

Bank-Customer Relationship and Provision of Quality Electronic Banking Services in Nigeria

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Abstract

The evolution of internet banking has altered the nature of personal-customer banking relationships and has enabled electronic channels to perform many banking functions that would traditionally be carried out over the counter. Banks owe their numerous customers the duty to provide quality services. The extent to which this duty has been performed has stemmed an increasing concern not only within the bank customer relationship but also for monetary authorities over the standard and adequacy of services. The paper examines the regulatory framework put in place to improve electronic banking services in Nigeria so as to enhance bank customer relationship. The paper highlights the key challenges encountered by customers in the course of utilising e-banking services. The commercial banks should take appropriate measures to ensure full adherence to extant regulations. The apex bank should, where necessary, review and update the regulatory guidelines so as to keep abreast of development in e-banking.

Keywords: *Bank, Customer, E-banking, Services, regulations, Nigeria*

1. Introduction

The advent of financial innovations such as credit cards, electronic transfers in the payment system and, more recently, the revolution in ICT have transformed the world into a global village linked with electronic impulses.¹ The evolution of e-banking in Nigeria dated back to 1986 when the banking sector was deregulated. The result of this deregulation brought far-reaching transformation through computerization and improved bank service delivery. The most significant impact of information technology on banking is the customer relationship initiatives it has generated. Banks now have to constantly monitor customer behaviour so as to understand their preference and use technology to respond to customer demands. Once a bank offers services to the public, the relationship of bank and customer is potentially subject to regulation. The relationship between a bank and its customer in electronic banking remains contractual as obtained in traditional banking and it is primarily that of a debtor and creditor with the role being reserved when the customer is indebted to the bank. Though the relationship of the bank and its customers remains contractual, the terms of these contracts have taken 360 degrees turn around. The bank-customer relationship is already a very complex and difficult item. The difficulty multiplies when the relationship is combined with the technology of Electronic Banking.²

The success of any bank or for any bank to thrive in its business activities depends on the strength and the need to invest heavily on customer relationship and service delivery. Nigerian banks in recent times have been preoccupied with innovations in the services they offer. At the same time, the banks have experienced dramatic changes leading to increased demand for non-traditional services including automation of a large number of services. The rendering of quality service to customers is no doubt one of the most significant and a very important issue in the banking industry. Bank services are offered in a broad spectrum that is broadening every day. The variety of services has to be taken into account when one discusses the legal concept of the bank-customer relationship. Also, one must not only differentiate according to the type of services rendered by the banks, but also take into consideration that corresponding to the different types of services there are different types of customers. The different types of transactions are reflected by different types of persons contracting with the bank.

Adeyemi, Ola and Oyewole conduct a study on electronic banking products and services in Nigeria. Their findings show that all the banks have at least one particular form of electronic service. Though various e-banking systems have been implemented and accepted by the customers, e-payment remains the most widely used of the

¹ Osa, I. G. (2016), 'The Impact of E-Banking on Efficient Service Delivery to Customers in Nigeria Economy', *European Journal of Business and Innovation Research* 4 (2), p.76.

² Horn N. (2002), 'Legal Aspects of Bank-Customer Relationship in Electronic Banking' (ed) *Legal Issues in Electronic Banking*, Kluwer Law International) 163 p.186.

e-banking solutions.¹ Online or electronic banking systems give customer the opportunity for easy access to banking activities, thus promoting financial inclusion. These banking activities may include retrieving an account balance, electronic money transfers and retrieving an account history electronically. Electronic banking (E-banking) has gradually become an indispensable part of modern day banking services. All over the world, banking industry is one of the industries that have adopted technology which helped in rendering better and quality services to customers. The quality of services is enhanced using technological innovations. Technological innovations have continued to engender speed of transactions and prompt service delivery in banks, thus promoting customers' convenience and satisfaction.²

