel and other components of communications installations for personal interests over and above the overriding public interest. Communications sites are also very often vandalized and personnel subjected to various forms of harassment, assault, kidnapping etc. in a bid to strong-arm operators into giving cash pay-outs to these unscrupulous individuals.

In the past year alone, the Nigerian industry has recorded disruptions to its operations due to the unsanctioned activities of third parties perpetrated against communications installations. A snapshot of the gravity of the situation is provided in the matrix below.

Quarter 2011	Generator Theft (Units)	Diesel Theft (Litres)	No. Of Vandalised Sites	Incidence relating to personal injury or loss of life
Q1				
Q2				
Q3				
<b>Grand Total</b>				

ALTON believes that a shift in this apathetic perception is necessary to show that communications services are essential to the growth and development of the community and by extension, the individual subscriber. The communal mind-set needs to be altered to discern that undue interference with communications operations and installations (whether through unlawful acts of vandalism or through illegitimate imposition of taxes) ultimately harms the society itself and the welfare of the individuals in it. The reality now confronting the industry is the potential for socio-economic development of Nigeria to be stunted if requisite safeguards are not put in place to ensure that communications installations are treated with the sacrosanctity which they deserve. ALTON is of the view that the institution of a definitive framework characterising communications

operations and installations as CNI would go a long way towards reducing undue interference with same.

This is because such framework would include protection strategies which are reinforced by legislation. Where legislation is instituted to help guarantee the security of critical infrastructure, best practice indicates that such legislation would prescribe attendant and commensurate sanctions for undue interference which would serve to further deter contraventions.

ALTON and its members are of the view that the sustainability and quality of the telecoms sector in Nigeria can only be assured when legislation is introduced specifically for the purpose of protecting critical communications infrastructure. In this regard, ALTON wishes to draw the Honourable Minister's attention to similar legislation enacted to provide protection to the petroleum industry, the Petroleum Production and Distribution (Anti- Sabotage) Act No. 35 of 1975, Volume 13 CAP P12 Laws of the Federation of Nigeria 2004. This Act provides for the offence of sabotage which involves the obstruction, prevention of the distribution or procurement of petroleum products. It also extends protection to vehicles (defined to include anything adapted for the transportation of petroleum products by land, sea air which by extension includes oil pipelines) involved in the distribution and extends penalties to parties who aid, incite, counsel or procure another/other person/s to commit offences specified in this Act. The Act further proposes a primary penalty of not more than 21 years for sabotage. By extension, ALTON's seeks the Honourable Minister's support in achieving similar protection for the communications industry.

However, this paper will also present other strategies which have been confirmed by international best practice to be effective for assuring the safety of CNI.

### **3) International Best Practice and Need for Adoption in Nigeria**

Most developed as well as emerging nations of the world have come to the realization that institution of a definitive framework for implementation of strategies to defend the integrity of their CNI is key to achieving the desired objective. Examples of countries which have implemented CNI protection frameworks include the USA, UK, Germany, New Zealand, South Africa, UAE, Australia and many EU nations. The standard process for establishment and implementation of a CNI protection framework usually involves the following processes:

- I. **Dialogue between public and private sector to set up national infrastructure assurance plan:** Ownership of the categories of infrastructure designated as critical national assets is often shared between the Government/public sector and the corporate private sector. Accordingly, it has been recognized that the establishment of an effective strategy to protect critical infrastructure cannot reasonably be achieved without active collaboration between the respective custodians of the relevant installations and services. This head is of particular relevance to the Nigerian experience as the peculiar operating environment for communications is dominated by private sector players, while heavily regulated by Federal legislation and Government parastatals.

The necessity thus arises for the active involvement of both sectors in the institution of a CNI framework, as the responsibility cannot be effectively implemented by one party alone. ALTON is thus proposing a reference to the collaborative model for the delivery of a CNI protection plan and framework which will incorporate policy instruments and appropriate implementation strategies. This collaborative process is also necessary for the proper identification and designation of specific critical infrastructures, as only the lawful custodians of such assets can appropriately indicate which of their products, services, installations or systems are relevant for the purpose of the cooperation.

