



STREAMSOWERS & KÖHN
BARRISTERS, SOLICITORS AND ARBITRATORS

FROM POLICY TO PRACTICE: *Demystifying Nigeria's Ministerial Approval Process for the Acquisition of Oil Assets*

 Ebook



Contents

About Us	3
Our Practice Areas	4
Address to Participant	5
Meet our Panellists	6
The Discussion	7-28
Question & Answer	29-42
Final Address	43



About Us

Streamsowers & Köhn (SSK) is a leading Nigerian law firm renowned for delivering innovative and exceptional legal solutions. With a blend of deep-rooted local knowledge and a global perspective, we provide forward-thinking legal counsel that empowers our clients to navigate their most complex legal challenges.

At SSK, we give our clients confidence. The confidence that we will do all that can be legitimately done to address their legal issues, protect their interests and achieve the most favourable outcomes.

We are committed to understanding you, your business, and your goals. On your behalf, we will deploy a deep bench of legal experience and expertise to create solutions to the issues you are facing. We go to work for you.

We are a law firm that is comfortable with every aspect of our heritage, our Nigerian roots, our broader African heritage and the practice of law in the common law tradition. We are able to blend the seemingly incongruous.

Our Practice Areas

Aviation



Competition Law



Corporate & Commercial Law



Dispute Resolution



Energy, Natural Resources &
Environmental Law



Legislative Oversight & Related
Governmental Activities (LORGAP)





Address to our participants

Dear Valued Participant,

We extend our sincere appreciation to you for participating at our webinar titled “From Policy to Practice: Demystifying Nigeria’s Ministerial Approval Process for the Acquisition of Oil Assets.” Your contributions and thoughtful engagement greatly enriched the quality of the discussions and made the session both practical and impactful.

As we examined the legal, regulatory and transactional dimensions of ministerial consent within Nigeria’s petroleum sector, we recognise that the conversation may have raised further questions about procedural nuances, compliance expectations, and evolving regulatory trends. This e-book has therefore been prepared to address those considerations.

Our objective is to ensure that the key insights shared during the session are not only preserved but meaningfully expanded, providing you with a clearer understanding of the statutory framework, regulatory timelines, and risk considerations that shape asset acquisition transactions in Nigeria’s oil and gas industry.

We trust that you will find this e-book both informative and enlightening.

Meet the Panel



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A blurred background image showing several people in business attire sitting around a conference table in a meeting room. The focus is on the text in the foreground.

THE DISCUSSION



CHIAGOZIE HILARY-NWOKONKO

Q1: Provide a brief overview of the categories of transactions in the oil & gas industry that require ministerial approval.

In Nigeria's upstream oil and gas sector, transactions that typically require ministerial approval/consent generally fall into two broad categories:

1. **Asset Transfers (Asset Deals):** Where a party acquires, assigns, or transfers a direct interest in an oil asset, such as a petroleum licence/lease or an interest in upstream facilities.
2. **Share Transfers (Share Deals):** Where a party acquires shares or stakes in a company that holds oil assets, such that the transaction effectively changes control of the underlying licence/lease interest.

The ministerial approval framework applies to both asset deals and certain share/change-of-control transactions.



MIRIAM ANOZIE

Q2: Paint a picture of the end-to-end ministerial approval process for the acquisition of an upstream oil asset in Nigeria under the PIA and how the NUPRC and the minister play a role in this process.

From an end-to-end perspective, the ministerial approval process begins when a holder intends to transfer an interest in an upstream oil asset and formally notifies the Commission of its intention to assign that interest.

The first step is the submission of an application to the Commission. This notification must clearly set out the purpose of the transaction, the proposed transaction structure, and the method to be adopted, whether by selective tender, negotiated deal, or any other permissible approach. The applicant is also expected to provide an overview of the transaction and highlight the anticipated economic or technical benefits to the asset and to the Federal Government.

