

1. INTRODUCTION

The National Civil Aviation Policy (“Policy”) was approved by the Federal Executive Council in May 2013.

The 2013 Policy was introduced by the Federal Ministry of Aviation pursuant to Section 1 of the Civil Aviation Act 2006 which empowers the Minister of Aviation to formulate policies and strategies for the promotion and encouragement of Civil Aviation in Nigeria. The Policy seeks to replace the existing 2001 Policy; strengthen the existing regulatory framework of the aviation industry; and move in the direction of the safety, security and economic needs of the country.

The Policy is divided into 10 (Ten) parts as follows:

Part I - The historical background of the aviation sector in Nigeria.

Part II – An overview of the strategic goals, objectives, management and the institutional framework of the aviation industry in Nigeria.

Part III - The importance of aviation financing with emphasis on the development of a sustainable aviation

financing mechanism through Public-Private Partnership (PPP).

Part IV - Aviation training and the validation of foreign crew licenses for the purpose of overcoming identified shortages in qualified Nigerian flight crews and aviation instructors.

Part V - Merits of aviation safety and security in line with the strategic objectives of the International Civil Aviation Organisation (ICAO).

Part VI - Air transportation, removal of restriction and creation of enabling environment for alliances.

Part VII - General Aviation (encompassing all flights, both private and commercial, other than military and scheduled airline flights).

Part VIII - International relations such as Bilateral and Multilateral Air Services Agreements.

Part IX - Aviation Allied Support Services, Intermodal Transport Systems, Facilitation of Passengers, Goods and Services, Pandemics and Emergency Response.

Part X reaffirms the continual monitoring and review by the Ministry of Aviation

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through its Agencies in order to align the Ministry's strategic goals, policies and procedures as well as improve on the aviation operations to an international standard.

SALIENT FEATURES OF THE POLICY

The Policy addresses certain areas of the aviation industry which were not captured under the 2001 Aviation Policy and which have generated mixed reactions by stakeholders in the industry. Some of these features are discussed below:

1.1. The Creation of the National Aviation Economic Regulatory Unit - Paragraph 3.2

The necessity and legality of creating the National Aviation Economic Regulatory Unit (NAERU) has been questioned by stakeholders who are of the opinion that it will dilute the effectiveness of the National Civil Aviation Authority (NCAA) as well as raise the current high cost of governance in the country.

Furthermore, it has been argued that it contravenes the provisions of section 30 (4) (r) of the Civil Aviation Act 2006 which provides that:

“...the Authority (NCAA) shall have and exercise the powers generally to conduct economic regulation of airlines, aerodromes, air navigation services, other aviation and allied aviation service providers.”

This section clearly makes economic regulatory oversight the responsibility of the NCAA. The Nigerian Civil Aviation Act 2006 is the basic legally enforceable aviation legislation which forms the bedrock for other regulations and policies introduced in the Aviation sector and as such, whilst the Aviation Policy may outline any and all methods and principles that the government may use to achieve its directive, same should be done in consistency with the provisions of the Nigerian Civil Aviation Act.

1.2. Aviation Training - Paragraph 4.1

This is a welcome development and it should be embraced and properly implemented. By virtue of this objective, the government recognizes the need to reverse the trend of non-scheduled flights being undertaken by foreign registered aircraft in Nigeria and operated by foreign

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pilots due to lack of adequate number of highly trained and skilled personnel within the country.

If properly implemented, it will promote capacity development of Nigerians, increase local content, facilitate private sector investment, create competitiveness in the aviation industry and reduce the unemployment rate in the country.

1.3. Aviation Safety - Paragraph 5.1

This aspect of the policy preserves and maintains the powers and independence of NCAA to carry out effective safety oversight and regulation of the aviation industry in order to ensure that the safety regulatory regime of Nigeria meets the ICAO's eight (8) critical elements of a safety oversight system which encompasses aviation security, training, safety and quality control.

The Policy will apparently bring the aviation industry in substantial compliance with ICAO's critical elements.

1.4. The Development of Aerotropolis - Paragraph 6.5

The Policy seeks to encourage the development of airport cities around major international airports and this has

received laudable remarks from industry stakeholders who are of the view that this development is long due in the aviation sector and when implemented will boost economic activities in the country by improving the sector's contribution to the Gross Domestic Product (GDP). This development will further attract investment in the sector through Public Private Partnership.

1.5. Establishment of Search and Rescue Directorate and Medical Operations - Paragraph 6.6.3

The establishment of a Search and Rescue Directorate is a remarkable step taken in the light of the aircraft incidents and accidents facing the industry. If properly implemented, the search and rescue mechanism would prevent catastrophes arising as a result of delays in rescue operations. The provision of adequate equipment to the Directorate for dealing with emergency situations and the encouragement of co-operation and coordination of search and rescue amongst neighbouring states are commendable steps.

