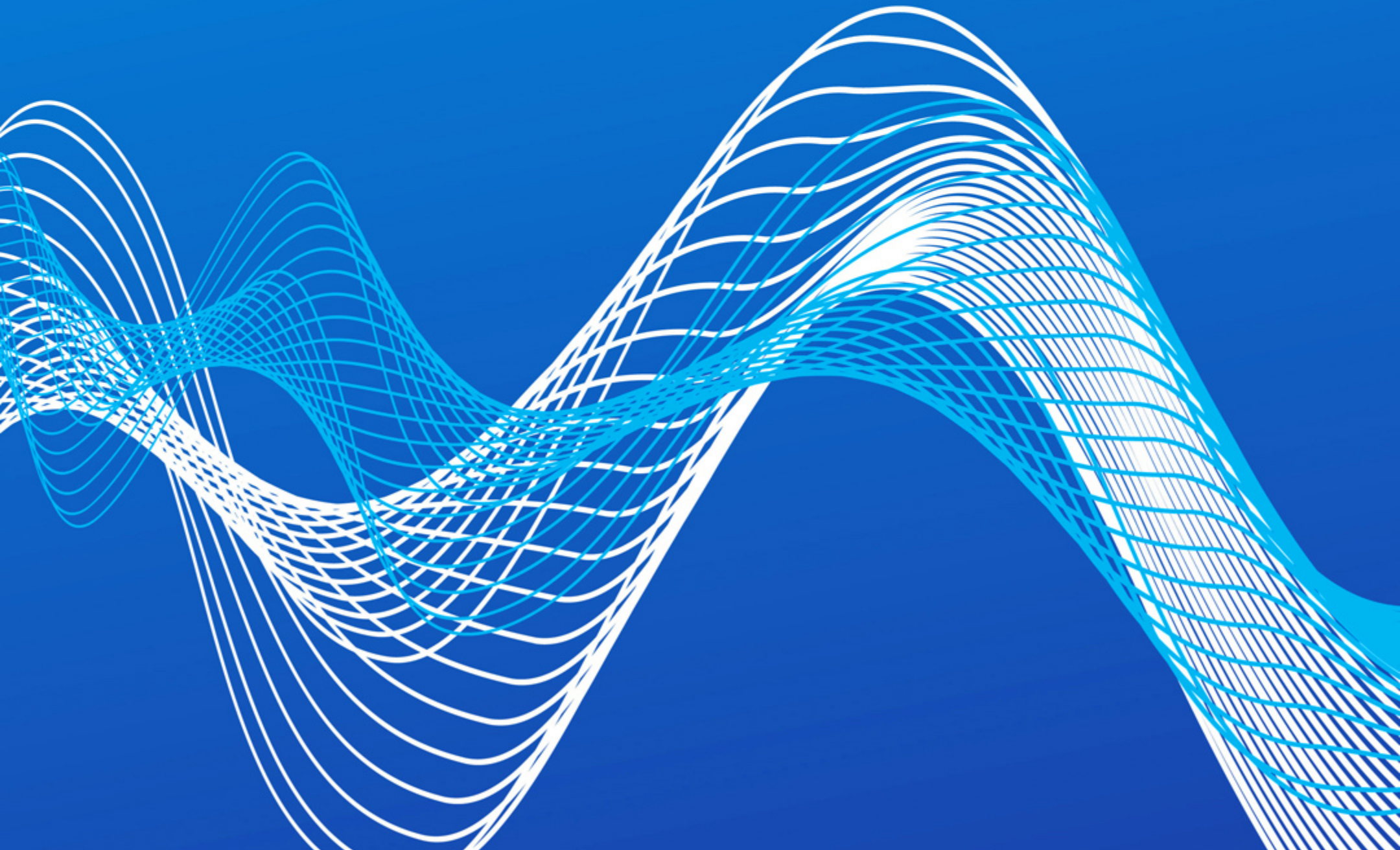




DUALE, OVIA &
ALEX-ADEDIPE

Spectrum Trading in Nigeria



Introduction

The radio-frequency spectrum is a continuous range of electromagnetic wave frequencies up to and including a frequency of 420 terahertz. Radio-frequency spectrum is the radio frequency allocated to telecommunication and wireless communication. Generally, the Nigerian Communications Commission (NCC) and The Nigerian Broadcasting Commission (NBC) regulate the use of radio frequency and wireless communication in Nigeria.¹

Radio-Frequency Spectrum Licensing and Regulation in Nigeria

NCC has the sole and exclusive power to manage and administer the radio frequency spectrum for the communications sector and grant licences for the use of the radio frequency spectrum.² Consequently, it is an offence to transmit on any part of the radio frequency spectrum without a license issued by NCC.³ It is noteworthy that Nigerian Broadcasting Commission manages and administers radio frequency for the broadcasting sector⁴.