Upon receipt of the notification, the NUPRC reviews the proposed transaction structure. Where a prospective assignee has already been identified, the Commission will require detailed information about that entity. In line with Regulation 4 of the Assignment of Interest Regulations, the Commission will then communicate its position, either approving or disapproving the proposed structure at that preliminary stage.

Where approval of the transaction structure is granted, the assignor may proceed with its internal evaluation process. For example, in a selective tender, the assignor may assess interested parties, shortlist qualified companies, and revert to the Commission with details of the preferred entities. The Commission will conduct its own internal review to determine whether the proposed assignees are “fit and proper” persons and acceptable to the Federal Government. Once satisfied, the Commission will confirm that the parties may proceed to formally seek the Minister’s consent.

At that stage, a formal application for ministerial consent is submitted to the Commission, accompanied by all relevant documentation. This typically includes the underlying transaction agreements, detailed information on the prospective assignee, and evidence of technical competence, financial capability, and overall capacity to meet statutory and contractual obligations. Following submission, the Commission usually convenes a due diligence workshop. This engagement enables the regulator to gain a deeper understanding of the transaction and to assess key issues such as the technical competence and financial strength of the assignee, its ability to meet decommissioning and abandonment obligations, and its capacity to discharge environmental and post-completion obligations attached to the asset.

The Commission will also assess compliance with section 83(6) of the Petroleum Industry Act (PIA), which requires licensees and lessees to repatriate petroleum data to the National Data Repository. In addition, it examines whether there are encumbrances affecting the asset, such as pending litigation, registered security interests, or other third-party claims. Labour and industrial relations issues are also reviewed to ensure that staff welfare concerns or industrial disputes will not disrupt the divestment process. The regulator expects to see robust mechanisms in place to manage these risks and prevent socio-economic disruption.

Once the Commission is satisfied with its findings, it makes a recommendation to the Minister of Petroleum Resources. At this stage, the Commission works in collaboration with the Minister, who is required to act within the statutory timeframe. The Minister may grant or refuse consent, although consent is typically granted where regulatory requirements have been met. Where consent is granted, it is often subject to certain conditions. These commonly include the payment of a premium and processing fees. In intra-group transfers, a premium may not be applicable. Additional conditions may also be imposed, and the parties are given a specified timeframe within which to comply.

Upon fulfilment of the conditions, the Commission formally writes confirming that the assignment has taken effect. The holder is then required to notify the Nigerian Revenue Service (NRS) and provide details of the transaction. The Commission updates its internal records, registers the transfer accordingly, and publishes the assignment in the Federal Government Gazette. The holder must also submit an updated beneficial ownership form reflecting the details of the new assignee.

The ministerial approval process is formally brought to an end once these post-consent steps are completed.



IKECHUKWU EKWUEME

Q3: Are there any delays that may be occasioned in the approval process, and what practical steps can parties take early before the transaction to reduce the risk of delay?

The effectiveness of the ministerial consent process depends on more than formal compliance with statutory requirements. Investors must adopt a strategic approach to transactions from the outset.

Although the PIA sets out the procedural framework for ministerial approval, successful outcomes are largely driven by early preparation across three key dimensions. First, regulatory alignment is critical, as applicants will inevitably engage with multiple regulators throughout the process. Coordinated engagement and consistency in regulatory positioning are essential.

Second, the readiness of both commercial and technical aspects is crucial. Investors must clearly demonstrate their financial competence, possess adequate technical capabilities, and have operational abilities that meet regulatory expectations.

Third, stakeholder engagement is fundamental. Effective engagement with relevant government authorities, commercial, technical and financial partners, environmental agencies, and other stakeholders is necessary to manage risk and maintain transaction momentum.

The transaction structures should be designed with the PIA in mind from inception. Whether structured as an asset transfer or a share acquisition, each transaction type carries distinct regulatory implications. Anticipating these implications enables parties to align timelines appropriately and minimise potential regulatory friction.

