

Nigeria's Freedom of Information Act (FOIA) (2011)

Compliance Assessment Report 2017

Introduction

As part of its activities to mark the 2nd Edition of the celebration of the Universal Access To Information (ATI) Day every 28th September as designated by UNESCO, Right To Know (R2K), Nigeria has released with the support of MacArthur Foundation, a *Compliance Assessment Report 2017*, an **update** edition of the initial 2016 Report. The aim of the Reports is to assess or evaluate the compliance performance of public institutions against two specific sections of the Act; namely, Section 2(3 &4) relating to the provision on ***Proactive Disclosure***—a term that describes the duty of Public institutions as defined by the Act to willingly publish, disseminate, update and review information on their initiative without a request --; and Section 29 (1,2 &3) obligating an ***FOI Annual Submission*** to the Office of the Attorney-General of the Federation (AGF) on or before every 1st of February—i.e. a report covering all FOI related matters from the preceding fiscal year. The reports represent such model-approach and contribution that does not only envisage to *name and shame*, but also focus on bringing to the fore genuine, good and progressive stories from government on access to information strengthening transparency, accountability and service delivery in the country.

Methodology

The report employs two distinct methods to arrive at its findings. The first, method relating to the assessment by 2016 of proactive disclosure under **Section 1** of the Act, sourced information available on the **website** of **54 public institutions** reviewed. Ratings between **below, average to high** were applied with corresponding percentages and a **NIL** to either situation in which the information expected on the website is not available at all or the site could not be reached or found. The selected public institutions were those that made submission of their FOI Annual report to the Office of the Attorney General of the Federation with an **assumption** that they would as well achieve quite a level of adherence to expected proactive disclosure information in their respective site. The second, an assessment on the level of compliance to **Section 29**, analysed the submissions the AGF's

office recorded in 2017 and, a comparison with submissions made from 2014-2016 to ascertain the consistency of compliance to Section 29 of the FOIA.

Findings (table recapitulating the findings below)

Overall, there is a progress in 2017 with FOI informed proactive disclosure and FOI Annual Submission to the AGF Office. Reassuringly, A State institution in Ebonyi (**AKANU IBIAM FEDERAL POLYTECHNIC, UNWANA, EBONYI STATE**) has consistently complied for 2 years to annual FOI submission to the Office of the Attorney General of the Federation (AGF) Office.

- **On Proactive Disclosure**, the Bureau of Public Service Reforms (BPSR), Federal Ministry of Justice (FMOJ), and Nigeria Extractive Industries Transparency Initiative (NEITI), and the Nigerian Electricity Regulatory Commission (NERC) scored high in their level of disclosure against the 40 categories/classes of information under Section 2 of the FOI Act;
- **On Annual Submission**
 - Year 2017 recorded **54 submissions** against 44 in 2016 which represent a little increase of 10 institutions. This slight increase still remains a far cry against the backdrop of over 800 Ministries, Departments and Agencies (MDA's) in Nigeria;
 - Furthermore, there were **11 institutions¹** that have been consistent from 2014 till date (2017) in submitting FOI Compliance Report to AGF Office;
 - Public engagement with MDA's as reflected in the AGF Report (collation of individual MDA FOI annual submission): **33 (61%) MDA's** out of 54 received information requests from the public. The percentage of engagement has consistently been above 50% (from 2014 till date), 2016 recorded a 64% which means there is a reduction compared with the 61% of 2017. The problem relates to the volume/number of engagement; most institutions received less than 10 information request in one year except a few like; EFCC (19), Nigerian Electricity Regulatory Commission (18), BPSR (15), CBN (44), Legal Aid Council (65), Ministry of Budget and National Planning (77), Akanu Ibiyam Federal Polytechnic, Uwana,

¹ Federal Ministry of Justice, National Youth Service Corp, Federal Airports Authority of Nigeria, National Automotive Design and Development Council, National Agency for Prohibition of Traffic in Persons, Nigerian Press Council, Nigerian Airspace Management Agency (NAMA), Central Bank of Nigeria, Federal Road Safety Commission, National Pension Commission and Nigeria Communication Commission.

