

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

DRAFT

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.

COGNISANCE 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, in terms of facilitating progressive public debates and open confrontation that encourages Nigeria's values in society.

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 and 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 and their agents in Nigeria.
- b. It also serves as a guide on steps to safeguard the security and interest of Nigerians and non-Nigerians regarding activities conducted on 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 define as a child by Nigerian law;

"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.

"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.

"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, gaming Platform, online sites for conducting commercial transactions.

"Internet Intermediary" otherwise referred to as a Platform in this Code, include, but 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" means an Interactive Computer Service Platform/Internet Intermediary whose users are more than one hundred thousand (100, 000).

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

"Misinformation" means the unintentional dissemination of false information.

"On-Demand" means any electronic service provided by means of a computer resource at the individual request of a user, subscriber, reader, or viewer.

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

"Person" means a natural person or legal person.

"Prohibited materials" means content or information objectionable on the grounds of public interest, morality, order, security, peace, or is otherwise prohibited by applicable Nigerian laws".

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

"Responsibilities of Interactive Computer Service Platforms" means obligations prescribed in this Code which Platform are required to practice and uphold in making the digital ecosystem safer.

"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 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's Platform.

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

Part I

RESPONSIBILITIES OF INTERACTIVE COMPUTER SERVICE PLATFORMS/INTERNET INTERMEDIARIES

All Interactive Computer Service Platforms/Internet Intermediaries (Platform) shall:

1. 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.
2. Act expeditiously upon receiving a Court order 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.
3. Act expeditiously upon receiving a notice from a user, or an authorised government agency of the presence of an unlawful content on its Platform. A Platform must acknowledge the receipt of the complaint and take down the content within 24 hours.
4. Act expeditiously 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 an individual. A Platform must acknowledge the receipt of the complaint and take down the content within 24 hours.
5. Disclose the identity of the creator of information on its Platform when directed to do so by a Court order. Provided that an order of this nature shall apply for the purpose of 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, child abuse, or sexually explicit material. Where the first creator of the message in question is located outside Nigeria, the first creator of that information in Nigeria shall be deemed to be the first creator.
6. Exercise due diligence to ensure that no unlawful content is uploaded to their Platform. Where a Platform receives a notice from a user or any authorised government agency that an unlawful content has been uploaded, such Platform is required to take it down and ensure it stays down. No liability shall be incurred by a Platform where such Platform has taken all reasonable steps to ensure that an unlawful content is taken or stays down.

7. 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.
8. Provide a mechanism or channel that is available all the time where a user can lodge complaints against contents that are unlawful or harmful.
9. Provide a complainant with a unique code or ticket number for tracking the progress of a complaint.
10. Inform the user or authorised government agency in writing, the findings and resolutions of the complaint and furnish the respective parties with the evidence used in the determination.
11. Make provision for verifying official government accounts and authorised government agencies subject to approval by NITDA. The account shall only be used for official purposes and NITDA reserves the right to withdraw approval by notifying the Platform in writing, stating the grounds for such action.

Part II

ADDITIONAL RESPONSIBILITIES

All 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 and summarised in simple language.
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;
 - c) is defamatory, libellous, pornographic, revenge porn, bullying, harassing, obscene, encouraging money laundering, exploiting a child, fraud, violence, or inconsistent with Nigeria's laws and public order;
 - d) infringes the subsisting intellectual property rights of another individual;
 - 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, integrity or sovereignty of Nigeria or promotes act of terrorism; and
 - h) instigates public disorder or interfere with an ongoing investigation.
3. Carry out 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 which 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 giving 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.
4. Preserve a disabled or removed content, and any related record as required by law.
5. Display a label to a disabled or removed content, stating grounds for such action.
6. Preserve any information concerning a person that is no longer a user of a Platform due to withdrawal or termination of registration, or for any other reason, as required by law.
7. Regularly inform users that access and usage to the Platform is subject to compliance with rules and regulation. Where a user fails to comply, the Platform reserves the right to terminate the user's access to the Platform.
8. Inform users whenever there is a change or update to their rules.
9. File an annual compliance report with NITDA that indicates the:
- a) Number of registered users on its Platform in Nigeria;
 - b) Number of active registered users on its Platform in Nigeria;
 - c) Number of closed and deactivated accounts in Nigeria;