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1.6. General Aviation-Paragraph 7.1

Increased capacity and flexibility for general aviation; the extension of the aviation network beyond scheduled operations between cities; and the introduction of appropriate incentives for domestic operators operating aircraft seating less than eighty (80) passengers is the focus of Paragraph 7.1 of the Policy.

Thus, general aviation, which hitherto had largely operated in the shadows of commercial airlines, will now have a dedicated policy, regulatory framework, infrastructure and services to adequately support its operations.

1.7. Non Scheduled Flight Operations in Nigeria - Paragraph 7.2

In order to enhance safety and security, the monitoring and control of non-scheduled flight operations in Nigeria is to be reinforced by the implementation of the strategies outlined in the policy, one of which provides that:

Nigerians who operate non-revenue flights with the appropriate insurance policies will not require an approval or clearance from the Director- General of NCAA in the following cases:

“a) For private aircraft owned or leased by individuals, only the family members of the owner / lessee of the aircraft will be permitted on board as passengers.

b) For private aircraft owned or leased by companies or corporate entities, only the employees and members of the Board of Directors of the Company will be permitted on board as passengers.

c) For aircraft belonging to non-scheduled or scheduled operators, only the employees and members of the Board of Directors of the company or the corporation may be permitted on board as passengers.”

According to the Minister of Aviation, the rationale for the adoption of this strategy is to strengthen the existing framework thereby facilitating the growth of domestic airlines. The strategy has however been widely criticized by stakeholders on the basis that it is a wrong medication being administered for a correct diagnosis.

The realistic implication of this strategy is that a private aircraft owner/ lessee whose lawyer or personal physician is not his/her family member has no business being with

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such professionals on board an aircraft even if the owner has appropriate insurance policies in place except an approval from the Director- General of NCAA has been sought and obtained. This strategy will also work against companies that are in the practice of chartering planes or helicopters for their official operations as clients may not easily be carried on board without the stipulated clearance.

Another practical problem that may arise in implementing this strategy is the definition of family within the Nigerian context. In a society that is largely communal, it may be difficult to determine who constitutes 'a family member'. Will a family member be identified by blood relationship or affinity? In addition, the provisions may be difficult to implement and may either be halted by law suits or simply become avenues for corruption.

Nevertheless, it is not a total bar as it only triggers the approval or clearance requirement from the Director-General where passengers other than family members; persons other than Company employees and officers are carried on board.

Another strategy adopted provides thus:

“Retention of foreign registered aircraft in Nigeria will not be permitted beyond a period of 15 days from date of entry. However, the Minister of Aviation may in certain circumstances grant the extension of this period for up to 60 days.”

Considering the estimation that about seventy percent of private jets in Nigeria are foreign registered, the reality of this strategy may necessitate the cumbersome process of having to fly such foreign registered jets out of the country every fifteen (15) days, where they do not qualify for the exceptions under the Policy. An alternative option would be for the foreign registered jets to be de-registered in their country of registration and subsequently registered in Nigeria.

Admittedly, the registration of private jets in Nigeria will, through the exercise of NCAA's oversight functions, curb illegal and commercial activities being practiced by some foreign registered jet owners thereby resulting in the tremendous growth of the business of local operators.

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1.8. Facilitation of smooth and easy flow of Passengers, Goods and Mail – Paragraph 9.3

As a recommended practice, section 3.39 of the ICAO Annex 9 provides that:

“Contracting states, with the cooperation of aircraft operators and airport operators, should establish as a goal, the clearance within 45 minutes of disembarkation from the aircraft of all passengers requiring not more than the normal inspection, regardless of aircraft size and scheduled arrival time.”

Section 6.28 further provides that:

“To obviate any delay to passengers, the necessary steps shall be taken to ensure that baggage arrives on time in the baggage claim area.”

The reverse of this recommended practice may well currently be the norm in Nigerian Airports where delays either due to passenger traffic or baggage reclaim interruptions, seem to be the order of the day.

The implementation of this objective will be a great delight to international

travelers as well as a general achievement in the aviation sector.

2. CONCLUSION

The Policy has been described by some stakeholders as “a good attempt plagued by undesirable flaws.” This reaction to the new Policy may largely be dependent on the category of stakeholder involved. For the commercial airline operators, the policy may be described as a welcome development which should be embraced and effectively implemented by the relevant agencies. However for the private jet owners and operators, their freedom to extend flight invitations to friends and loved ones appears to have been somewhat curtailed.

The new Policy is commendable as it will cure some of the present ills in the aviation sector whilst heralding international best practices in the sector.

In the spirit of enjoying the new developments that the aviation sector has to offer, let us not forget to carry some means of personal identification for our families on board our private jets (if any).

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