Ebonyi (54), Nigerian Railway Corporation (18) and the Securities and Exchange Commission (13).

Recommendations

- There is need for a mechanism for both reward and punitive measures to encourage implementation and compliance with the FOI Act as it is the case with any other Law;
- The Attorney-General of the Federation as the only oversight institution obligated to ensure the effective implementation of the FOI Act should intensify promoting, monitoring and protecting the right to access records and information. The Federal Ministry of Justice should also take further innovative steps including naming and shaming, award issuance to encourage public institutions to comply with the provisions of the Act;
- FMOJ/AGF should facilitate the way for public institutions to emulate BPSR, NEITI, FMOJ by developing and operating robust electronic FOI Portals to facilitate their daily duties, optimise disclosure and public engagement, so as to ensure transparency and accountability in the country;
- Civil society and the public at large are encouraged to use the few electronic portals now available to mobilise requests for public information and record, and use such data to strengthen accountability and better service delivery in the country.





Conclusion

There is slight progress in the implementation and compliance with the provisions of the Freedom of Information Act in Nigeria as exemplified by the Bureau of Public Service Reforms (BPSR), Federal Ministry of Justice (FMOJ), and Nigeria Extractive Industries Transparency Initiative (NEITI) which went extra mile to develop and begin operating an electronic FOI Portal on their respective website to effectively achieve proactive disclosure and respond to information requests. This is as a result of the collaborative engagements by R2K, Nigeria with these three public institutions to deepen FOI implementation with support from MacArthur Foundation.

The next Report is expected on 28th September 2018.















Table Recapitulating The Findings


The finding is contained in three rows. The first represents the list of public institutions that made submissions to the Office of the AGF in 2017. The second represents the level of proactive disclosure on the website of each institutions based on the various categories of information mandated under Section 2 of the FOI Act to be proactively disclosed by public institutions. The third row contains information on the consistency in compliance to the submission of FOI annual report to the office of the AGF; with all results presented using the indicators below:







-  2014-2017 (4 Submissions)
-  3 SUBMISSIONS
-  2 SUBMISSIONS
-  1 SUBMISSION

S/N	PUBLIC INSTITUTIONS THAT MADE SUBMISSIONS IN 2017	LEVEL OF PROACTIVE DISCLOSURE	CONSISTENCY IN SUBMISSIONS OF ANNUAL REPORT TO THE A.G
1	FEDERAL MINISTRY OF JUSTICE	HIGH	
2	CUSTOMARY COURT OF APPEAL (FCT)	BELOW AVERAGE	
3	OFFICE OF THE ACCOUNTANT GENERAL OF THE FEDERATION	AVERAGE	
4	ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)	AVERAGE	

5	NIGERIAN ELECTRICITY REGULATORY COMMISSION	HIGH	
6	FEDERAL COLLEGE OF EDUCATION (TECH) GOMBE STATE	SITE NOT FOUND	
7	TEACHERS REGISTRATION COUNCIL OF NIGERIA	AVERAGE	
8	NIGERIAN MARITIME ADMISNISTRATION AND SAFETY AGENCY	AVERAGE	
9	FEDERAL MINISTRY OF TRANSPORT	SITE NOT RESPONDING	
10	NATIONAL YOUTH SERVICE CORPS	AVERAGE	
11	FEDERAL AIRPORTS AUTHORITY OF NIGERIA	BELOW AVERAGE	
12	NATIONAL PRIMARY HEALTH CARE DEVELOPMENT AGENCY	BELOW AVERAGE	
13	DEBT MANAGEMENT OFFICE	ABOVE AVERAGE	
14	NIGERIAN EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI)	HIGH	
15	NATIONAL AUTOMATIVE DESIGN AND DEVELOPMENT COUNCIL	BELOW AVERAGE	
16	FEDERAL UNIVERSITY OF TECHNOLOGY, MINNA	BELOW AVERAGE	
17	FEDERAL UNIVERSITY, DUTSIN-MA, KATSINA STATE	BELOW AVERAGE	
18	SUPREME COURT OF NIGERIA	BELOW AVERAGE	

