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Fiscal Responsibility Commission and the Disclosure of Information on Public Revenues and Expenditures in Nigeria, 2007-2014

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Abstract:

The need for fiscal laws and their implementation is glaring in Nigeria considering the fiscal irresponsibility displayed by many Nigerian institutions and Nigerians in public trust. In Nigeria, the fiscal atmosphere is characterized by lack of access to fiscal information, absence of transparency and openness in the management of public finance. In reaction to this challenge, previous administrations especially at the federal level made policies, established agencies charged with the responsibility of setting standards in fiscal matters. Despite these efforts, obscurity in the handling of government fiscal resources remains on the increase. This led to policy reforms which culminated in the enactment of the Fiscal Responsibility Act, 2007. This particularly led to policy reforms that engendered the creation of the Fiscal Responsibility Commission (FRC) via the enactment of the Fiscal Responsibility Act, 2007 in Nigeria. The FRC is a body established to enforce the provisions of the FRA, 2007 which among other things include the promotion of transparency, openness and accountability in the management of public resources. The aim of this study was to examine how the FRC has compelled persons or government institutions to disclose information relating to public revenues and expenditures and their implications for its finances. The study adopted a survey design. The population of the study consisted of 130 staff and officials of the Fiscal Responsibility Commission. Primary data were gathered using structured oral interview. Textbooks, journals, government publications, etc were the sources of secondary data and it was critically examined alongside the primary data using descriptive analysis. Central among the findings of the study was that the FRC has not been able to secure a timely disclosure of information on public revenues and expenditures from the persons and government institutions in Nigeria. The MDAs treat the Commission's requests to publish their information as required by the FRA, 2007 with disrespect and unseriousness.

Keywords: Fiscal responsibility commission, fiscal responsibility act, public revenue, public expenditure and public financial disclosures

1. Introduction

A former Nigerian Minister of Finance, Dr Okonjo-Iweala was right when observed that a mixture of dwindling financial fortunes and fiscal rascality or even laissez-faire attitude towards the management of scarce resources will only aggravate economic misfortunes. In many parts of Africa, despite their huge human and natural endowment, they are easily mentioned among the poor nations of the world. Nigeria in particular is a country with abundant oil and gas, arable land for agriculture and a teeming population envious for business and commerce.

However, despite its lavish resources, Nigerian economy has continued to show the opposite. The numbers of the unemployed and the poor continue to grow and worsen. This has been blamed on financial irregularities and gross mismanagement of the country's vast resources (Ezeabasili and Herbert, 2007). A few privileged persons have engaged in massive inflation of government expenditures and diversion of public revenues to private use. This is perpetrated through the abuse of due process and secrecy in the accounting system of government business. Thus, giving rise to where we have men who are stronger than the institutions of the state.

In response, the government especially at the federal level has set up bodies with mandates to curb financial irregularities in Nigeria. These are the Economic and Financial Crime Commission (EFCC), Independent Corrupt Practices and other related Offences Commission (ICPC), Code of Conduct Bureau, Budget Monitoring and Price Intelligent Unit among others.

But despite these bodies created and financed with tax payers' sweat, fiscal wastes fuelled by lack of openness in the handling of public monies remain on the increase. For instance, revenue generating MDAs reportedly generated #699.06 billion in 2004 but only remitted #46.80 billion to government coffers; generated N725.14 billion in 2005 but remitted mere N54.10 billion; and generated N854.90 billion in 2006 and just remitted a meager N73.80 billion (Okwe,

Nelson, Adeoye and Ogah, 2015). This is because the agencies established to checkmate these anomalies are more reactive than proactive in orientation. The MDAs seized the opportunity and resorted to cutting corners by retaining substantial amounts in their coffers which have reduced government revenue and increased public expenditure.

Consequently, the Federal Government of Nigeria in 2007 taking clues from the experiences of Brazil, India among others that utilized the establishment of fiscal responsibility laws to revamp their economies, enacted the FRA, 2007. Just like the Brazilian FRL (2000) and Indian Fiscal Responsibility and Budget Management Act (2003), the Fiscal Responsibility Act, 2007 was meant to secure a better public financial management in Nigeria. It established the Fiscal Responsibility Commission to ensure the promotion and enforcement of the nation's economic objectives and for related matters (FRA, 2007).