Finally, proactive regulatory engagement is important. Ministerial approval should be treated not as a final procedural hurdle but as part of an ongoing and constructive dialogue with regulators. Integrating this approach into the overall transaction strategy enhances the likelihood of a seamless and efficient consent process.



MIRIAM ANOZIE

Q4: From your perspective as a regulator and based on your experience, what are the most common due diligence related issues that delay ministerial approvals and how can applicants proactively address these risks before submission?

From a regulatory standpoint, several recurring due diligence issues tend to delay ministerial approvals. A key concern is late engagement with the regulator. Early engagement is critical, as it allows the Commission to provide clarifications and guidance that can help applicants address potential gaps before they become obstacles in the formal review process.

One of the most common issues relates to limited technical competence on the part of the prospective assignee. During the due diligence workshop, the regulator carefully evaluates whether the incoming entity

possesses the technical capacity to effectively develop and manage the asset. This includes reviewing the credentials and experience of key technical personnel, as well as assessing the assignee's track record on any existing assets. Where an assignee already operates an upstream asset, the Commission examines how well that asset has been developed and whether the operator has complied with its obligations.

Financial capability is another critical area of scrutiny. The regulator expects clear evidence that the assignee has secured and readily available funding to operate and develop the asset post-transfer. Conditional, speculative, or future funding arrangements are generally insufficient. Instead, applicants are expected to demonstrate financial strength through credible financial statements and verifiable funding sources that confirm their ability to assume the asset's obligations if consent is granted.

Post-completion, Environmental, and Decommissioning & Abandonment obligations are also frequent sources of delay. Where there are outstanding liabilities attached to the asset, the regulator expects clarity in the transaction documents as to whether the assignor or assignee will assume responsibility. Ideally, such liabilities should be resolved prior to the grant of ministerial consent, as uncertainty in this regard can significantly slow the process.

Ministerial consent should be treated as an integral part of transaction planning rather than as a final procedural step. Unrealistic commercial timelines often create avoidable pressure, as ministerial consent is a statutory requirement. A commercial emergency is not enough to go through a transaction without consent. Parties should build realistic timelines into their transaction documents and include extension mechanisms, such as provisions allowing for the extension of long-stop dates, to accommodate the regulatory process and mitigate the risk of delays.



CHIGOZIE HILARY-NWOKONKO

Q5: In transactions involving the acquisition of oil and gas assets, parties typically require ministerial consent processed through the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), alongside approvals or clearances from other regulators such as the Nigeria Revenue Service (NRS, formerly FIRS) and the Federal Competition and Consumer Protection Commission (FCCPC). Could you explain how these parallel regulatory processes interact in practice, and how parties usually sequence and manage them to achieve closing?

The acquisition of an upstream oil and gas asset in Nigeria should be viewed as a multi-regulatory engagement involving three key authorities: the NUPRC



for ministerial consent under the Petroleum Industry Act 2021(PIA); the FCCPC for merger approval (where applicable); and NRS for tax clarification and compliance confirmation. These are not isolated approvals. In practice, they are interlinked processes that must be run in tandem, and the single most important strategic decision is to start early.

Once parties have moved beyond the initial notification of intention to divest or acquire and have identified the prospective assignee, the transaction will be documented through a Sale and Purchase Agreement (SPA) for asset deals or a Share Sale and Purchase Agreement (SSPA) for share deals. Regulatory approvals are ordinarily drafted as conditions precedent to closing.

Sector Regulator - NUPRC

At this stage, the formal regulatory workstreams are triggered. The assignor submits a formal application to the NUPRC seeking ministerial consent. Once that application is acknowledged, the ministerial consent process effectively moves into substantive review. That acknowledgement is not merely administrative; it evidences that the sector regulator has been formally engaged and becomes an important document within the broader regulatory coordination exercise.

Merger Notification - FCCPC

In parallel, if the transaction meets the thresholds for merger notification, engagement with the FCCPC should already be underway. The best practice is to commence pre-notification consultations with the FCCPC before filing the formal merger notification. These consultations allow parties to clarify filing thresholds, information requirements and potential competition concerns in advance. When the formal FCCPC application is submitted, the filing bundle typically includes evidence that the sector regulator (NUPRC) has been approached. This demonstrates regulatory alignment and helps the FCCPC consider the application complete.

