

# Benchmac & Ince

CORPORATE NEWSLETTER



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### Editor's Note

# Getting Started

By Tochukwu Onuora

Welcome to our Q1 2023 edition of the Benchmac & Ince Corporate Newsletter.

The Nigeria election was the focal point in this quarter. The presidential election which took place on February 25, 2023 concluded with the declaration of Bola Ahmed Tinubu as the winner with over 8 million votes. The election however has turned out to be one of Nigeria's most contested elections, as the first and second runner up are currently challenging the declaration in court.

Nevertheless, the corporate world was simultaneously having its own event play out. The Nigeria economy witnessed a slow economic growth of 3.52% from 3.98% recorded last quarter, while the Central Bank increased the interest rate to 18% from 17.5%.

Furthermore, the President signed the appropriation bill into law, with a budget catering for the elections, and the removal of subsidy that will take place June 2023. There are however prospects with oil production in the Country, as the Nigeria National Petroleum Company Limited recently confirmed that Nigeria is just 200,000 barrels a day shy of the OPEC approved quota of 1,800,000 barrels per day.

Enjoy your reading!



## NIGERIAN ECONOMY



## Nigeria Economic Growth Slows as Industry and Oil Sectors Shrink

Nigeria's economic growth slowed to 3.52% in the fourth quarter 2022 from 3.98% the penultimate year as widespread flooding destroyed farms, oil production declined and industry was squeezed by rising costs. Double-digits inflation and a weaker Naira have held back Africa's biggest economy as the country recovered from the COVID-19 pandemic. [Read more](#)

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## **Nigerian unemployment rate to hit 41% in 2023 – KPMG**

KPMG has stated that the Nigeria's unemployment rate increased to 37.7% in 2022 and will further rise to 40.6%, due to the continuing inflow of job seekers into the job market.

The multinational consulting firm, in a newly released report tagged 'KPMG Global Economy Outlook report, H1 2023,' said unemployment will continue to be a challenge due to the slower-than-required economic growth and the inability of the economy to absorb the 4-5 million new entrants into the Nigerian job market every year. [Read more](#)



## **The Central Bank of Nigeria Increases Monetary Policy Rate to 18%**



The Monetary Policy Committee (MPC) of the CBN on Tuesday, 21 March 2023, increased the Monetary Policy Rate (MPR) TO 18% from 17.5%. According to the CBN governor, 10 out of 12 members of the committee voted for a moderate rise in the MPR. The Committee also debated whether to further increase the MPR to check inflation. However, they considered holding the rate to check the impact of the last five increases. [Read more](#)

## **Nigeria Conducts 2023 National Elections.**

The Nigeria National elections was conducted between February 25 and March 18, 2023, for the Presidential and National Assembly, and Governorship and State House of Assembly respectively.

A total of 18 presidential candidates contested the election which was held across the 36 states of the federation and the Federal Capital Territory (FCT), Abuja. However, four were considered major contenders: Atiku Abubakar of PDP, Bola Tinubu of APC, Peter Obi of the Labour Party and Rabiu Kwankwaso of NNPP. To be declared the winner, a candidate must score the highest number of votes and at least two-thirds of Nigeria's 36 states and the federal capital, Abuja.

The Independent National Electoral Commission (INEC) declared the candidate of the APC, Mr Bola Tinubu the winner after a keenly contested election. Other candidates are however contesting this decla-

ration among other reasons, on the ground the declared winner failed to secure 25% of the votes cast in the federal Capital Territory (FCT). [Read more](#)



## ***FG Records N7.34tn Fiscal Deficit In 11 Months – CBN***



According to figures obtained from the Central Bank of Nigeria, the Federal Government recorded N7.34tn fiscal deficit between January 2022 and November 2022. This was revealed in the statement presented by a member of the Monetary Policy Committee (MPC), Mike Obadan, at the last MPC meeting in January.