The Act is made up of 14 parts and 56 sections which include Section 1 (1), Section 2 (1) a and b and Section 2 (2) which states:

“There shall be established, a body to be known as the Fiscal Responsibility Commission (in this Act referred to as “the Commission”).

“For the purpose of performing its functions under this Act, the Commission shall have power to compel any person or government institution to disclose information relating to public revenues and expenditures; and cause an investigation into whether any person has violated any provisions of this Act”.

In Part XI (Transparency and Accountability) sections 48 (1) and 49 (1, 2 and 3), the Act calls for a timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures. It is sequel to the relevance of these provisions of the FRA, 2007 that this study tried to find out if these goals have been translated into action in Nigeria between 2007 and 2014.

2. Conceptualization of Terms Used

2.1. Fiscal Responsibility Commission (FRC)

The Fiscal Responsibility Commission is an independent corporate body established to among other things (FRA, 2007: 1);

- Monitor and enforce the provisions of the FRA, 2007 and by so doing promote the economic objectives contained in Section 16 of the 1999 Constitution of the Federal Republic of Nigeria (As amended),
- Disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters and
- Undertake fiscal and financial studies, analysis and diagnosis and disseminate the result to the general public.

The Commission consists of:

- A chairman, who is the Chief Executive and accounting officer of the commission;
- One member representing: the organized private sector, civil society engaged in causes relating to probity, transparency and good governance and the organized labour;
- A representative of the Federal Ministry of Finance of a level not below the rank of a Director; and
- One member to represent each of the six geopolitical zones of the country (FRA, 2007).

2.2. Fiscal Responsibility Act, 2007 (FRA, 2007)

The Fiscal Responsibility Act, 2007 is a law made to provide for the prudent management of Nigerian resources, ensure long-term macroeconomic stability of the Nigerian economy; secure greater accountability and transparency in fiscal operations within a medium term fiscal policy framework etc. The Act provides for budget preparation, implementation and reporting process and seeks to open up the fiscal management and budgetary process to greater transparency and accountability whilst streamlining the rules.

The bill for the Act was passed under the tenure of former President Obasanjo but the actual signing into law was done in June, 2007 by Late President Umaru Musa Yar'Adua as 2007 Act No. 31 (Onyekpere, 2013). The Act is mainly a federal law as it only affects the states and local governments on issues bordering on borrowing, debts and indebtedness. The component units are to be persuaded to replicate it in their areas of jurisdiction.

2.3. Public Revenue

This refers to the income of the government through all sources. It is also seen as government revenue. It is an important tool of the fiscal policy of government. Public revenues are received from various sources including tax and non-tax. Taxes are levied on the individuals, business and corporate organizations on goods they produce or services they render.

Non tax sources of revenues include capital receipts in the form of external loans and debts from international financial institutions. These revenues whether taxes or non taxes are what government uses to render services to the people. A continuous fall in the public revenues of a country portends a great danger.

2.4. Public Expenditure

This is the spending made by the government of a country on collective needs and wants. It is incurred by central, state and local governments of a country to satisfy the collective social wants of the people. Public expenditures are

classified in various ways. Hugh Dalton has classified it as expenditure on political executives, administrative expenditure, security expenditure, expenditure on administration of justice, developmental expenditure, social expenditures and public debt charges.

2.5. Public Financial Disclosures

These entail releasing information that showcases the financial health of the government and making key assumptions underlying budget proposal available and accessible. These disclosures are in the forms of budget reports, expenditure allocations as well as information on government debts and indebtedness.

Disclosures of financial information according to CleanGovBiz (2012) should include:

- Financial liabilities, with monthly borrowings classified by the currency denomination, maturity, fixed or variable interest rate of debt, and debt management instrument (e.g. forward contracts, swaps).
- Financial assets, classified by major type;
- Contingent liabilities with a disclosure of total amount (where applicable) and a classification by major type and historical information on defaults.
- Non-financial assets, with a disclosure of the depreciation schedule and method under accrual accounting or register of assets under cash accounting;
- Employees pension obligations and key actuarial assumptions underlying the calculation of the obligations, and
- Tax expenditures and estimated costs.