In many cases, the FCCPC review progresses more quickly than the ministerial consent process. The FCCPC may determine that the transaction does not raise anti-competitive concerns and indicate that it is prepared to approve the transaction unconditionally or subject to conditions. However, this does not translate into implementation. For notifiable mergers, the standstill obligation applies, meaning the transaction cannot be completed until clearance is fully secured.

In practice, FCCPC's approval often progresses to an "approval in principle" stage while awaiting the outcome of NUPRC's sectoral review.

Tax Regulator - NRS

Tax compliance is another critical component of the timetable that should be addressed concurrently. As part of regulatory due diligence, the upstream regulator typically requires confirmation that the parties' tax records are up to date and that there are no outstanding liabilities. The PIA framework further contemplates engagement with the federal tax authority in connection with restructuring or transfer scenarios. Accordingly, prudent applicants should engage the NRS early to obtain tax clearance certificates and resolve any filing gaps or tax exposures well before the due diligence phase of consent application process. Early tax housekeeping reduces the risk of avoidable delays during regulatory scrutiny.

Concluding the Regulatory Approval Process

Once the sector processes are resolved, ministerial consent is obtained, and all applicable conditions are satisfied, the FCCPC may then grant substantive merger approval, and the transaction can be treated as fully cleared.

Competition concerns are not uniformly intense across all upstream transactions. Many Nigerian producers are export-focused, and transactions involving export-oriented crude production often raise limited domestic competition issues. By contrast, transactions affecting the domestic gas market may attract closer FCCPC scrutiny. Nonetheless, where merger notification thresholds are met, clearance remains mandatory regardless of the perceived level of competitive overlap.

Ultimately, this is a coordinated regulatory endeavour in which sector consent, merger clearance and tax compliance operate alongside one another. Thorough preparation and proactive regulatory engagement with all relevant authorities significantly increase the likelihood of a favourable outcome.

IKECHUKWU EKWUEME

Q6: In practical terms, how can parties comply with the FCCPC merger notification requirement, paying attention to the FCCPCA and its application to the ministerial approval process?

It is essential to conduct a thorough examination of the requirements outlined in the PIA in conjunction with those established by the FCCPA during the transaction approval process. While the PIA does not explicitly require consent from the FCCPC, the FCCPA delineates specific circumstances necessitating merger control approval. It is crucial to ascertain when FCCPC consent is required and to comprehend its implications within the broader regulatory framework.

Transactions structured as share sales or similar corporate acquisitions will, by default, attract FCCPC scrutiny, particularly where competition or antitrust concerns may arise. In contrast, where a transaction involves a pure asset sale, there have been arguments that such transactions should not fall within the merger control regime on the basis that the disposal of assets may not amount to control of the relevant market. Notwithstanding these arguments, in practice, parties are better served by engaging the FCCPC process to avoid regulatory uncertainty and potential delays.

The PIA prohibits any form of publication or advertisement prior to the conclusion of the notification process with the NUPRC. Conversely, the FCCPA requires publication as part of its merger review procedure. This divergence creates a sequencing issue in practice. Consequently, FCCPC proceedings cannot commence until the NUPRC notification phase has been completed. Thereafter, both regulatory processes may run in parallel.

Adopting this structured and sequential approach helps to minimise delays, reduce the risk of operational disruption, and ensure a more efficient overall approval process. Parties are to remain fully aware of applicable industry regulations to facilitate a smoother transaction timeline.



IKECHUKWU EKWUEME

Q7: What are the key governance and operation compliance issues parties acquiring an asset may face in acquiring assets, bearing in mind that the contract design must align with the objectives of the PIA and the Federal Government's policy?

