

'Awards of acreages Will Be Fair, Transparent and Competitive'-Nigeria's Upstream Regulator

As Chief Executive of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), a creation of the Petroleum Industry Act (PIA), signed into law in August 2021, **Gbenga Komolafe** has a large pile of issues on the table. The country's crude oil production is struggling at a historic low; its 1.3-1.5 Million barrel per day range is around 40-45% lower than the peak production of 2.6MMBOPD, achieved in 2005, and regulatory governance has had a major role to play in the decline. International oil majors are leaving Nigeria's shallow water and onshore terrains, while the seven deepwater fields, commissioned between 2004 and 2019, are heading to rapid decline. Meanwhile, several of the homegrown independents taking over the majors' divested assets have themselves performed poorly; their questionable HSE practices resulting, in the last half year, in a large oil spill in parts of the wetlands of the eastern Niger Delta; an unrelenting rage of post-blow out fire in shallow water western Niger Delta, and a fatal explosion of an FPSO which has taken the lives of at least three people. As NUPRC's CE, it has been Komolafe's lot to bring closure to the marginal fields bid round, the country's first upstream license sale in 12 years, which was launched in mid-2020 by the now defunct Department of Petroleum Resources (DPR). That exercise is widely regarded as the least transparent and most contentious contest for hydrocarbon property in the country's history. And Komolafe is dealing with the fiasco. In the brief conversation with **Africa Oil+Gas Report**, the first exclusive interview with any media outlet, the Commission CE, as he is called, argues repeatedly that fair and high quality regulation, anchored on due process, is the key to improving the country's prospects.

Below are excerpts...

The Status of the Marginal Fields Bid Round

I was keen to close out this bid round. Every contract has terms and embedded in the terms is the duration, the tenure of the contract.

I realized that whereas most of the potential awardees had their signature bonus, quite a good number had not come up with their payment, long after the 45 days stipulated in the letter. In essence, the awards that has lapsed by effluxion of time. We then issued notices to all the affected people. I advertised the statement widely. When you publish something in the newspapers it is an advertisement to the whole world. The advert is a very powerful defence against alibi. "Notice is hereby given to the general

public, and in particular, all recipients of the letter of notification of potential awardee status in the 2020 marginal field bid round that the 45 calendar days allowed for payment of the requisite signature bonus has since lapsed," the notice stated.

We won't be arbitrary. Anyone whose licence is revoked during my tenure will not have a space to challenge. We will take a decision such that everyone challenging will be standing on very weak ground.

Why Not Publish the List of All Awardees or, as You Call them, 'Potential Awardees'?

This process is not concluded yet. We cannot publish any full list. (Editor's note: Question essentially parried).

Now, some of the 119 companies who have fully paid their bonuses have formed the required Special Purpose Vehicles (SPVs) to operate the assets. They are asking for their licences, without which, some say, they are neither able to raise the funds for their work programmes, nor start working-relationship discussions with the oil majors who operate the Leases from which the marginal fields were ring fenced

We are working. We are engaging (Editor's note: Question essentially parried).

What happened to the planned sale of Addax's operated assets to three Nigerian companies? Your quote in the media saying that the assets have reverted to NNPC had a ring of finality to it...

On the Addax issue. I got to the seat, reviewed the file and determined that two extensions had been granted for the payment you are talking about. The participants had been granted two extensions for payment and they had not come up with the money. It was on this basis of failure that the award lapsed.



If you were granted an award. It is guided by the law of contract. If you don't meet the terms, the award reverts to the original owner. It is now the obligation of the NNPC to find a viable partner to operate the asset.

There was a bid round for the purpose of commercializing gas flare sites in the country. That process has since rolled over...

We will pursue vigorously the gas flare commercialization programme. I am going to rework, rejig it to finalise the work. As for the timeframe: we hope to wrap it up before the end of the second quarter 2022.

In finalizing the round, we will ensure fairness, transparency and competitiveness. We are going to ensure very effective regulation that will give effect to the finest spirit of competition

We've been asking you questions based on matters arising in Nigerian Upstream Regulations, a sort of follow up on issues that had come up before your appointment. Now, what is your own agenda?

First things first. We are in the process of developing regulations for the activation of the Petroleum Industry Act (PIA). Every law must be given effect by regulation. You

navigate the implementation of the law through regulation. President Muhammadu Buhari inaugurated a Presidential Implementation Committee for the act. The draft regulations that emanate from the committee will be transferred to the two regulatory bodies. There will be public hearings of the regulator; just as you have public hearings for the law making, you must also have public hearings for the regulations of the law. You must have the stakeholders' hearings.