NCC may assign a part of the radio frequency spectrum in accordance with the National Frequency Plan by one or a combination of several methods including first come, first served' auctions, tender, automatic assignment or at a fixed price.⁵

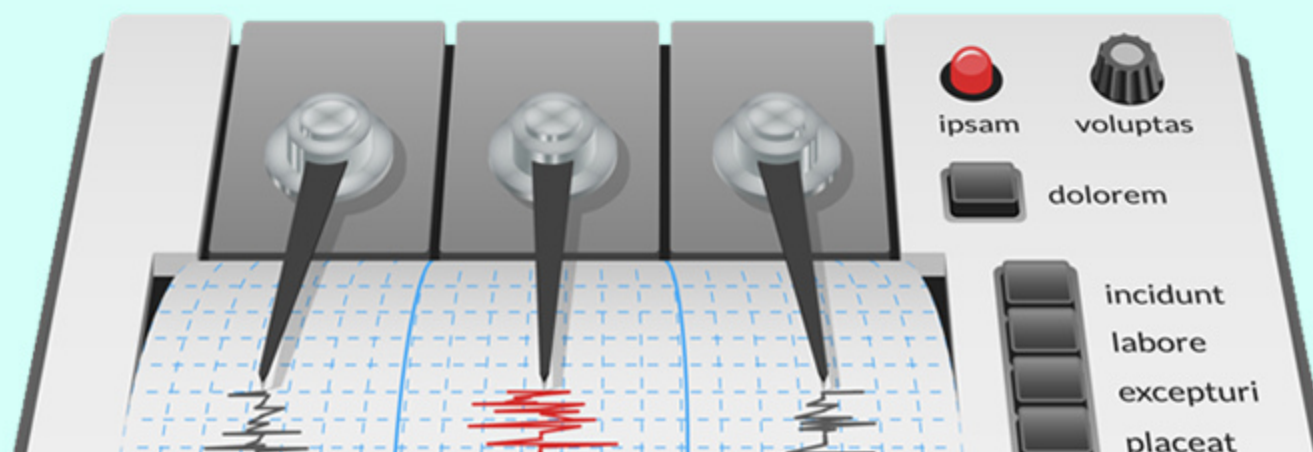
¹ Section 6 Wireless Telegraphy Act 2004