In addressing key governance and operational concerns, parties must pay close attention to legacy liabilities and

non-regulatory risks. In the context of an operating field or ongoing production asset, operational issues cannot be overlooked. These may relate to community relations, workforce matters, government engagement, or environmental obligations. Each of these dimensions requires careful assessment and, where necessary, remediation prior to or alongside the transaction process.

Parties should undertake a thorough review of any existing or previously resolved litigation to determine its potential implications. Open regulatory breaches must also be identified, with clarity established as to which party bears responsibility for remediation. In addition, potential tax exposures should be comprehensively assessed and clearly allocated within the transaction structure. These governance and operational considerations often introduce more delay than the formal regulatory approval process itself. Regulators will typically require assurance that incoming investors have credible and structured plans to address outstanding issues. In the absence of such preparedness, parties may encounter challenges in securing the desired approvals.

Transaction parties must remain proactive, anticipating and resolving potential challenges ahead of regulatory scrutiny, to minimise delays and ensure a smoother approval process.



CHIGOZIE HILARY-NWOKONKO

Q8: What practical recommendations would you give to investors and target companies that are preparing to undergo the ministerial approval process?

From a regulator's perspective, ministerial consent is processed more efficiently where there is a clear and credible demonstration of financial strength, technical competence, and overall compliance with the PIA and the Assignment of Interest regulations.

Early engagement with the regulator is important as proactive communication allows the Commission to provide guidance and clarifications at an early stage. This helps to identify and resolve potential issues before they escalate into delays during the formal consent stage.

Strict adherence to the proper sequencing of the approval process as prescribed by the PIA is recommended, as this would also help reduce delay.



CHIGOZIE HILARY-NWOKONKO

Q9: From your experience, what practical steps should investors and target companies take to make the outcome of their application more predictable and aligned with the ministerial consent process in the PIA?

While the other panellists have already emphasised the foundational principles, two themes warrant repetition if parties wish to obtain ministerial consent successfully and on time: deal design and preparation.

Regulatory requirements must be incorporated into the deal design from the outset. In recent negotiated transactions (as opposed to bid processes), some applicants have encountered avoidable setbacks at a very early stage – specifically when notifying the NUPRC of their intention to undertake the transaction. The rules are clear, but parties sometimes fail to pay attention and end up getting stuck on what appear to be minor procedural issues. The practical implication is that consent risk is often created not by the substantive merits of the deal, but by poor upfront structuring that does not accommodate the procedural expectations of the regulator.

The importance of preparedness and early regulatory engagement across all relevant agencies cannot be overemphasised. The FCCPC Act permits pre-notification

consultation, allowing parties to clarify filing requirements and process expectations before submitting a formal merger notification. In principle, a similar mechanism ought to be adopted with the NUPRC to enhance predictability in the ministerial consent process.

In conclusion, integrating regulatory requirements into the deal design from the outset, supported by disciplined preparation and early regulatory engagement, makes the ministerial consent process more predictable and aligned with the specific timeline outlined under the PIA.



IKECHUKWU EKWUEME

Q10: Are there any delays that may be occasioned in the approval process, and what practical steps can parties take early before the transaction to reduce the risk of delay?

The effectiveness of the ministerial consent process depends on more than formal compliance with statutory requirements. Investors must adopt a strategic approach to transactions from the outset.

Although the Petroleum Industry Act 2021 (PIA) sets out the procedural framework for ministerial approval, successful outcomes are largely driven by early preparation across three key dimensions. First, regulatory alignment is critical, as applicants will inevitably engage with multiple regulators throughout the process. Coordinated engagement and consistency in regulatory positioning were described as essential.



QUESTIONS & ANSWERS



Q1: Given recent high-profile delays (e.g., Seplat-ExxonMobil taking nearly 3 years to close), what realistic timeline should acquirers build into transaction agreements for ministerial consent under the PIA framework? And what contractual mechanisms beyond standard 'best efforts' clauses have proven effective in allocating consent risk between parties when approvals face unexpected regulatory scrutiny?