Here at NUPRC, the staff and management have been going through the draft regulations. The PIA provides robustly for Abandonment, Host Community and Award of Acreages, but how do we go about giving effect to these provisions? I have been working with key staff on these.

The Commission has advertised a notice of consultation with stakeholders on regulations development in compliance with section 216 of the PIA. The notice, it says on its website, invites inputs from the lessees, licensees, permit holders, Host Communities, and other Stakeholders in the Nigerian upstream petroleum sector, by March 18, 2022.

Stakeholders' inputs and consultation are being sought in the areas of (1) Conversion and Renewal of OPL and OML Regulations (2) Petroleum Licensing Round Regulations (3) Upstream Petroleum Fees Regulations (4) Petroleum {Drilling and Production} Regulations (5) The Petroleum Royalty Regulations (6) The Gas Pricing Regulations (7) Definitions Regulations (8) Upstream Environmental Remediation Fund Regulations (9) Upstream Environmental Management Plan Regulations (10) The Host Community Development Fund Regulations. (Editor's additional commentary).

What Do You Want Most to Achieve with this Job?

I came with a revolutionary mindset. I am a unique person in the industry, going by my background. I intend to do things differently in terms of adhering to processes. Informed by my background as both an engineer and lawyer, I am a process person. I believe in the rule of law. I am both a fellow of the Nigerian Society of Engineers as well as a member of the Nigerian Bar Association.

Part of the reforms is strengthening the legal department. On the basis of the need to improve efficiency and professionalism of



...With Rick Kennedy, Managing Director, Chevron Nigeria and Chair of the OPII Producing Section of the Lagos Chamber of Commerce: "The PIA provides robustly for Abandonment, Host Community and Award of Acreages, but how do we go about giving effect to these provisions?"

the department, the board approved the appointment of Olayemi Ayanechi (a Cambridge University trained senior lawyer from the private sector, who was formerly Group Legal Counsel at Sahara Group, and a Senior Partner Templars Law firm) as Commission Secretary/Legal Adviser.

We will not be arbitrary. Anyone whose licence is revoked during my tenure will not have a space to challenge. We will take a decision such that everyone challenging will be standing on very weak ground.

You bring your field development programme. That programme is very key and our oversight of the programme will be guided by the finest points of the law.

What separates a fish seller from a proper industry person is the attitude to the development of the field or asset he is assigned. In many cases the moment people get a letter of award, they write to say they want to assign. Assign what? There's a phrase in law, frequently rendered in Latin: *'Nemo dat quod non habet'* meaning 'You can't give what you don't have'. For you to get an award you have to show the proof that you can pay the signature bonus and you can finance the field development. You get it only because you've met the requirements. Your award would have been consummated before you can talk of assignment. We shouldn't be encouraging people making money by trading papers.

Parting Words...

It is better you have a regulator that abides with the rule of law than to have a genius as a regulator. If you have a judge in court and he decides to rule on the basis of his ingenuity, then it becomes a ground for appeal. If you

have such a judge, he is a problem judge; he would be abusive discretionary. I am going to ensure that our rules and processes give effect to the law. Awards of acreages shall be carried out on the basis of fairness, transparency and competitiveness.

Gbenga Komolafe, a Brief Resume

Gbenga Komolafe, 58, is a Nigerian engineer and lawyer, whose career has been largely forged in the crucible of the public sector of the hydrocarbon industry. In 2016, he was appointed pioneer Managing Director, Nigeria Pipeline & Storage Company NPSC, effectively inaugurating this new NNPC subsidiary. Prior to that he was Group General Manager, Special Duties for the company (August 2015 to March 2016), a position he took after being the Group General Manager (GGM), Crude Oil Marketing Division of NNPC (March 2014 to August 2015). He took hold of the Crude Oil Marketing job after an 18-month tenure as Executive Director, (Commercial), Pipeline and Petroleum Marketing Company PPMC (October 2012 to March 2014). The PPMC position was his first NNPC job. He had been General Manager, (Operations), Petroleum Equalization Fund (December 2011 to October 2012), and General Manager Operations, Petroleum Product Pricing Regulatory Agency PPPRA (November 2010-December 2011).