All banks provide almost essentially the same services. What makes the difference is the quality of services customers get. In the course of providing e-banking services, banks have among their numerous activities the duty to provide customers with quality services. The extent to which this duty has been performed has stemmed an increasing concern not only within the bank customer relationship but also for monetary authorities over the standard and adequacy of services. Data released by the Central Bank of Nigeria show that customers are still dissatisfied with e-banking services rendered by most banks in Nigeria. In 2017, the Central Bank of Nigeria received 1,141 new complaints from consumers of financial services. The breakdown showed that 1,112 complaints or 97.46 per cent were against commercial banks, while 29 complaints or 2.54 per cent were against other financial institutions. The complaints cover excess/unauthorized charges, frauds, guarantees, account management, ATM dispense errors, funds transfers amongst others.³ The statistic may put bank customer relationship into jeopardy if the apex bank does not intervene to ensure customer confidence in these aspects of the sector, knowing fully well that available legislation cannot cope with the increase in e-banking consumption. The paper examines how the Central Bank of Nigeria (CBN) regulates some of the aspects of electronic banking. The first part of the paper explains the concepts of bank, customer and electronic banking. It examines the legal nature of bank customer relationship in the electronic banking era. The work presents the benefits of e-banking and examines the challenges encountered by bank customers in e-banking service delivery. The last section examines the CBN regulatory efforts aimed at improving the quality of e-banking service delivery through the instrument of policy guidelines.

2. Meaning and Definition of Banker and Customer

The two principal actors within the banker-customer relationship are the banker and customer. It is therefore pivotal to have a proper conceptual understanding of the key players.

2.1 Banker

The Evidence Act takes "*bank*" or "*banker*" to mean "a bank licensed under the Banks and other Financial Institutions Act Cap. B3 LFN, 2004 and includes anybody authorised under an enactment to carry on banking business".⁴ Bank and banker are used interchangeably. Banks and other Financial Institutions Act⁵ defines it as "a bank licensed under this Act". Chartered Institute of Bankers of Nigeria Act also defines it as "a bank licensed in Nigeria under BOFIA 1991 as amended".⁶ From the above statutory provisions and requirement, a banker may be defined as an incorporated body carrying on the business of receiving deposits on current account, savings account or other similar accounts, paying or collecting cheques, drawn by or paid in by customer, provision of finance or such other business as the Governor may, by order published in the Federal Gazette, designate as banking business.⁷

¹ Adeyemi, O. A., O. S. Ola and F. A. Oyewole, (2014) 'Internet Banking Functionality in Nigeria and Outcome of Customer Satisfaction: An Empirical Investigation, International Journal of Academic Research in Business and Social Sciences, 4 (8), 195 p. 204.

² Ololade B. and S. Ogbiede, (2017) 'E- Banking in Nigeria: Issues and Challenges', Research Journal of Finance and Accounting, 8 (6), p.16.

³ Ibid p. 59.

⁴ Section 258, Evidence Act 2011, Laws of the Federation of Nigeria.

⁵ Cap B3 Laws of the Federation of Nigeria 2004, section 66. See also section 59 of the Nigeria Deposit Insurance Corporation Act 2006, *A.D.I.I Ltd v A.T Ltd* (2006) 10 NWLR (Pt 989) 635 at 651, *CBN v S.C.S.B.V* (No. 1) (2015) 11 NWLR (Pt 1469)130 at 150.

⁶ Section 22 Chartered Institute of Bankers of Nigeria Act 2007.

⁷ Section 66 Banks and other Financial Institutions Act, *ibid*.