IKECHUKWU EKWUEME

The preceding discussions would assist parties in navigating timeline considerations. However, the importance of engaging regulators from the inception of the transaction and structuring the transaction in a manner that takes full account of the PIA and all other applicable regulatory requirements cannot be overemphasised.

Furthermore, risk allocation is largely dependent on the dynamics of the transaction and the relative bargaining power of the parties. The party with greater leverage may seek to allocate certain risks to the counterparty or decline to assume them altogether. Under the PIA, most consent requirements appear to focus on the operator or assignor, with comparatively less procedural emphasis placed on the assignee in terms of managing the approval

process. This statutory focus on the operator or assignor should not be construed as a risk burden, but rather as a mechanism intended to ensure transparency and regulatory oversight.

Although the grant of consent remains subject to the discretion of the regulator or the Minister, parties who comply with the requirements of the PIA diligently and at an early stage are likely to obtain the requisite approval. Conversely, failure to secure such consent would render the underlying contractual arrangements ineffective from a regulatory standpoint.

Furthermore, the recent delays observed in some transactions should be regarded as unusual and largely assessed on a case-by-case basis, rather than being seen as the new normal. A significant factor behind these delays was that the upstream regulator itself was undergoing a transition, with an increased focus on regulation, particularly regarding documentation and a more rigorous review approach under the post-PIA regime.

In several instances, transactions that came up for approval during that period did not anticipate this heightened focus. That mismatch meant parties were sometimes confronted with requirements that were not fully priced, scheduled, or papered into the deal design at the outset. An example is how processing fees emerged in

the course of transactions that were already underway – an issue that is now more clearly addressed under the Nigeria Upstream Petroleum (Assignment of Interest) Regulations, 2024, which expressly contemplates a 7% charge on transaction value (broken into a 2% processing fee and 5% premium) as part of the consent framework. Another example is the decommissioning and abandonment “D&A” requirements, i.e., which the PIA embeds through obligations around a D&A programme and a dedicated D&A fund. In the same vein, obligations to repatriate petroleum data to the National Data Repository.

CHIAGOZIE HILARY-NWOKONKO

Historically, practitioners commonly advised clients that ministerial consent could be achieved in 6 months. He indicated that this remains a reasonable guide, assuming parties have their ducks in a row (i.e., the regulatory workstreams, documentation and compliance evidence are ready and aligned early). He added that the market now has clearer visibility into what this heightened phase of scrutiny entails – particularly applicable fees, D&A-related requirements, and, in some cases, a more intensive review by the FCCPC.

In his view, this improved clarity should help transactions move quicker in the future, as parties can structure and document deals more deliberately with fewer unforeseen issues.



Q2: The PIA distinguishes between assignments of interests in petroleum assets versus changes in corporate control. In practice, when does a share acquisition in a special purpose vehicle (SPV) holding an OML/OPL trigger ministerial consent requirements? Could you share examples where creative structuring successfully navigated this boundary—or where it unexpectedly triggered regulatory intervention?

The PIA mandates that ministerial approval must be sought for all assignments of interests in petroleum assets. When it comes to acquiring shares in an entity that holds interests in petroleum assets, ministerial approval is necessary if such an acquisition results in a change in corporate control. In practice, acquiring shares in an SPV may also require ministerial consent if the acquisition leads to a change in ultimate beneficial ownership or a transfer of economic control or decision-making power regarding the asset. Additionally, the NUPRC may enforce the requirement for ministerial approval in situations where transactions appear to be structured to evade the consent requirement but still influence corporate control.



Q3: In situations where timing is commercially critical, are there any fast-track mechanisms, interim approvals, or legal remedies available to companies awaiting ministerial approval? Also, where delays in ministerial approval may materially affect a transaction, what practical or legal options are available to mitigate time-related risks?

Ministerial consent is a mandatory statutory requirement and cannot be waived or accelerated simply because a transaction is commercially urgent. From a regulatory standpoint, commercial timelines do not override the legal requirement to obtain consent, and there are no formal fast-track mechanisms or interim approvals available outside the established process.