Speaking on the fiscal operations of the government, he said, "These have continued to elicit serious concerns considering the growing yearly fiscal deficits and their implications for public debt accumulation (N44.06tn as of September 2022 and excluding nearly N23.0tn Ways and Means Advances) and inflation in view of the Ways and Means Advances financing. [Read more](#)

## ***Buhari signs the 2023 Budget Appropriation Bill into Law.***

The President on 03 January 2023 signed the 2023, N21.83 trillion Appropriation Bill passed by the National Assembly into law. He stated that adequate provisions were made for the general elections holding this year. He explained that the bill was signed earlier enough to ensure speedy implementation. [Read more](#)



## ***Businesses Gradually Return to Life as Scarcity of Naira Eases***



Businesses in Nigeria are gradually returning to life as bank customers experience increasing access to cash. Unlike what was previously witnessed in the first two months of the first quarter 2023, businesses are now witnessing more patronage. The cash crunch affected Nigerian's purchasing power making it difficult to readily pay for goods and services. However, traders, workers, transporters, commuters and many others are now able to shake off the inconvenience caused by the scarcity of cash in the last few months and increase their purchasing power. [Read more](#)

## ***Supreme Court Rules CBN Naira Redesign Invalid***

Nigeria's Supreme Court has ruled that old banknotes remain legal tender until the end of the year, bringing relief to millions affected by a chaotic redesign of the naira notes. The Justices said that not enough notice was given to the public before the old notes were withdrawn. Not enough of the new notes were released, leading to widespread anger and frustration. [Read more](#)







## CORPORATE NEWS

### ***The Central Bank of Nigeria Releases Guidelines for Open Banking***

The Central Bank of Nigeria has issued operational guidelines for open banking in Nigeria to ensure stability in the nation's financial system. According to the apex bank, the guidelines were part of the Central Bank's mandate to ensure financial stability in Nigeria. The guidelines would create greater access to customer-focused data sharing between banks and third-party firms. [Read more.](#)

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### ***CBN Reviews Tenure Limits of Banks' Management, Executives***

The Central Bank of Nigeria (CBN) has revised the regulatory requirements for the tenure of Executive Management and Non-executive Directors (NEDs) of deposit money banks (DMB) and financial holding companies (HoldCos). The apex bank, which disclosed this in a circular to all banks dated February 24, 2023, titled: "Re: Review of Tenure of Executive Management and Non-Executive Directors of Deposit Money Banks in Nigeria," explained that the regulation was in line with the Code of Corporate for Banks and Discount Houses. [Read more.](#)

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### ***Telcos Migrate To Harmonized Short Codes, as May 17 deadline for Collapse of Individual Short Codes draws nearer.***

The Nigerian Communications Commission, NCC may have started to implement the long-awaited harmonization of operations in the telecom sector, beginning with the collapsing of all short codes to a uniform number across all telecommunications operators.

What this means is that from May 17, 2023, recharging mobile phones, checking credit balance for either airtime or data and all that services will be done with a uniform number irrespective of the network service subscribed to.

This appears to be the second phase of telecom industry harmonization after NCC introduced the Mobile Number Portability in April 2013. Mobile number portability (MNP) enables mobile telephone users to switch from one mobile network carrier to another and still retain their original mobile telephone numbers. [Read more.](#)

### ***CBN Issues Traction License to Secure Payment Solution.***

The Central Bank of Nigeria has issued Traction; a MSME fintech platform, a 3-in-1 license to operate officially as a payment solution provider across various payment categories. Traction became one of the first FINTECH to obtain a 3-in-1 license from CBN. According to co-founder of Traction, Dolapo Adejuyigbe, "Our focus has always been to expand and be able to cater to a wide range of business owners with our product offerings. Equipping these merchants with growth solution services is key for us at Traction. This license guarantees that we can expand beyond the city to towns to help small businesses of all types achieve their optimum performance." [Read more.](#)

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### ***Silicon Valley Bank's Closure Will Affect African Startups***

The closure of Silicon Valley Bank (SVB) has triggered panic on the African continent corporate world, and that fear is not without reason. Y-Combinator's president, Garry Tan, said on Twitter, "30% of YC companies exposed through SVB can't make payroll in the next 30 days". Y-Combinator has over 80 African startups in its portfolio, and this scare is causing investors and . [Read more.](#)

## POWER

### ***Court Tells DisCos to Give Consumers Three Days' Notice before Disconnection.***

A High Court in Lagos has mandated DisCos to give at least three working days' notice to their consumers before disconnection in a suit commenced by a Lagos Lawyer, Bolaji Ramos against Eko Electricity distribution Plc (EKEDP). The decision is based on the provisions of Regulation Four of NERC's Customer Service Standards of Performance for Distribution Companies 2007 made pursuant to Electric Power Sector Reform Act (No.6 of 2005). [Read more](#)



### ***TCN's 8 Power Transformers Arrive Lagos Port***

The Transmission Company of Nigeria (TCN) received eight brand new power transformers belonging to the TCN, under its Project Management Unit at the Apapa Port, Lagos.