Desirable outcomes of such collaborative efforts would be the establishment of a CNI protection program or initiative which possesses full Government backing and the designation of a definitive Lead Agency. In this regard, ALTON wishes to commend the current efforts driven by the office of the National Security Adviser (NSA) in coordinating security efforts with the Nigerian Communications Commission (NCC) in identifying the Communications industry's critical infrastructure. ALTON notes that the current effort can reach desired fruition if the Honourable Minister lends her full weight and support to on-going efforts in this regard.

- II. **Assignment of requisite Federal funding:** International best practice indicates that a primary requirement for the success of any national infrastructure assurance plan is the designation and supply of dedicated Government funding for achievement of the objectives of such initiative. The participatory involvement of Government cannot be nominal or in ideology alone. Government must be seen to provide fiscal support, as it were. Many jurisdictions make budgetary allowances in their federal allocations for funds which are channelled to the CNI protection initiative through the designated supervisory (lead) agency. In Canada for example, 75% of the fiscal resources dedicated for critical infrastructure protection executed by the Joint Emergency Preparedness Program (JEPP) is made up of designated federal funding. The Australian Federal Budget also provides annual recurrent funding for the government's critical infrastructure protection strategy.

ALTON thus recommends a bespoke approach to meet Nigeria's local environment in the form of other fiscal incentives which could include or come in the form of subsidies, duty waivers for costs/ importation of relevant tools required to back up and protect CNI. This is not to presume that operators as the primary owners of communications infrastructure are absolved of their obligation to provide financial resources for the protection of their installations; the point for emphasis here is that no CNI protection initiative can be effectively delivered without fiscal support from Government and the public sector. In this context, Government must show support as part of its responsibility to provide for the security of its citizenry, inclusive of corporate entities such as ALTON and its members.

Furthermore, ALTON's members collectively contribute over ... to the Government coffers on an annual basis – in accrued payment of relevant levies and taxes as well as the mandatory Annual Operating Levy (AOL) remitted to Nigerian Communications Commission (NCC). It is our humble suggestion that Government should designate a specified percentage of these payments to be applied for the protection of the very infrastructure which generate revenues and make such payments possible, significantly

enables Government more effectively combat the growing security challenges and thus contribute to ensuring security of lives and property throughout Nigeria.

- III. **Designation of a Lead Agency for the Protection of telecoms infrastructure:** The accepted practice in this regard is for the Government to assign specific agencies to coordinate and collaborate with their private sector stakeholders in the implementation of relevant protection strategies on an industry-by-industry basis. An example in this regard is the US Department of Homeland Security which was set up as a cabinet department alongside other executive departments to coordinate amongst other things, critical infrastructure protection, and is a recipient of recurrent federal funding.

There is precedent to support the setting up of such a lead agency specifically for critical infrastructure protection as well as the allocation of that responsibility to an already existing agency or government parastatal. ALTON and its members would be pleased to embrace whichever model the public sector would be willing to implement in this regard, provided the lead agency exhibits conscientious commitment towards discharging its responsibility efficaciously. Furthermore ALTON suggests that in view of the coordinating role the NSA plays in national security matters such matters are best led by the NSA.

- IV. **Establishment of a legislative instrument to govern CNI protection:** In most of the above-referenced jurisdictions, the established practice is for Government to give legislative backing to the developed CNI assurance policy through the enactment of a related legislative instrument which defines the rights and responsibilities of all collaborators and stakeholders. Such legislation serves as the reference point to clearly define for the benefit of all stakeholders the specific critical infrastructures which fall within the purview of protection initiative. It also defines behaviour which constitutes threat to or unlawful interference with such infrastructure while out rightly prohibiting such unlawful behaviour. The legislation would finally prescribe requisite sanctions and remedies for any infractions under the enactment.

ALTON's position in reference to the Nigerian experience is that for as long as the operations/installations of communications operators remain unprotected by express legislation the risk to CNI will remain. ALTON is concerned that without this legislation, the industry will continue to witness the unwarranted interference with telecoms infrastructure either through the continual disruptive activities of MDAs to enforce their illegitimate revenue drives or the theft and vandalism of telecoms infrastructure perpetrated by unscrupulous individuals . ALTON believes that if there is legislation (similar to the Petroleum Production and Distribution Anti – Sabotage Act) which imposes appropriately stiff penalties (inclusive of significant fines and prison terms) upon perpetrators of unlawful interference with telecoms installations, there would be an appreciable reduction in the spate of infractions which the industry would witness.