3. Research Procedure

The study adopted the descriptive survey design. The population of the study is the one hundred and thirty (130) staff and officials of the Fiscal Responsibility Commission as at October, 2015 when the research was carried out which make up its ten (10) directorates. The sample size for the study is six (6) management staff of the FRC. This sample is got through the multi-stage sampling technique adopted for the study.

The sources of data collection for the study were grouped into two. These are primary and secondary sources. We interviewed the heads of Legal, Investigation and Enforcement, Policy and Standards, Monitoring and Evaluation, Administrations among others. In order to collect valid and reliable data, the researchers developed an interview guide for the interviews of the heads of the directorates individually at their Asokoro Abuja Offices.

4. Need for Disclosure of Information on Public Revenues and Expenditures

Making public finance information/assumptions publicly available and accessible for independent scrutiny is relevant for these purposes;

4.1. Reduction of Corruption and Other Prebendal Practices

When information relating to government budgets are made available and accessible to members of the public, civil society organizations and organized private sectors, the increasing diversion of public resources will reduce significantly. This is because perpetrators of economic sabotage in whatever form would want their deeds to be made public. So, they do everything possible to shed their activities from the eyes of the public.

4.2. Public Participation in Decision Making/Resource Allocation

Openness in the way and manner public resources are created and utilized will promote good governance through improved citizens' participation and capacity and enhanced government transparency and accountability (CleanGovBiz, 2012). The government fiscal information properly disclosed would enhance understanding of public resources and expenditures by members of civil society and the general public and enable them to identify inefficiencies, inconsistencies, leakages and above all hold the government to accountability.

4.3. Bestows Legitimacy and Reduces Coerced Compliance

The people (tax payers) will hold the government in high esteem and have public trust and confidence in the integrity of government authorities and the processes thereof. When government transactions are kept very transparent, people comply to reforms in taxation and other policies and programmes without necessarily being forced or intimidated. However, no matter how attractive these benefits are, there are daunting challenges to timely public financial disclosures, especially in developing countries. These could include complex formats and technical nature of public financial documents and processes that make public criticisms a challenging task; lack of a culture of transparency in financial matters; widespread and deep-seated lethargy of officials to share financial information in the public domain to mention a few (Carmen and Mahi, n.d).

5. Disclosures of Information on Public Revenues and Expenditures in Nigeria, 2007-2014

The section 2 (1) stated for the purpose of performing its functions under this Act, the commission shall have power to:

- Compel any person or government institution to disclose information relating to public revenues and expenditures; and
- Cause an investigation into whether any person has violated any provisions of this Act.

Furthermore, Section 2 (2) added that if the commission is satisfied that such person has committed any punishable offence under this Act or violated any provisions of this Act, the Commission shall forward a report of its investigation to the Attorney-General of the Federation for possible prosecution.

Consequently, FRC collaborates with the Nigeria Police Force which deploy at the commission's request, some police officers to bolster the Commission's Investigations Unit. This is because the commission does not have the power to effect arrests with its officials/personnel.

As a result, most agencies of government have hesitated or failed to divulge information on public revenues and expenditure within their knowledge. In addition, the investigatory powers of the FRC do not appear complete as it does not detail the specifics of such powers (Centre for Social Justice, 2009).

For instance, it these questions;

- Does it include the power to compel witnesses to come and testify under oath before officers of the commission; search and seizure of documents, reveal evidence and property even if it has to be done pursuant to court order obtained ex-parte or on notice?
- Would the FRC do the investigation on its own or will it involve the police and other agencies such as the Economic and Financial Crimes Commission?

Furthermore, merely forwarding a report of the investigations to the Attorney-General without anything more does not guarantee that action will be taken to prosecute offences and eventual punishment for offenders. This is especially as the violators of the Act are high ranking government officials and even minister like the Attorney-General. Therefore, expecting the Office of the Attorney-General to prosecute such officers may be wishful thinking.