2.2 Customer

The question of who may be called a customer is not answered by any specific definition in any of the legislation governing banking business in Nigeria. Recourse has to be made to case law in order to determine who is a customer. Igweike defined a customer of a bank as a person who maintains an account in the bank.¹ The court in *Ademiluyi and Anor v African Continental Bank Ltd*² defines a customer as “a person whose money has been accepted by a bank on the footing that they undertake to honour cheques up to the amount standing to his credit”. This definition fails to take into consideration the fact that not all accounts are operated with cheques. In the case of *Great Western Railway Co. v London and County Banking Co. Ltd*,³ a bank had cashed cheques of a man who had no account with it for about twenty years. The issue before the court of laws was whether discounting a cheque by itself can make a person a customer of a bank. It was held by the House of Lords that the man was not a customer. Lord Davey found that in order to determine a person being a customer or not there must be some sort of account, either a deposit or a current account or some similar relation, to make a man a customer of a banker. In other words if a person does not have the account with a particular bank then he is not a customer of that particular bank. The courts in *NDIC v Okem Enterprises Limited*⁴ and *Ironbar v FMF*,⁵ define a customer of a bank as any person having an account with a bank or for whom the bank has agreed to collect items and includes a bank owning on account with another bank. However, in the case of *Woods v Martins Bank*, the plaintiff wrote to the defendant bank asking it to collect monies he had ordered a building society to pay to the bank, to pay part of the sum received to a particular company and to retain the balance of the proceeds to his order. The bank agreed to comply with the instructions even though the plaintiff did not have the account with them at the time. The court found that the plaintiff was a customer. Salmon J stated that since the defendant bank accepted the instructions contained in the letter as the plaintiff’s banker and at any rate from that date the relationship of banker and customer existed between them. From this case it can be inferred that opening an account is not a pre-requisite for a person to become a customer, a mere likelihood that an account will be opened is enough to make a person a customer provided that a bank has agreed service to such a person.

In the Privy Council case of *Commissioners of Taxation v English, Scottish and Australian Bank Limited*,⁶ Lord Dunedin delivering the judgment of their Lordships stated that the word “customer” signifies a relationship in which duration is not of the essence. That a person whose money has been accepted by a bank on the footing that they undertake to honour cheques up to the amount standing to his credit is, in the view of their Lordships, a customer of the bank irrespective of whether his connection is of short or long standing. In *Pius Oku & Anor v Emmanuel Opuene Banigo & Ors*,⁷ the court in considering when the relationship of banker and customer is created held that in that case when late Mrs Joyce Banigo used her property as a security for the loan she got from the 3rd respondent, the relationship of individual customer and its bank was created. The dealing between the banker and the customer must be of nature of banking business.⁸

The legal position implies that opening an account or the likelihood of it is the crucial element in establishing the banker-customer relationship. Therefore the customer of a bank is a person who has applied to it to open an account in his name and whose application has been accepted by the bank. It is not necessary that the account should have been opened for a minimum length of time, or that it should have been operated by the customer making a deposit and drawings against it. The transaction should be of banking nature. These authorities indicate that services rendered by bankers dictate the transactions carried out by a person who interacts with a banker. The services and transactions create banker customer relationship. It is deducible from the provision of BOFIA that a customer is a person who engages in the business of paying deposits on current account, savings account or other similar accounts, draws or pays in cheques, receives finance from bank or such other business as the Governor may, by order published in the Federal Gazette, designate as banking business. Moreover, modern banks offer e-banking services to non-account holders thereby creating a relationship. These services may include offering Credit Cards. The Central Bank of Nigeria Consumer Protection Framework 2016 takes the word ‘customer’ to refer to a person that has a relationship, by reason of benefitting from financial products or

¹ K. I. Igweike, (2005), Law of Banking and Negotiable Instruments, Africana First Publishers Ltd, p. 70.

² 1964 NMLR 137 at 138.

³ (1901) AC 414.

⁴ (2004) 10 NWLR (Pt. 880) 107.

⁵ (2009)15 NWLR (Pt. 1165) 506.

⁶ (1920) AC 683.

⁷ (2003) 6 SCNJ 116.

⁸ S. S. Tarapore, Report of the Committee on Fuller Capital Account Convertibility, Reserve Bank of India, 2006 p. 66.

services offered by a financial institutions.¹ This definition captures conventional and electronic banking relationships.

3. The Concept of Electronic Banking

The definition of e-banking varies amongst researchers partially because electronic banking refers to several types of services through which a bank's customers can request information and carry out most retail banking services via computer, television or mobile phone.² Electronic banking may mean a method of transacting modern banking business through the use of automated processes and electronic devices such as computers, telex and fax machines, the internet, card payments, automated teller machines, telephone and other media.³ Electronic-Banking, Online Banking or Internet Banking can be defined as "a means whereby banking business is transacted using automated processes and electronic devices such as personal computers, telephones, facsimiles, Internet, card payments and other electronic channels".⁴ Section 58 of Cybercrime (Prohibition, Prevention Etc) Act 2015 defines Electronic Banking as "any transfer of funds which is initiated by a person by way of instruction, authorization or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfer, automated teller machine transactions, direct deposits or withdrawal of funds, transfer initiated by telephone, internet and card payment." The most distinguishing feature of e-banking is that it is a kind of banking that involves electronic form of money transmission using an electronic device. Here, banking services are fully automated such that transactions are concluded without visiting the banking hall or having any physical interaction with a bank personnel.