The transformers comprise six (6) number 150/187. SMVA, 330/132/33kV power transformers and two (2) number 100/125MVA, 132/33kV power transformers are still at the ports as arrangement is being concluded to move the transformers. The transformers will be sent to Bauchi, Yola, Maiduguri, and Damaturu.

TCN through the EPC contractor (MBH) will move all the transformers to TCN Substations mentioned above. The project is among the World Bank funded project under NETAP.

The transformers are part of the ongoing grid expansion projects under TCN's Project Management Unit.

[Read more](#)



## ENERGY



## **FG to Abolish Petrol Subsidy Before May 29, Attributes Delay to 2023 Elections**

Minister of Finance, Budget and National Planning, Mrs. Zainab Ahmed, has said the federal government would remove the controversial petrol subsidy before the end of President Muhammadu Buhari's tenure on May 29, 2023.

Ahmed attributed the delay in removal of the subsidy, as provided for in the Petroleum Industry Act (PIA) 2021, to the 2023 general election and the forthcoming national population census.



## **Buhari flags off Oil Exploration in Nassarawa**

President Buhari on 28 March 2023 flagged off oil exploration activities in Nassarawa, North Central Nigeria. The President called on the Nigerian National Petroleum Corporation and its partners to do everything possible to mitigate the environmental impact of oil exploration activities. On his Twitter page, he stated "the spud-in of the Ebenyi-A Well will ultimately deliver outcomes that benefit surrounding communities, lead to greater prosperity for all Nigerians, & enhance our overall energy security". [Read more](#)

## **FG May Begin Gradual Subsidy Removal in April.**

The Federal Government of Nigeria may start gradual subsidy removal from April 2023. This was made known by the Minister of Finance, Budget and National Planning during an interview with ARISE TV on the sidelines of the World Economic Forum in Davos, Switzerland. The Minister also said that all the contestants to the country's general elections which was held in February 2023 are in agreement on the removal of the subsidy. According to the World Bank and the International Monetary Fund, the removal of fuel subsidy is one of the fiscal reforms needed to change Nigeria's development outcomes, which are currently severely constrained by the inefficient use of resources. [Read more](#)

## **NNPCL Confirms Rise Of Oil Production To 1.6 Million BPD**

The Nigerian National Petroleum Company Limited (NNPCL) has confirmed that the country's oil production has risen to 1.6 million barrels per day, a few numbers short of the 1.8 million bpd quota allocated by the Oil Producing Countries Organization (OPEC).

Revealing this at a meeting of stakeholders in the oil and gas industry, called to discuss the challenges of crude oil theft and losses affecting the oil and gas industry, the Group Chief Executive Officer of NNPC, Mr Mele Kyari, said that the rectangular security approach, comprising NNPC and Partners, Regulators, Government Security Operators and the Communities, boosted by the adoption of technology, ensured the recovery of production from what it was in July 2022 to 1.67 million barrels per day. [Read more](#)



## INFRASTRUCTURE

## **FEC approves N454bn for Kano-Niger Republic rail, others**

The Federal Executive Council, on Wednesday March 22, 2023, approved the sum of N453.90bn for the procurement of rolling stock, operation and maintenance equipment for the Kano-Maradi standard gauge rail line currently under construction.

The amount also includes N510.93m meant for procuring four customized fire service/search and rescue vans in seaports at Port Harcourt, Lagos Port Complex, Tincan Island port and the Marina headquarters of the Nigerian Ports Authority.

Kicked off in 2021, the 248km rail line will traverse Kano and other cities such as Kazaure in Bauchi State, Daura and Mashi in Katsina State; Dutse in Jigawa State, the border town of Jibia, before terminating in Niger Republic's trade and agricultural hub of Maradi.

[Read more](#)



## **President Buhari Commissions the Lagos Blue Line Rail**

President Muhammadu Buhari, on January 24, 2023, officially, commissioned the first phase of Lagos Blue Line Rail system from Marina to Mile-2 axis of the state. He also unveiled the John Randle Centre for Yoruba Culture and History, Onikan, in Lagos, which fits into urban regeneration project at the heart of La-

gos Island. [Read more](#)

## **Edo, FG to Begin Construction of N8 billion Jattu Dam in Edo State.**

The Edo State Government in collaboration with the Federal Government is set to begin the construction of Jattu Dam in Etsako West Local Government Area in Edo State. The project is touted to provide portable water for the residents and to enhance farming all year round. The Governor has said that the project would improve productivity in the area. The Edo State Government will underwrite 25% of the project which is roughly N2 billion. [Read more](#)