ALTON and its members would be pleased to work with the requisite stakeholders in developing such legislative instruments or amending existing legislation to include the designation of telecoms infrastructure as CNI.

#### 4) Need for immediate action

As your esteemed office may be aware, there would appear to be a rising increase in the spate of incidents which significantly threaten the safety of lives of esteemed Nigerian citizens and security of property across the Federal Republic of Nigeria. We wish to note in particular the increasing frequency of destructive acts initiated by unknown perpetrators seeking to undermine the socio-political stability of the country at large. ALTON is highly concerned that in view of the critical significance of communications infrastructure to stability and normal functioning of any society, these structures inevitably stand out as open targets for elements seeking to disrupt the regular flow of community life.

As things stand presently, communications infrastructure already represent an easy target for factions seeking to further their own ends, either towards illicit generation of revenues or to compel submission by telecoms operators to certain other arbitrary demands. The trend is for these groups to resort to illegal and spurious “enforcement” actions through diverse agencies in their bid to extort inordinate and often illegal taxes and charges. These attempts often involve the illegal sealing of communications infrastructure, thereby disrupting essential services to the affected areas and residents. There have also been incidents involving the removal of key telecoms components from operating sites, resulting in loss of critical services and damage to such installations. ALTON confirms that, in certain instances, these unlawful acts are enforced by security operatives of the Federal Republic of Nigeria.

The Honourable Minister would agree that communications infrastructure is critical to national security and must not be interfered with without just cause. Further, ALTON believes that necessary security measures must always be taken to guarantee the ability of the industry to continue to provide uninterrupted service across the country. This need is especially imperative in view of the following serious negative implications of unsanctioned seizure or disruption of communications services:

- **National Security Concerns:** Any failure to communications infrastructure would result in the inability of Law enforcement agencies to respond to distress alerts, co-ordinate their efforts or otherwise perform their statutory functions of preventing or prosecuting crimes. This is of particular concern to ALTON, a good corporate citizen and as an association of responsible licensees, particularly in view of the heightened and fast deteriorating security situation in the country due to on-going agitations and spurious acts of terror committed by various groups within the country. In this regard, we wish to refer the Honourable Minister to the recent sanctioned shut down of communications services in the FCT and environs on 29<sup>th</sup> May 2011, during the Presidential Inauguration ceremony. Millions of affected Nigerians can attest to the widespread impact of the temporary unavailability of communications services in the affected areas. There were subsequent reports of alarm in

many quarters and apprehension over the simultaneous inability of a multitude of subscribers to access communications services. The case in point illustrates the widespread panic and disruption which could be caused by interference with communications infrastructure.

**Compromise of Public Health & Safety:** Such disruption of communications operations also compromises the capacity of emergency service agencies to attend to life-threatening public and personal emergencies such as fire, domestic or industrial accidents, medical emergencies, etc. Such disruption of communications operations also undermines the ability and capacity of Law Enforcement Agencies (LEAs) to effectively carry out their duties of protection of the country, lives, property and investments.

- **Social and Economic Disruptions:** Nigerians across all walks of life now largely depend on the availability of seamless communications services in all aspects of their social, political and economic lives. Industry, Financial services and other critical sectors of the Nigerian economy also rely on communications services as backbone support for their critical services. The preemptory shut-down of communications infrastructure in any area would lead to disruption of these critical activities, which could in turn motivate serious social unrest.

ALTON is of the view that the foregoing could serve as motivation for unscrupulous elements to target telecommunication infrastructure with the Federal Republic of Nigeria. In this regard, Honourable Minister, you would no doubt agree that it is critical that communications infrastructure across the country are accorded the highest level of protection possible at all times.

ALTON would most appreciate the Honourable Minister's support in preventing the collapse of the socio – economic, security and financial fabric of our great Country which depends a lot on the communications infrastructure which also provides the backbone for several other key sectors of the economy. We cannot therefore be too careful regarding the security and integrity of the Networks. Our members as responsible operators have raised the security around our infrastructure and taken pro active steps to ensure that our operations are conducted and operated in the most secure fashion. ALTON is however not unmindful of the possibility of criminal elements targeting key infrastructure to cause wide spread public panic and disruption to the socio economic well being of the Country. Accordingly, ALTON urgently seeks the Honourable Minister's support and has suggested recommendations in the following chapter.