Online banking represents a variety of financial services performed through electronic devices. It is an online real-time technology which gives individual bank "a one-branch status", since customers can operate their bank accounts in any branch of the bank irrespective of where the account was opened and domiciled.⁵ E-banking has adequately been described as "the wonders of modern computer technology... that have customer interact with an e-banking facility rather than a human being".⁶ Electronic banking refers to the provision of retail and small value banking products and services through electronic channels. Such products and services can include deposit-taking, lending, account-management, the provision of financial advice, electronic bill payment, and the provision of other electronic payment products and services such as electronic money. Access devices through which electronic banking products and services can be provided to customers include point of sale terminals, automatic teller machines (ATM), telephones, personal computers, smart cards and other devices. An individual may transact banking business with a bank through any of the e-banking devices and as a result establish a bank-customer relationship.

Banks offer e-banking services in two main ways – an existing bank with physical offices can establish a website and offer e-banking services to its customers as an addition to its traditional delivery channels. The other way is to establish a "virtual," "branchless," or "internet-only" bank. The computer server that lies at the heart of a virtual bank may be housed in an office that serves as the legal address of such a bank, or at some other location. Virtual or internet-only bank is not allowed for now in Nigeria owing to the fact that the CBN has prohibited banks from operating without physical structure. In internet banking, it is not so much that the nature of the services is unusual; in fact, virtually all of the services are the same ones that have been made available by banks for some time. Rather, what is unique about internet banking is the fact that the services are available in as ubiquitous a manner as possible. In the words of Lee⁷ "there has never been a medium for distribution of information that costs so little and yet provides such a limitless reach with no constraints of time or space". Secondly, interaction amongst bankers and customers is not as personal as traditional banking. The face-to-face interactions have reduced tremendously.

¹ Section 1.3 Central Bank of Nigeria Consumer Protection Framework 2016.

² Mols, N. (1998) 'The Behavioural Consequences of PC Banking' *International Journal of Bank Marketing*, **16** (5), 195 p. 197.

³ Goldface-Irokalibe, I. J., (2007), *Law of Banking in Nigeria*, Malthouse Press Limited p. 203.

⁴ Report of Technical Committee on E-Banking (CBN, 2003).

⁵ Agbada, A. (2008) 'Electronic Banking in Nigeria: Problems and Prospects from Consumers Perspective' *CBN Bullion* p.19.

⁶ Mishkin F. and G. Eakins, (2006), *Financial Markets and Institutions*, Pearson Addison p. 457.

⁷ Lee, J. J. (2003), *Internet Banking: Some Recent Legal Developments*, *Current Developments in Monetary and Financial Law*, Vol. 2 *International Monetary Fund* p. 29.