## **Afreximbank Provide-USD\$350,000 for Nigeria's In-land Waterways Development.**

African Export-Import Bank has provided a grant of \$350,000 for the development of Inland Waterways along the Lower River Niger. The fund is to facilitate the movement of goods using navigable waterways thereby improving intra-African trade. A major milestone in unlocking the potentials of the Nigerian Inland Waterways was recorded in March 16 2023 when the Minister for Transportation, Mr. Mu'azu Sambo, unveiled the navigational charts of the Lower River Niger. The Minister commended Afreximbank for their support towards the project. [Read more](#)

## TAXATION



## **The Federal Government Removes Tax On Calls And Data**

The Federal Government has announced the removal of its proposed five per cent excise duty on telecommunication services. The government announced that this was in line with the recommendations of a committee, the Presidential Review Committee on Excise Duty in the Digital Economy Sector, which was constituted to review the implementation of excise duty in the telecom sector. [Read more](#)



## **Federal Government to Grant N5.5TN Tax Waivers In 2023**

The Federal Government has budgeted N5.51tn for tax expenditures in 2023. tax expenditures are a departure from the “normal” tax code that lowers the tax burden of individuals or businesses, through an exemption, deduction, credit, or preferential rate. [Read more](#)

## **Maritime sector to Witness Tougher Tax Regulations in 2023 Says Experts**

Financial experts have predicted that the Nigerian maritime sector could witness tougher tax regulations as the Federal Government targets up to N500 billion from spectrum fees and other new levies that would affect businesses involved in shipping. This was revealed by experts at a virtual breakfast meeting organized by the Nigerian Chamber of Shipping (NCS) recently, themed: “Nigeria’s 2023 Economic Outlook: Special Focus on Maritime Shipping Industry.” [Read more](#)

## **Shell Companies in Nigeria Paid the Nigerian government \$4.5bn in production entitlements, royalties, taxes.**

Shell companies in Nigeria have confirmed that they paid the Nigerian government \$4.5 billion in production entitlements, taxes, royalties, and fees. The information is contained in a report showing payments made by shell in 25 countries with Upstream operations. According to the report, production entitlements accounted to over \$3 billion of the payments. [Read more](#)



## LEGISLATION WATCH

## **Buhari Signs 16 Constitution Amendment Bills; States Can Now Generate, Distribute Electricity, Own Railway.**

President Muhammadu Buhari has assented to 16 bills that have altered some provisions of the 1999 Constitution as amended. The 16 bills were among the 35 that the Ninth National Assembly forwarded to the President in January, after a spell of legislative passage and the 36 State Houses of Assembly affirmation as required by the constitution.

Some of the constitutional amendments introduced include allowing states in the country to generate, transmit, and distribute electricity in areas covered by the national grid, provision for timeframe for the submission of the names of ministerial or commissioner nominees to the National or State assembly within two months of inauguration of President or Governor, financial independence for State Houses of Assembly and States' Judiciary amongst others.

[Read more](#)

## **President Buhari Signs the Copyright Act 2023**

The long-awaited Copyright Act has been assented to by President Buhari on 23 March 2023. The objectives of the new law, as outlined in section 1 are to:

- a. protect the rights of authors and ensure just rewards and recognition for their intellectual efforts;
- b. provide appropriate limitations and exceptions to guarantee access to creative works;
- c. facilitate Nigeria's compliance with obligations arising from relevant international copyright treat-

ties and conventions; and

- d. enhance the capacity of the Nigerian Copyright Commission for effective regulation, administration, and enforcement."

Though the Act adopts most of the provisions of the old Act, one of the key focus on the new Act is the protection of Digital Works. The most remarkable way the Act did this was to expand the definition of the copy of a work to include digital copies.

### **Digital Works**

Under the new Copyright Act, the right to usage of digital works is now protected as copyright owners are now granted the exclusive right to publicize their works through a wireless/online means or platform in such a way that members of the public can only access such works from the platform and a time determined by the copyright owners. The Act also further ensures that such works are not threatened by any removal, deactivation, decryption or bypass of any protective measure put in place by the copyright owner to protect the work. Therefore, media contents should not be copied, republished, reproduced or used without explicit consent from the creators. Consequently, platforms who bypass security software in order to gain access to music, documents or to provide movie streaming services without the authorization of the copyright owner commit a violation and therefore liable to penalties under the Act. The Act goes further to prohibit the manufacture, sale, purchase, distribution or use of any device, technology or service that can be used to circumvent protective measures put in place for copyrighted works.