Despite the fact that section 39 declares that any violation of the sections 36, 37 and 38 shall be an offence and section 41 (3) also states that non compliance with the section 41 (1) and (2) shall be an offence, there are no penalties prescribed for the offence. So, it will be very difficult for the Attorney-General do his prosecution. For instance, assuming there is prosecution and conviction, the court will declare that an offence has been committed but no sanction will follow. This will end up more like an academic exercise without any penal effect; thereby removing the teeth of the penal provisions of the FRA, 2007.

Hence, these observed lapses in the Act have made the disclosures of fiscal information by the MDAs very weak. Some MDAs failed to make any submission of their revenue returns in 2012 for instance despite several requests and reminders from the commission to that effect. In response to question on the extent the FRC ensured the implementation of the FRA, 2007, the Head, Policy and Standards, alleged that the MDAs, state governments, the Ministry of Finance and the National Assembly at various times do not help matters. According to him, many states have refused to replicate the Act in their states. Particularly, the MDAs do not heed the calls from the commission. He stated that when FRC send a notice/ reminder, over an issue to them most of them ignore us. They do not publish their annual reports, financial statements, budget implementation reports etc and when they do at all, they are done behind time set for such actions to be economically useful in utter disregard to the provisions of the FRA.

For instance, in accordance with the provisions of the FRA, 2007, the commission requested MDAs to submit revenue returns on quarterly basis annually. After appraising the returns received and processed with available records between 2010 and 2014, the MDAs have been categorized into 5 groups in accordance with the level of compliance. Analysis of the revenue returns reveals the following as contained in table below.

Submission	2010	% Total	2011	% Total	2012	% Total	2013	% Total	2014	% Total
1 st Quarter only	1	2.5	4	8.33	1	2.22	0	0.00	3	6.25
1 st and 2 nd quarter only	3	7.5	2	4.17	3	6.67	4	8.89	0	0.00
1 st , 2 nd & 3 rd quarters only	4	10	6	12.50	3	6.67	4	8.89	3	6.25
1 st , 2 nd 3 rd & 4 th quarters	12	30	23	47.92	25	55.56	22	48.89	14	29.16
No submission	20	50	13	27.08	15	33.33	18	40.00	28	58
Total	40	100	48	100	47	100	48	100	48	100

Table 1: Comparative Analysis of Revenue Returns Submission for 2010-2014

Sources: FRC Annual Reports, 2010, 2011, 2012, 2013 & 2014

The table shows the 5 groups as those that complied by submitting in the 1st Quarter only; 1st and 2nd Quarters only; 1st, 2nd, and 3rd Quarters only; 1st, 2nd, 3rd and 4th Quarters and no submission at all. A careful analysis of the revenue returns received over these years revealed that most MDAs continued to default in the prompt remittance of their internally generated revenue to the Treasury. Particularly, the table shows that the response rate was not encouraging. Out of the 48 MDAs monitored in 2014 for instance, only 14 or 29.16% submitted returns for the entire year. This is a sign of non-regard of the FRC by the MDAs.

In another instance, a report submitted to the Office of the Auditor-General of the Federation in 2015 by Price Waterhouse Coopers confirmed that 18.5 billion dollars in oil revenue was missing. On the same note, the former CBN Governor and Emir of Kano claimed that about 20 billion dollars was missing from Nigeria's oil revenue. The amount, part of the 67 billion dollars worth of crude shipped by the Nigeria National Petroleum Corporation (NNPC) between January 2012 and July 2013, was not remitted to the Federation Account. Among these defaulters include high-flying and huge revenue generators such as the NNPC, Nigeria Customs Service, NIMASA, Bureau for Public Enterprises (BPE), Nigeria Electricity Regulatory Commission (NERC), Federal Airports Authority of Nigeria (FAAN), Nigeria Immigration Service

(NIS), and Nigeria Broadcasting Commission (NBC) spent three years without remitting a kobo to the Consolidated Revenue Fund (CRF). These agencies often perpetrate this fraud by maintaining two different account statements; one submitted to the FRC and the other to the Accountant-General of the Federation.