² Section 121 Nigerian Communications Act 2004

³ Section 122 Nigerian Communications Act 2004

⁴ Section 6 Wireless Telegraphy Act 2004

⁵ Section 123 Nigerian Communications Act 2004



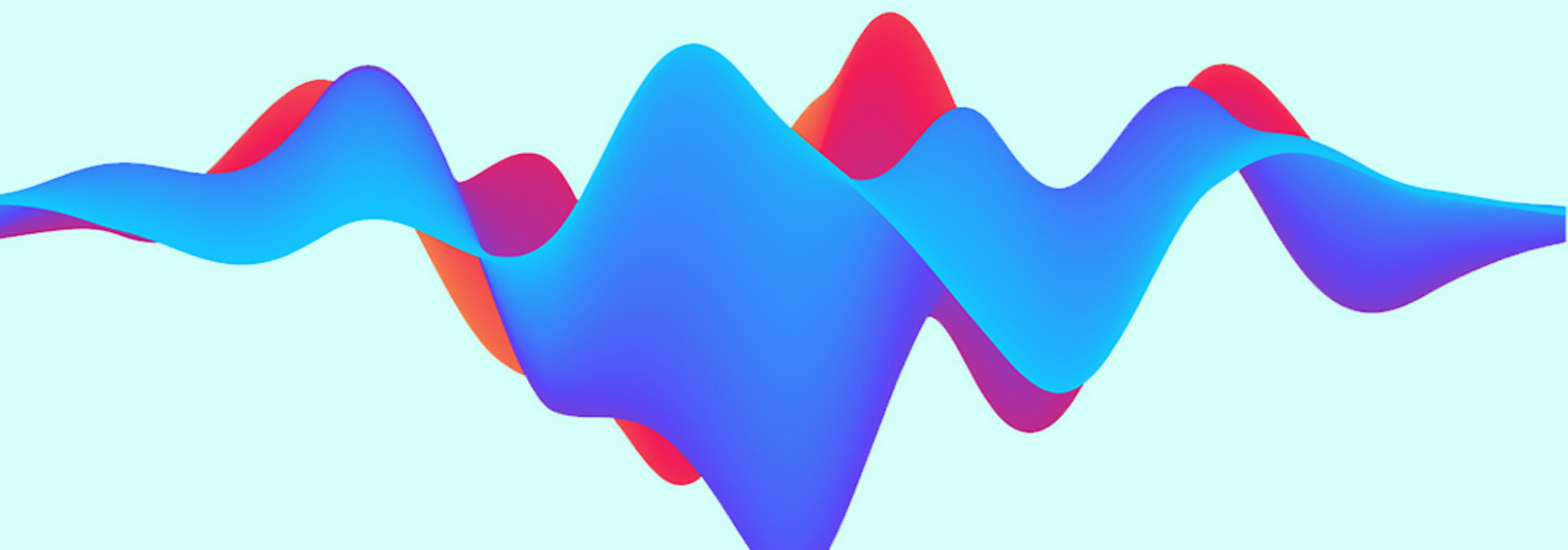
Trading of Radio-Frequency Spectrum

The grant of a radio frequency spectrum licence is personal to the service provider. The trading, transfer, leasing or sharing of a radio frequency license with a third party, including the licensee's subsidiary or affiliates, without the prior consent of NCC is prohibited.⁶ Consequently, NCC passed the Spectrum Trading Guideline (the "Guideline") to facilitate the optimal use of the radio frequency spectrum to provide an enabling environment for the growth and development of the telecommunication industry for the benefit of all stakeholders. The transactions covered by the Guideline are spectrum transfer, spectrum leasing and spectrum sharing.⁷

A Licensee will be eligible to trade and participate in the Secondary Market for any eligible radio frequency spectrum licence if the following criteria are met:

⁶ Paragraph 5.6 Spectrum Trading Guideline 2022

⁷ Paragraph 3.1 Spectrum Trading Guideline 2022



- I. The buyer must be a licensee of NCC. Where an intending buyer does not have the requisite individual operating Licence that permits access radio frequency spectrum, it will be required to obtain one before it can acquire the radio frequency spectrum.
- II. The Board of Directors of the seller and buyer have passed resolutions consenting to the transaction. These resolutions shall be submitted to NCC together with an application for radio frequency spectrum trading.
- III. The seller must have held the radio frequency spectrum for a minimum of 2 (two) years.
- IV. Where applicable, the seller must have achieved at least 25% of the roll-out obligation specified in the radio frequency spectrum licence.
- V. Any radio frequency spectrum licence that is to be traded must still have a validity period of at least one year before the expiration of its tenure. Based on the above, radio frequency spectrum licences that have a one-year tenure are not eligible for trading.
- VI. Both the seller and buyer must be in good regulatory and financial standing with NCC consistently for a minimum of two (2) years prior to the time of the trading.
- VII. NCC will take steps to ensure the sale price reflects the fair market value of the radio frequency spectrum at the time of trade.⁸

⁸ Paragraph 4.4 Spectrum Trading Guideline 2022

Where in the considered opinion of NCC, a transaction will negatively impact competition and other regulatory considerations, NCC may at its discretion conduct a public or private inquiry in respect of an application for spectrum trading.⁹

Conclusion

Efficient spectrum management is crucial for smooth wireless services, interference prevention, and technological innovation in Nigeria. NCC, as the primary regulatory authority, plays a pivotal role in ensuring the effective utilization of this limited and valuable resource for the benefit of various sectors in the country.

⁹ Paragraph 5.5 Spectrum Trading Guideline 2022