4. Nature of Bank-Customer Relationship in Electronic Banking

The nature of bank customer relationship is contractual, and the relationship is one of creditor and debtor in relationship to the balance in the customer's account.¹ The contractual nature of banker-customer relationship extends to electronic banking and it must be observed even if there is advancement of science and technology. Despite the fact that a banker customer relationship is already a very complex and difficult item, the difficulties even multiplies when the relationship is combined with technology of electronic banking.² The contractual nature of bank-customer relationship was stated in the case of *Foley v Hill*³ where the House of Lords held that the banker-customer relationship was essentially a debtor-creditor relationship. This characterization is crucial, for it enables banks to treat money deposited with them as their own money. All they are obliged to do is to return an equivalent amount on demand.⁴ This is again re-affirmed in the case of *Joachim v Swiss Bank of Corporation*.⁵ In this case on 1st August 1914, one of the partners in the firm of N Joachimson died as result the partnership was dissolved. At the date of dissolution the sum of £ 2,321 was standing to the credit of the partnership on current account at the defendant bank. At the end of the First World War one of the partners brought an action in the firm's name to recover the sum. The bank's defence was that, as no demand had been made, no cause of action had accrued to the firm on 1st August 1914 and, therefore, the action was not maintainable. The court of law found that the money deposited with the bank was only payable on demand. The relationship has some special features. First, demand is necessary from the customer. Although the banker is a debtor and the customer is creditor, it is not necessary for the debtor to go to the creditor to pay the amount. This is normally expected in case of commercial transactions where ordinary debtor-creditor relationship exists. In *Joachimson v Swiss Bank Corporation*⁶ it was held that in case of debt due from a bank, an express demand for payment by the customer is necessary before the debt becomes actually due. In case the banker pays the amount on his own accord, he would be indirectly closing the customer's account. Secondly, the demand by the creditor must be made at the proper place and in proper time. It means that the customer should present the cheque for payment at that place of the bank where the customer's account is maintained. It is quite clear that at other places, the customer state of account is not known. It is also essential that the customer should demand payment on a working day i.e., not on a holiday or a day which is closed for public. In addition, it must be presented during business hours. Thirdly, demand must be made in proper form. It means that the demand for the refund of money deposited must be made through a cheque or an order as per the common usage amongst bankers.

The banker-customer relationship is not only of debtor and creditor, it may also be one of a principal and agent. The principal-agent relationship arises for the purpose of customer's instruction to his banker to carry out a particular transaction on his account.⁷ For example, in traditional banking when drawing a cheque or bill of exchange, the customer, as the principal, authorizes his bank, as agent, to make payment. This in electronic banking is done by using a credit card on the ATMs or a password when a customer is using a home or office computer and another situation is when a person is using his mobile phone. In the case of *Westminster Bank Ltd v Hilton*,⁸ Lord Atkinson explained the relationship in this way, that it is well established that the normal relation between a banker and his customer is that of debtor and creditor, but it is equally well established that the drawing and payment of the customer's cheques as against money of the customer's in the banker's hands the relation is that of principal and agent. The cheque is an order of the principal addressed to the agent to pay out of the principal's money in the agent's hands the amount of the cheque to the payee.

There are several activities normally now undertaken by banks where customers rely on the bank. These result into other relationships such as that of bailor and bailee as well as principal and agent.⁹ There may also be a lessor/landlord and lessee/tenant relationship. The relationship may also consist of trusteeship/executorship.¹⁰ A

¹ Sealy L. S. and R. J. S., (2005), Hooley Commercial law: Text, cases and materials, Oxford University Press p. 585.

² Schaechter, A (2002), Issues in Electronic Banking: An Overview <http://www.imf.org/external/pubs/ft/2002/pdf06pd> accessed on 15 October 2018).

³ (1848) 2 HLC 28, 9 ER 1002.

⁴ Cranston, R. Principles of banking law, (2002), Oxford University Press p. 131.

⁵ (1921) 3 KB 110.

⁶ Ibid.

⁷ Sealy and Hooley, op. cit. pp 588-589.

⁸ (1926) 43 TLR 124.

⁹ Ahmadu, M. L. (1998), The Law of Banking in Fiji, Avon Books p. 33.

¹⁰ Afolabi, L. (1999), Law and Practice of Banking, Heinemann Educational Books Nig Plc p. 5.

mortgagor and mortgagee relationship may also exist.¹ A bailor/bailee relationship has arisen where articles or valuables are deposited by a customer for safe keeping in a bank. Hence, possession of the deposited items rests with the banker while ownership in the item is still retained by the customer. The banker usually charges a fee for the safe-keeping of customer's valuables or for the rental of its safe deposit boxes by customers.² The relationship is said to be that of lessor/landlord and lessee/tenant where the bank leases its place to the lessee to store property. The relationship may also be that of trusteeship/executorship where banker acts as executor of will; and if the matter is prolonged, the banker becomes a trustee. In some instances, a banker may be asked to administer trust property. Hence, the banker is a trustee.³ A mortgagor and mortgagee relationship exists where land is conveyed or chattels are assigned as security for the payment of loan advanced by a banker to customer.⁴ The relationship existing between banker and customer cannot be exhausted. This is so as new banking services and products are emerging continuously. Therefore, the services rendered or products sold by banker to its customer would always determine what relationship subsists between the banker and its customer at any point in time. The relationship is governed by the general rules of contract; rules of agency, in circumstances where the banker acts as agent for his customer in collecting or paying cheques on his behalf; the rules of bailor and bailee, where the bank retains his customer's deeds and documents for safe-keeping; and various rules of banking practice, evolved over several centuries, largely recognised and enforced by the courts.