Accordingly, parties should structure and design their transactions with the ministerial consent process firmly in mind from the outset. This means building realistic timelines into transaction documents and ensuring that the process is followed in the proper statutory sequence. Applicants should also ensure that all information and documentation requested by the Commission are complete, accurate, and promptly submitted, as this enables the regulator to conduct its review efficiently and arrive at a timely decision. In essence, proactive planning and full regulatory compliance remain the most effective tools for mitigating time-related risks.



Q4: Please help confirm if the process outlined (including engaging with FCCPC & NRS and other regulators), is mandatory for oil blocks won via licensing bid rounds by NUPRC (i.e. not an acquisition or share sell transaction).

A petroleum prospecting licence (PPL) or petroleum mining lease (PML) granted through a competitive bid round under the PIA does not, in itself, trigger a mandatory merger notification to the FCCPC. The grant envisaged under sections 73–76 of the PIA is a sovereign regulatory award made by the Minister on the recommendation of the NUPRC. It is not an acquisition of shares, assets, or control over an existing undertaking; rather, it is the creation of new statutory rights in acreage.

Under the Federal Competition and Consumer Protection Act 2018, the FCCPC’s jurisdiction is engaged only where there is a “merger,” which is essentially defined as the acquisition or establishment of control over the whole or part of another undertaking’s business. A fresh licence grant by the government does not meet this definition.

Therefore, engagement with the FCCPC is not mandatory in a straightforward licensing bid-round award scenario. The only circumstances where FCCPC involvement would arise are if the award is structured alongside an acquisition of shares in an existing licensee, a transfer of participating interest that results in a change of control, or a consolidation or business combination that meets merger thresholds.

As for the NRS, its role comes into play after the award, in the form of tax registration and compliance obligations. These are not statutory conditions precedent to the grant of the licence, but are part of the fiscal responsibilities that follow once the licence is in place.



Q5: Beyond the consent application itself, what pre-emptive steps should buyers take to verify and address seller's outstanding obligations, such as unpaid royalties, signature bonuses, or local content development fees that could derail approval even after commercial terms are agreed? Are there formal clearance certificates that NUPRC now requires before processing consent applications?

Beyond negotiating commercial terms, buyers should take proactive steps. Particularly, buyers can conduct

an independent search and formally write to the Commission to make specific enquiries regarding the asset and the assignor. Once the requisite fee has been paid, the regulator will provide the relevant information to the enquiries.

A key issue was not simply whether outstanding obligations exist, but how a buyer can properly ascertain the risks it is facing before committing to the transaction. That is precisely the purpose of a robust due diligence process at the transactional level, conducted before parties execute or become fully bound under the SPA/SSPA, so the transaction documents can be crafted to address any regulatory exclusions that might otherwise surface later in the consent process.

Due diligence should not be treated as a purely “data room” exercise. In larger transactions involving substantial assets, the volume of documentation can be overwhelming, and parties may become overly focused on reviewing what is uploaded to the virtual data room. While that is necessary, it may not always be sufficient. In appropriate cases, buyers may need to undertake targeted external verification with regulators to confirm compliance status. However, such verification must be approached with caution.

At the pre-signing or pre-notification stage, parties are typically bound by strict non-disclosure obligations, and premature regulatory outreach could inadvertently signal that a transaction is imminent. This risk is particularly acute where the seller or target is a listed company and could have market-sensitive implications. For that reason, any regulator-facing engagement at that stage must be carefully structured, often through counsel and coordinated with the seller to avoid breaching confidentiality or creating unintended market consequences.



Q6: Does the NUPRC consider the relationship of the Assignor with the host community, and how will this affect the transaction?