A copyright owner can now issue a notice of infringement to a relevant service provider of digital platform, requesting a take down or deactivation of a link to any infringing content hosted on its systems or network; the service provider is obliged to take down such infringing content if the continued keeping of such content cannot be justified. The Nigerian Copyright

Commission is similarly vested with a block or disable power to the access of any content, link or website hosted on a system or network, which it reasonably believes to infringe copyright.

### **Audivisual Rights.**

Another way the new Copyright Act protects digital works is through the removing of the now outdated cinematograph works category of protectable works and renaming same Audiovisual works. Apparently, this is taking cognizance of the nuances introduced by the internet, technology and content creation.

### **PLWDs Inclusiveness.**

The Act also brought in attribute of inclusiveness for Persons Living With Disabilities. It makes provisions for authorized persons to reproduce a protected work for PWLDs without getting the consent or approval of the original owner of the work. This is a novel provision not similarly contained in the old Act.

### **Frontiers of Moral Rights.**

Under the old Copyright Act, the right of a person to be attributed with the creation or ownership of a work otherwise known as the moral right is inalienable. It exists even at the death or the cessation of the economic rights of the owner in the work. Under the new Copyright Act, the Moral right may terminate upon testamentary disposition or operation of law. Similarly, the right may also expire upon the expiration of the copyright in the work.

### **Maker vs Commissioned owner claims dichotomy in Artistic works**

The old Copyright Act created a gap where the ownership of a photography or artistic expression in artistic work is vested on the maker by default. Consequently, the commissioned owner usually felt hard done by whenever he is prevented from exercising acts of ownership unless there is an existing contractual stipulation to the contrary. The new Act has now cured this injustice to grant commissioned owner ownership on a non-exclusive basis to the photographic and artistic expressions.

There are also other introductions made by the Act; for example the grant of ownership rights for collective works for the party majorly influential and initiating the work; the protection of folklore from commercial appropriation beyond their customary and traditional context; and the performance right in audiovisual

broadcast of a performer to share in any payment made to the performer who arranged for the performance or communicate same to members of the public.

## **The President Assents to the Business Facilitation Act**

On the 13 February 2023, President Muhammadu Buhari signed the Business Facilitation (Miscellaneous Provisions) Bill into Law in order to increase the ease of doing business in Nigeria and to tackle bureaucratic constraints. According to the Special Adviser to the President, Ease of Doing Business and Secretary to the Presidential Enabling Business Environment Council (PEBEC), Dr Jumoke Oduwole, the Law will facilitate the growth of businesses, particularly the micro, small and medium-sized enterprises in Nigeria.

The Law amends 21 business related laws which include the Trademarks Act, the Companies and Allied Matters Act, Investment and Securities Act, Foreign Exchange (Monitoring and Miscellaneous Provisions) Act. [Read more](#)

**IP WATCH*****Service Marks, Colours and Packaging now protected by Nigeria Trademark Act.***

Following the amendment of the Trademark Act by the Business Facilitation Act, the Nigeria Trademark Act has now introduced several changes to the definition of Trademarks.

The Business Facilitation Act introduced some amendment to change the definition of Trademark Act to now include Services. Similarly, it will also now allow the registration of product shapes, packaging, and colours in a trademark application.

***President Muhammadu Buhari signs Copyright bill into law.***

The President on the 17 March 2022 signed the Copyright bill passed by the National Assembly into Law. The Copyright Act 2022 repeals the Copyright Act, Cap C28, Laws of the Federation of Nigeria, 2004. [Read more](#)

***Trademarks Registry Reassure Stakeholders of Improved Service DELIVERY.***

The Registrar of Trademarks has reassured stakeholders that the Registry is working towards improving the services at the Registry in 2023. This will include the completion and upgrade of its new online filing platform and ensuring that the officials at the Registry diligently attend to the needs of stakeholders so that all works are completed timeously. The Registrar made this remark at a session organized to welcome back stakeholders and agents from the festive season on 19 January 2023.

- Furthermore, the Registry also set up a committee to
- commence the drafting of a Practice Direction for Opposition Proceedings at the Registry.

***International Trademarks Association (INTA) holds Annual General Meeting in Singapore.***

The INTA Annual General Meeting will hold this year in Singapore at the Sands Expo and Convention Center from May 16- May 20 2023. Participants and indeed trademark practitioners look up to the conference every year to widen their horizon on the trademark developments globally and the nuances being introduced in trademark practice.