According to the Head, Legal and Investigation, the FRC ought to compel these MDAs to declare their revenues and expenditures in their published accounts not later than three months into the year but the compulsion only ends with investigation and forwarding its findings to the Attorney-General of the Federation as the Commission is not authorized to prosecute and sanction. This deficiency in the structure and power of the FRC makes non-remittance of revenues of government easy for these MDAs. They see the enforcement agency (FRC) more as a toothless bull dog which they can even intimidate with their strong revenue bases.

Particularly, a total of N12,883,156,672.44 independent revenue was remitted to the treasuries by 32 MDAs in 2012 (FRC Annual Report, 2012). This is an improvement of N1,066,849, 172.44 or 9.3% over the sum of N11,816,307,500.00 remitted by 35 MDAs in 2011. However, it is a somewhat disappointing response considering the fact that several requests and reminders to that effect were made. It should be noted that only 25 MDAs completed their submissions for the four quarters of 2012 compared to 23 MDAs in 2011. The response rate by the MDAs is not encouraging judging by the fact that 15 or 33.33% of the contacted MDAs failed to make any submission in 2012 despite the reminders. Also, in 2013, 18 MDAs failed to submit their revenue returns (FRC Annual Reports, 2013) Nevertheless, no evidence of forwarding such non-compliance to the Office of the Attorney-General was seen let alone the office prosecuting them.

6. The Preparation and Submission of Budget Implementation Reports and Budget Execution Reports to The National Assembly as Financial Disclosure in Nigeria

The Fiscal Responsibility Commission has ensured that the Ministry of Finance prepared and submitted Budget Implementation Reports (BIRs) and Budget Execution Reports (BERs) to the National Assembly but not according to the set timelines of the FRA 2007. Section 30 (1) of FRA, 2007 provides that the Minister of Finance, through the Budget Office of the Federation, shall prepare and submit Quarterly Budget Implementation Reports (BIRs) to the Fiscal Responsibility Commission and the Joint Finance Committee of the National Assembly not later than 30 days after the end of each quarter. Subsection (2) went further to add that the Minister of Finance shall, cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on Ministry of Finance website, not later than 30 days after the end of each quarter. Similarly, section 50 requires a consolidated Budget Execution Reports (EIRs) to be prepared for the entire budget year not later than six months after the end of the financial year.

Despite the above provisions, the Commission has observed that reports for 2010-2014 were either not submitted at all or submitted out of time.

Fiscal Year	Budget Implementation Report (BIR)	Due date	Date Submitted	Behind schedule
2010	1 st Quarter	30 th April, 2010	4 th Sept, 2010	4 months
	2 nd Quarter	31 st July, 2010	7 th Oct, 2010	2 months
	3 rd Quarter	31 st Oct., 2010	28 th Jan, 2011	3 months
	4 th Quarter	31 st Jan, 2011	6 th June, 2011	4 months
	Consolidated	30 th June, 2011	6 th June, 2011	-
2011	1 st Quarter	30 th April, 2011	27 th Oct, 2011	6 months
	2 nd Quarter	31 st Jul, 2011	27 th Oct, 2011	3 months
	3 rd Quarter	31 st Oct, 2011	4 th May, 2012	3 months
	4 th Quarter	31 st Jan, 2012	3 rd Aug, 2012	5 months
	Consolidated	30 th Jun, 2012	3 rd Aug, 2012	1 month
2012	1 st Quarter	30 th April, 2012	Not Submitted	-
	2 nd Quarter	31 st Jul, 2012	29 th Oct, 2012	3 months
	3 rd Quarter	31 st Oct, 2012	17 th Jan, 2013	2 months
	4 th Quarter	31 st Jan, 2013	22 nd Mar, 2013	2 months
	Consolidated	30 th Jun, 2013	Not Submitted	-
2013	1 st Quarter	30 th April, 2013	28 th Jun, 2013	2 months
	2 nd Quarter	31 st Jul, 2013	4 th Oct, 2013	2 months
	3 rd Quarter	31 st Oct, 2013	Not Submitted	8 months
	4 th Quarter	31 st Jan, 2014	Not Submitted	5 months
	Consolidated	30 th Jun, 2014	Not Submitted	-
2014	1 st Quarter	30 th April, 2014	21 st Sept, 2014	5months
	2 nd Quarter	31 st July, 2014	10 th March, 2015	11months
	3 rd Quarter	31 st Oct, 2014	Not Submitted	9 months
	4 th Quarter	31 st Jan, 2015	Not Submitted	7 months
	Consolidated	30 th Jun, 2015	Not Submitted	3 months