The NUPRC does consider the relationship between the assignor (oil company) and the host community when evaluating transactions. The PIA mandates that oil companies allocate a percentage of their annual operating expenditure to a trust fund for the development of host communities, which is managed by a Board of Trustees appointed by the settlor in consultation with the host community. NUPRC's HostComply platform tracks the execution and disbursement of these funds in real-time, ensuring transparency and compliance. The relationship between

the assignor and the host community is crucial for the successful implementation of the PIA's provisions, as it directly impacts the development and well-being of local communities.



Q7: Is there a joint working body between the NUPRC, FCCPC and tax authorities?

We are not aware of the establishment of any joint working body between the NUPRC, FCCPC and tax authorities at this time.



Q8: Is there a timeline for obtaining ministerial consent?

Under Section 95 of the PIA, the timeline for obtaining Ministerial Consent following an acquisition is 120 days in total: 60 days for the NUPRC to act on the application and 60 working days for the Minister to issue a decision. If the Minister does not respond within the 60-working-day period, consent is deemed granted, and the NUPRC must communicate this within 20 days.



Q9: How can the Minister ensure local content compliance in their requirements?

The Minister, often through the Nigerian Content Development and Monitoring Board (NCDMB), ensures compliance by establishing and enforcing local content policies and directives. The Presidential Directives on Local Content Compliance Requirements mandate that Nigerian Content Plans (NCPs), submitted by companies, must include entities with demonstrable in-country capacity to execute projects, preventing the use of intermediaries lacking essential capabilities. This ensures that contracts contribute real value to the local community.

The Minister oversees the review and approval of Nigerian Content Plans (NCPs), ensuring that only qualified local contractors and service providers are included. This includes capacity audits and verifying companies' project delivery abilities, while fostering the growth of local skills and in-country capabilities. International participation is allowed only when local capacity is unavailable or inefficient, while maintaining the integrity of local content objectives.



Q10: What happens if a party is denied ministerial consent? Is it the end of the road? Can the party reapply?

It is not the end of the road. Regulation 8 of the Nigeria Upstream Petroleum (Assignment of Interest) Regulations, 2024 is to the effect that where an application for ministerial consent is reviewed, and the outcome of the due diligence conducted by the NUPRC is unfavourable, the NUPRC is required to notify the applicant and, importantly, provide the reasons for its decision.

Once the reasons are provided, the applicant has options. Depending on the issues identified, the applicant may:

- amend the existing application to address the deficiencies; or
- submit a fresh application altogether.

The Regulations also clarify that such an amendment, regularisation, or resubmission will be treated as a new application for consent.

Simply put, a refusal is not a permanent bar. It is often an opportunity for the parties to cure specific gaps, whether technical, financial, or documentation-related, and re-present a stronger case. So, the process is corrective rather than punitive.



Q11: And how do you manage conflict of interest when approving process?

The regulatory framework itself is designed to minimise and practically eliminate conflict of interest through a structured and objective review process.

Before any recommendation is made to the Minister, the NUPRC undertakes a rigorous due diligence exercise focused on clearly defined criteria, particularly:

- **Technical competence:** Whether the proposed assignee has the capacity and expertise to safely and efficiently operate the asset.
- **Financial competence:** Whether the assignee has the financial strength to meet operational commitments and liabilities.
- **Environmental and regulatory compliance:** the ability to meet environmental obligations and assume existing liabilities responsibly.

Because these assessments are evidence-based and follow a formal regulatory procedure, the decision-making process is anchored on objective standards rather than discretion or personal considerations. Provided that the applicant satisfies the established regulatory criteria

and that due process is adhered to, the NUPRC can confidently issue its recommendation which the Minister may rely when making the decision to grant or reuse giving consent.

In essence, transparency, defined criteria, and institutional checks are what safeguard the integrity of the process and ensure that approvals are based on merit, not influence.

Please Note

The Panel Discussion included in this e-book may have been modified for clarity and coherence purposes only. We have also maintained the original responses and views of our panellists.

This e-book is intended solely for informational and educational purposes. It does not constitute legal advice, nor should it be relied upon as a substitute for professional legal counsel. The content herein must not be used as a basis for any legal decision or action without consulting a qualified legal practitioner.



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