- d) Number of removed content with and without notice or Court order;
- e) Number of contents put back with or without notice;
- f) Number of contents removed and reuploaded;
- g) Information on how children and adults are protected from harmful content which they may encounter;
- h) Information on the number of complaints registered with a Platform;
- i) Number of resolved and unresolved complaints;
- j) Independent awareness report on disinformation and misinformation;
- k) Number of contents taken down due to disinformation and misinformation;
- l) Any other relevant information.

Part III

LARGE SERVICE PLATFORMS

All Platforms whose users are more than one hundred thousand (Large Service Platform) shall, in addition to the responsibilities stated above:

1. Be incorporated in Nigeria.
2. Have a physical contact address in Nigeria, details of which shall be available on their website or Platform.
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, or authorised government agency with information on:
 - a) reason behind popular online content demand and the factor or figure behind the influence.
 - b) why users get specific information on their timelines.
6. Provide users or authorised government agency, upon request, with report of due process on their activities, and/or open investigation to ensure individuals are not targeted. NITDA may require a Platform whose users are less than one hundred thousand (100, 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 is that which is objectionable on the grounds of public interest, morality, order, 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. Nigerian Communications Act;
2. National Broadcasting Commission Act;
3. Nigeria Broadcasting Code;
4. Cybercrimes (Prohibition, Prevention, etc.) 2015;
5. Advance Fee Fraud and other Fraud Related Offences Act 2006;
6. Nigeria Data Protection Regulation 2019;
7. Advertising Practitioners Act 2004;
8. Sales Promotions of Nigerian Code of Advertising Practice Sales Promotion and other Right/Restrictions on practice Act 2004.
9. Terrorism Prevention Amendment Act 2022
10. NCC Consumer Code of Practice Regulations 2017
11. 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 24 hours.

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 shall:

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 indigenous academics, media organisations, journalists, civil society organisations, government agencies, and other stakeholders on the causes and implications of disinformation and misinformation in Nigeria and provide effective responses.
3. Provide independent researchers, media organisations, journalists, civil society organisations, government agencies, access to the necessary data to facilitate research in combatting disinformation and misinformation.
4. Independently organise and conduct media literacy program that educates users on critical thinking and informed decisions when they encounter false information online.
5. Collectively collaborate with indigenous media organizations, journalists, civil society organisations, authorised government agencies, and other stakeholders to organise and conduct a media literacy program educating users on critical thinking and informed decisions when they encounter false information online. Authorised government agencies and indigenous civil society organisations shall participate and facilitate in the actualisation of these programs, ensure media coverage to the society, and in case of a collective program, oversee and keep a register and report of the program.
6. Engage the services of certified factcheckers to identify information targeted to disinform or misinform users in Nigeria. Where information appears to disinform or misinform users, adequate measure should be taken to restrict access to such information and where necessary, correct or factual version of events from credible sources and alternative perspectives should be provided.
7. Where a false information is likely to cause violence, public disorder, or exploitation of a child, 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.
8. Provide users with easily accessible tools to report disinformation and/or misinformation and improve access to different authentic sources with alternative perspectives.

9. Prioritise authentic information in search, feeds, or other distribution channels.
10. Trace, expose, penalise, 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 Regulation shall be construed as a breach of the provisions of the National Information Technology Development Agency (NITDA) Act of 2007.
3. Any Platform and/or internet intermediary that is responsible for the violation of this Regulation may be liable to disciplinary measures under civil service rules, prosecution and conviction for violation of NITDA Act 2007.

DRAFT