Table 2: Timelines of Submission of Budget Implementation Reports by the Budget Office of the Federation from 2010-2014
Source: FRC Annual Reports, 2011 & 2014)

From the table, it is pertinent to note that the implementation reports were sent too late to make any impact in the immediate subsequent budget implementation. In the same vein, the publications of the reports in the print and electronic media as well as on the Ministry of Finance's website were if done, behind schedule. As it is, the reports would only be useful for research purposes; certainly not for improving the implementation of subsequent quarterly budget (FRC Annual Report, 2009-2013).

Contrary to Section 30 and 50 of the FRA, 2007, that provide for the preparation of separate BIR for each quarter, the BIRs and the consolidated Budget Implementation Reports for some quarters in the periods were combined. For example, the BIRs for the 4th Quarters and the Consolidated Budget Execution Reports for 2010 and 2011 were combined. Both 1st and 2nd Quarters of 2011 BIRs were also combined (FRC Annual Report, 2011). The Budget Office of the Federation need to keep to the strict requirements of the FRA, 2007. Similarly, budget execution report is to be prepared for the entire budget year not later than six months after the end of the fiscal year. These reports are also required to be published in the print and electronic media and on the Ministry of Finance website for easy access to the public. The table also shows that the requirements of the BIRs and BERs as instrument of disclosure of fiscal information have been breached. This renders the reports ineffective as potent means of monitoring the implementation of the budget and its transparency.

Furthermore, the Budget Office of the Federation (BOF) in violation of the FRA, 2007 combined the 2012 1st and 2nd quarters BIRs while those of 2013 3rd and 4th quarters were not officially submitted to the Commission but downloaded from the website as the Head of Administration, FRC stated in his interview. The BIRs for 2014 3rd and 4th quarters were obtained directly from BOF. Therefore, the BOF is enjoined to keep to the strict requirements of the FRA, 2007 in the prompt submission of subsequent reports with emphasis on the following:

- Separate reports should be prepared for each year
- Each quarters BIR should contain details of the Annual Cash Plan and Disbursement Schedule
- Annual Consolidated Budget Execution Reports should be prepared separately independent of the 4th Quarter BIR.
- Details of Excess Crude Accounts should always include opening and closing balances in addition to accruals and withdrawals currently being disclosed
- BIRs should be published and circulated in the media public consumption.

7. Conclusion

Amidst the increasing dwindling prices of crude oil and the ever-increasing responsibilities of the Nigeria Government to her teeming population, there is need for transparency and accountability in the management of public monies. In addition, lack of openness in the fiscal operations of government through its revenue generating and spending agencies, breed distrust, doubt and loss of confidence in the government. The FRC cannot succeed in its mandate of promoting openness, transparency and accountability in the use of public resources in Nigeria without a serious amendment in the Act establishing it. This is especially in the areas of sanctions and enforcement.

8. Recommendation

Based on the conclusion of this study, we make the following recommendations to empower the Fiscal Responsibility Commission to secure timely and accurate disclosures of information on public revenues and expenditures in Nigeria. One, the extant law establishing the commission in all honesty has to be amended with the commission given more powers to prosecute and sanction adequately. With these powers being sought for the commission, the present display of lackluster to the requests and reminders by the MDAs and persons in public trust will diminish fast.

Similarly, Nigerian public official and institutions should embrace patriotism in their services to the country. The heads of the MDAs in particular need to demonstrate their love for the country by ensuring that remittances to the treasury are effectively done without being forced/ influenced. Adequate sensitization and advocacy from CSOs and religious bodies would help in this regard.

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