

15 January 2025

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TEMPLARS ThoughtLab

Nullification of the National Lottery Act and the National Lottery Regulation Commission (NLRC) by the Supreme Court of Nigeria

Introduction

On Friday, 22 November 2024, the Supreme Court of Nigeria (the “**Court**”), in the case of *Attorney General of Lagos State v. Attorney General of the Federation and NASS* (SC/1/2008), delivered a landmark judgment resolving the long-standing dispute between federal and state lottery regulators regarding the regulatory supervision of lottery and gambling in Nigeria. The Court ruled that the National Assembly lacked the constitutional authority to legislate on matters related to lottery in any state in Nigeria apart from the Federal Capital Territory (the “**FCT**”).

We previously shared our initial review of the reports on the judgment in our [Client Alert of 25 November 2024](#). The Court recently (in late December) released the full written judgment to the public. Upon further analysis of the orders granted by the Court, we have highlighted in this client alert, additional insights into the implications of the judgment and its impact on the regulatory landscape for lottery / gambling in Nigeria.

Background Refresher

In a unanimous decision amongst the justices of the Court, the Court nullified the entire National Lottery Act 2005 (the “**NLA**”) as having been enacted ultra vires the constitutional powers of the National Assembly and issued prohibitive orders preventing the Attorney General of the Federation (the “**AGF**”) or any agencies of government from implementing the NLA or any of its provisions.



Ruling

The Court ruled that the National Assembly lacked the constitutional authority to legislate on matters related to lottery in any state in Nigeria apart from the Federal Capital Territory (the "FCT").

Among other considerations, the Court interpreted Sections 4(2), 4(3), 4(4), 4(7), 16(1)(a), 16(1)(b), 16(1)(c), and 16(2)(a) of the Constitution, along with Items 60(a) and 62(a) of the Exclusive Legislative List and Item 7(a) of the Concurrent Legislative List. Drawing on its interpretation of these provisions, along with guidance from persuasive judgments from the Indian Supreme Court regarding lottery and gambling, the Court concluded that lottery regulation is not within the Exclusive or Concurrent Legislative Lists, which are the only areas the National Assembly can legislate on. Consequently, lottery regulation is a residual matter within the exclusive legislative remit of the State Houses of Assembly.

Implications of the Judgment

1. **Nullification of the NLRC:** The National Lottery Regulatory Commission (the "NLRC") has been rendered defunct, as the nullification of the NLA invalidates the NLRC, which was established under and derived its authority from the NLA. Consequently, the NLRC no longer has the legislative authority to issue national licenses to lottery operators or regulate lottery activities across the federation, including the FCT.
2. **State Control over Lottery Regulation:** State legislators now hold full authority to legislate on lottery matters. This means for states that already have their own state lottery regulation (such as Lagos State), the state regulator has full power and regulatory ambit over all lottery matters (including licensing, etc.) within such state.
3. **Absence of Lottery Law for the FCT and other States:** The National Assembly, vested with the power to legislate on matters concerning the FCT, will need to enact a new law to regulate lottery activities within the FCT. This necessity arises because the now-nullified NLA, enacted in 2005 by the National Assembly, was intended to function as a federal law across all states of the federation and did not contemplate any restrictiveness to only the FCT. Following the decision, until such a new law is enacted, lottery in the FCT is unregulated.

While some states already have laws regulating lottery activities, the nullification of the NLA creates a legislative gap in other states. Lottery activities in states without established regulatory frameworks, including the FCT, will lack oversight until relevant laws are enacted by their respective State Houses of Assembly.

4. **Purported Nullification of Existing NLRC Licences:** The nullification of the NLA leaves existing NLRC licensees in legal uncertainty. Although the Court did not explicitly address the status of licenses issued by the NLRC, it can be inferred that, with the invalidation of the NLA, these licenses are now null and void, as the power of the NLRC to issue lottery licences stemmed from the NLA. Consequently, lottery / gambling operators (who held solely NLRC licences) would need to obtain licenses from individual states with established regulatory frameworks, as they would likely now need separate licenses for each state where they operate, rather than relying on a single national license.
5. **Uncertainty on the Regulation of Online Gambling:** It is worth noting that online gambling was raised by the AGF in its argument in defence of the NLA. However, the Court did not address this argument in its ruling. As a result, the regulation of online lotteries and the potential inter-state jurisdictional conflicts they may create remains unresolved. It is not currently clear whether a single state lottery licence would permit an operator to carry out online lottery operations in other states and throughout the country. This area is likely to be subject to further regulatory or judicial pronouncements, as online gaming, accessible across state borders, is extremely prevalent and presents unique challenges that may lead to additional legal disputes and regulatory complexities.

Conclusion

The judgment significantly redefines the regulatory framework for lottery and gambling activities in Nigeria and will have major commercial implications for all current and prospective lottery and gambling operators in Nigeria, along with their business partners.

As we previously observed, while the decision is legally sound, it may create challenges for lottery operators conducting business in multiple states, as they may now face the burden of obtaining licenses in each state where they operate. Existing operators that were reliant on the federal framework may also unfortunately incur significant additional costs as they have to conform to the state licensing framework.

It is critical to keep an eye on how the states in Nigeria will now regulate lottery and gambling activities, whether any inter-state collaborations will occur, and how operators and other stakeholders adapt to the industry's new legal regime.