## 5) Recommendations/ALTON's Prayers

ALTON wishes to seize this opportunity to enjoin the Honourable Minister on behalf of its members to kindly intervene to ameliorate the current plight of the communications industry; more so in the interest of the Quality of Service (QoS) considerations which are inevitably impacted by the disruptive effects of unsanctioned third party interference with network components. In particular, ALTON respectfully notes the following potential areas for action which would serve to promote the achievement of the objectives of a CNII protection strategy for the Communications Sector:

- I. **Championing of Government adoption of international best practice models:** Further to the earlier observation that the current global trend is for governments to put in place aggressive programmes or agencies to oversee the protection of CNI, ALTON hereby seeks the intervention of the Honourable Minister to promote awareness in Government of the need for agencies of State to actively work with the private sector to ensure that communications infrastructure are accorded the requisite care and protection dictated by their status as CNI to ensure uninterrupted delivery of critical services by telecoms networks. In this regard, ALTON believes the Honourable Minister is in the prime position to spearhead the drive for the formal classification/declaration of communications infrastructure as CNI through a policy statement from the Presidency and the Federal Executive Council. ALTON and its members would be ready to lend full support to a campaign to motivate Nigeria's Federal Executive and Legislature to formally declare communications infrastructure as CNI through the enactment of a definitive Policy and legislative instrument which will clearly delineate the protections to be accorded to telecoms installations and attendant penalties for any infractions with regard to same. Implementation of such measures would surely discourage the undue and indiscriminate interference with communications operations and installations by MDAs and delinquent individuals.
- II. **Intensive engagement of government at all levels:** ALTON has consistently sought to engage relevant agencies of government on behalf of its members with a view to achieving harmonization of the current regime of Multiple Taxation and Regulation (MTR) which the telecoms industry continues to labour under. It will be noted that majority of the disruptive acts perpetrated by MDAs upon communications sites and installations are carried out with a view to enforcing arbitrary/illegitimate demands and taxes which operators may have declined to pay. ALTON has approached the Joint Tax Board and also petitioned members of the Executive arm of government in several States to assist in this regard. We believe that such engagements would benefit greatly if they were instigated/promoted by the Honourable Minister and fuelled by the full force of her esteemed office. ALTON thus appeals to the Honourable Minister to leverage her influence and established relationships with other government agencies in pushing through an explicit campaign in Nigeria for the harmonization of the MTR regime borne by the telecoms industry and indeed the larger private sector.
- III. **Facilitation of intensive public enlightenment schemes:** ALTON is aware that a large part of the disregard with which communications operations and installations are treated stems from the general inadequacy of enlightenment on the benefits of communications to the socio-economic well-being of the Nigerian society. We reiterate our belief that a shift in this apathetic perception is necessary to show that communications services are essential to the growth and development of the community and by extension, the individual subscriber. The communal mind-set needs to be altered to discern that undue interference with

communications operations and installations ultimately harms the society itself and the welfare of the individuals in it. ALTON therefore humbly enjoins the Honourable Minister to facilitate/patronise the institution of a distinct public enlightenment scheme in the format of various consumer interaction fora which will serve as a platform to cultivate a shift in culture and the short-sighted perception of telecoms operators as 'cash cows'. If the society in general develops the understanding that telecoms is critical to the stimulation of domestic growth and that telecoms installations should consequently be venerated, we believe that the adjusted perception will ultimately reflect in the ideology of leadership of MDAs and curb the indiscriminate interference with telecoms operations. The dissemination and enlightenment of the public could be driven with the support of the Ministry of Information. ALTON again offers the full support of its members in this regard.

## **6) Conclusion**

ALTON thanks the Honourable Minister for her support thus far in addressing industry issues. ALTON thanks the Honourable Minister for her consideration of the issues raised herein and looks forward to the Honourable Minister's support and intervention to ameliorate the plight of operators and stabilize QoS.

ALTON assures the Honourable Minister of its member's commitment to the delivery of qualitative communications services in Nigeria. Please accept our sincere wishes for many more years of meritorious service to the Federal Republic of Nigeria.

**Engr. Gbenga Adebayo**  
Chairman

**Kazeem Ladepo**  
Executive Secretary