19	NATIONAL TEACHERS INSTITUTE, KADUNA	AVERAGE	
20	NATIONAL BOARD FOR TECHNOLOGY INCUBATION, F.C.T	SITE NOT RESPONDING	
21	NATIONAL COUNCIL FOR ARTS AND CULTURE	BELOW AVERAGE	
22	RURAL ELECTRIFICATION AGENCY	ABOVE AVERAGE	
23	BUREAU OF PUBLIC SERVICE REFORMS (BPSR)	HIGH	
23	NATIONAL INFORMATION TECHNOLOGY DEVELOPMENT AGENCY (NITDA)	ABOVE AVERAGE	
25	NATIONAL AGENCY FOR PROHIBITION OF TRAFFIC IN PERSONS	AVERAGE	
26	FEDERAL INLAND REVENUE SERVICE (FIRS)	BELOW AVERAGE	
27	NIGERIAN PRESS COUNCIL	BELOW AVERAGE	
28	SMALL AND MEDIUM ENTERPRISE DEVELOPMENT AGENCY OF NIGERIA (SMEDAN)	SITE NOT RESPONDING	
29	NIGERIAN AIRSPACE MANAGEMENT AGENCY (NAMA)	BELOW AVERAGE	
30	CENTRAL BANK OF NIGERIA	AVERAGE	
31	REVENUE MOBILIZATION ALLOCATION AND FISCAL COMMISSION	AVERAGE	
32	NIGERIAN EXPORT PROMOTION COUNCIL	AVERAGE	

33	NIGERIAN INSTITUTE OF ADVANCED LEGAL STUDIES	AVERAGE	
32	NIGERIAN SECURITY PRINTING AND MINTING PLC	BELOW AVERAGE	
35	FEDERAL ROAD SAFETY COMMISSION	ABOVE AVERAGE	
36	FEDERAL UNIVERSITY OF TECHNOLOGY, AKURE	AVERAGE	
37	LEGAL AID COUNCIL	ABOVE AVERAGE	
38	NATIONAL PENSION COMMISSION	AVERAGE	
39	INFRASTRUCTURE CONCESSION REGULATORY COMMISSION	AVERAGE	
40	UNIVERSITY OF BENIN TEACHING HOSPITAL	AVERAGE	
41	MINISTRY OF BUDGET AND NATIONAL PLANNING	ABOVE AVERAGE	
42	FEDERAL CHARACTER COMMISSION	AVERAGE	
43	AKANU IBIAM FEDERAL POLYTECHNIC, UNWANA, EBONYI STATE	BELOW AVERAGE	
44	NIGERIAN COMMUNICATION COMMISSION	AVERAGE	
45	CONSUMERS PROTECTION COUNCIL	ABOVE AVERAGE	
46	FEDERAL MINISTRY OF POWER, WORKS AND HOUSING	BELOW AVERAGE	
47	NIGERIAN RAILWAY CORPORATION	AVERAGE	

48	NATIONAL POPULATION COMMISSION	BELOW AVERAGE	
49	SECURITIES AND EXCHANGE COMMISSION	AVERAGE	
50	INDEPENDENT NATIONAL ELECTORAL COMMISSION	AVERAGE	
51	OPTOMETRISTS AND DISPENSING OPTICIANS REGISTRATION OF NIGERIA	SITE NOT FOUND	
52	CENTRE FOR MANAGEMENT DEVELOPMENT	BELOW AVERAGE	
53	NATIONAL FILM AND VIDEO CENSUS BOARD	ABOVE AVERAGE	
54	NATIONAL UNIVERSITIES COMMISSION	AVERAGE	