

**EVEN THE MINISTER WAS WRONG**  
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Sometime last week many newspapers reported the Minister of intergovernmental Affairs and NDDC Monitory Alhaji Ibrahim Umar Kida who was quoted to have confirmed that the proposed Bill by the President for the amendment of the NDDC Act included an amendment of the NDDC Act included an amendment to merge the position of the Chairman and Managing Director. Indeed according to the Guardian the Minister's words were: "Yes I can confirm that there is such an amendment in the offing ...". With all due respect I can confirm that the Minister was wrong, because I have very carefully read the NDDC Act and the proposed Bill and I will proceed to show that no such amendment is being proposed, intended or in the offing.

The Niger Delta Development Commission Act 2000 is divided into Six Parts and has 31 Sections. Part I deals with the Establishment etc. of the NDDC and Governing Board and has 6 sections; Part II deals with the function and powers for the Commission etc and has 2 sections. Part III deals with the Structure of the Commission and has 3 sections; part IV deals with the Staff and has 2 sections; Part V deals with the Financial Provisions and has 7 sections while part VI has the Miscellaneous Matters.

Maybe, because of its chequered enactment history, one must observe that the Act is an inelegantly couched piece of legislation with so many obtuse clauses, this may account for the need for an amendment. Unfortunately, the proposed Bill to amend some sections of the Act has not improved on its inelegant phrasing; take for example the contentions and/or notorious Section 10 which though absolutely inconsequently has been the major source of so much hue and cry.

The extant Section 10 provides as follows: There shall be for the Commission a Management Committee which shall

- (a) Consist of Chairman who shall be the Managing Director, two Executive Directors the Directors; **the Directors responsible for the Directorates** established under Section 9 of this Act; and such number of other members as may be determined from time to time by the Board.
- (b) Be responsible to the Board for the general administration of the Commission;

While the amendment as proposed by the Bill provides as follows:- There shall be for the Commission a Management Committee which shall:

- (a) Consist of a Chairman who shall be the Managing Director, two executive Directors, the **Heads of the Directorates** established under Section 9 of the Act and such number of the members as may be determined from to time by the Board.

When read in isolation there is a prima facie presentation that “Chairman of the Commission” shall also be the Managing Director but this is not what the law is saying. This section deals with Management Committee and was only saying that the Managing Director shall be the chairman of the Management Committee; simple. But inelegant obtuse couching has totally misrepresented the provision, but the joke is that both the extant Act and the Bill have exactly the same provision. The only amendment is buried in the middle of that section where instead of “Directors responsible for the Directorates” we would now have “The Heads of the Directorates”, i.e. the underlined portions – simple.

The amazing tension which this matter has raised and the disparate comments from sources we expect to learn the correct situation from is cause for serious worry because they have mostly been largely uninformed and unenlightened. Is there mischief in this or sheer ignorance and laziness? Consider that the South-South Governors meeting and Legislators even joined the furore, while the Delta State House of Assembly passed a resolution condemning the amendment in the Bill.

The Bill has 11 (eleven) sections and seeks to amend Sections 10, 12, 14, 18,24, 28 of the Act. Most of the amendments are intended for clarification and succinctness, only the amendment in Section 6 which seeks to amend Section 14 of the Act is strategically, fundamentally important and should actually be basis for discourse particularly by the affected arms of the government for example State Governments whose compliance with the requirements of the law will ensure the success or failure in the funding of the Commission, for clarity I reproduce the extant! Section 14 and the proposed amendment in the Bill, viz: section 14: (1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Commission. (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section:

- (a) From the Federal Government, the equivalent of 15 percent of the total monthly statutory allocations due to members States of the Commission from the Federation Account; this being the contribution of the Federation of the Federal Government to the Commission;
- (b) 3 per cent of the total annual budget of any oil producing company operating on shore and off shore, in the Niger Delta Area; including gas processing

companies; Now see proposed amendment: Section 14 of the principal Act is amended: Section 14 of the principal Act is amended in subsection (2) as follows:

(a) in paragraph (a) by –

- (i) substituting for the words “15 percent” the words “10 percent;
- (ii) inserting immediately thereafter the following new paragraph “(10) percent of the monthly stator revenue allocation due to each member State of the Commission from the Federation Account which shall be paid to the Commission by the Federation (FAAC).

(b) in paragraph (b) by substituting for the words “3 per cent the words “2 per cent”

Notably this section which is all-important has not been given any attention rather the air has been heavy with suspicion, allegations and cries by groups and persons exhorting and threatening the Presidency not to amend the Act, and not to convert the Chairman of the Commission to be Chairman and Managing Director. Unfortunately the Minister’s comment under review has thrown more darkness and increased the heat.

Now if the Government intends to amend the position of the Chairman and convert him to a Chairman/Managing Director the following sections of the Act MUST ALSO BE AMENDED viz. Sections 2, 4 and 12, in particular Section 12 would have to be totally re-crafted and also Section 25, etc.

Amongst the disciplines of the Rule of Law is subjugation to law not whim, thus one cannot say that maybe the Government is flying a kite; this kite; this kite will not fly and does not even exist because we have a Bill clearly showing Government’s intentions; if government officials and legislators with their bloated staff cannot read an Act of 31 (thirty one) short sections and understand a Bill of 21/2 pages, then there is massive intellectual laziness roaming like GSM all over the place.

The NDDC is an institution which needs all the goodwill it can get to succeed. The unnecessary bad-blood and negative vibes already generated by baseless suspicion of Government’s motives is unfortunate, but this Government must take full responsibility for constantly failing to bridge vital communication gaps; it has taken painstaking effort by a concerned private citizen to find out that the worries of every Delta man that the Managing Director/Chief Executive was eminently going to be denied them even at inception is all a wicked hoax. Please let there be peace.

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