Though bank-customer relationship is purely contractual, electronic banking is associated with new features. These features include electronic transactions, electronic documents, and electronic signature among other features. The use of the internet as an alternative means of initiating and transmitting the customer's instructions to the customer's bank for the performance of electronic funds transfers, according to Gkoutzinis,⁵ "is one of the most visible aspects of internet banking. It entails usage of the internet as a medium of transmission of the customer's mandate and communication of legally significant transactional information in digital form between the bank and the customer". In a typical internet banking system, funds are transferred from the bank account holder and internet user to the bank of a beneficiary. The originator's bank will then transfer the funds to the beneficiary by carrying out a giro transfer acting as the originator's agent.⁶ The rationale as laid down in *Royal Products Ltd v Midland Bank Ltd*⁷ is that, the electronically transmitted mandate to the originator's bank is an authority and instruction from the customer to bank within the framework of the banker-customer relationship, to transfer funds to bank accounts held with the same bank or another bank.⁸ The relationship is still one of debtor and creditor. However, Banks do not need to increase their branch networks in order to increase their coverage and customers' convenience in accessing banking services.

5. Benefits of Electronic banking and Challenges in Service Delivery

Banks address a wide segment of the economy, tailoring their services to meet specific needs of their diverse customers.⁹ Perhaps the ability to meet such needs in a more qualitative way could to an extent determine the customer's predisposition to such a bank. Customers' expectations of service quality and the overall impression such a customer has and experiences with the service and the service provider form the basis for the service being regarded as of quality and it represents a long run overall evaluation or experience with a given service offer. It is a critical prerequisite and determinant of competitiveness for establishing and sustaining satisfying relationships with customers. Service quality is used in the evaluation of services provided to customers or for making comparison between expectations and actual service performance. Auka¹⁰ defined service quality as the

¹ Oluyede, P. A. O. (2003) Nigerian Conveyancing Practice, Drafting and Precedents, Heinemann Educational Books Nig Plc p. 141.

² M. L. Ahmadu, op. cit. p. 33.

³ L. Afolabi, op. cit. p. 29.

⁴ P. A. O. Oluyede, op. cit. p. 141.

⁵ Gkoutzinis, A. (2010), Internet Banking and the Law in Europe: Regulation, Financial Integration and Electronic Commerce, Cambridge University Press, p. 29.

⁶ A. Gkoutzinis, op. cit. p. 34.

⁷ (1981) 2 Lloyd's Rep 194, 198.

⁸ A. Gkoutzinis, op. cit. p. 33.

⁹ The major services that banks offer include a wide range of operations to their customers. These include opening account, safe custody, bankers order and standing orders, open credit or cashing, International Trade Services, bankers draft, money transfers (mail and telegraph), night safes, issuance of performance bonds, and electronic payments.

¹⁰ Auka, D. O. (2012) 'Service Quality, Satisfaction, Perceived Value and Loyalty among Customers in Commercial Banking in Nakuru Municipality, Kenya', African Journal of Marketing Management 4 (5) p. 185.

consumer's appraisal of a services overall quality. Gefan¹ viewed service quality as the subjective comparison that customers make between the quality of the service that they want to receive and what they actually get. From these definitions, service quality is a customer's view point of an experience with the service offer.

In recent years, bank customers increasingly use technology and direct channels to consume banking services. The adoption of e-banking is useful to the banks and customers. Electronic banking has undoubtedly introduced some swift approaches to solving lingering problems posed by the brick and mortar banking. The e-banking has improved the bank-customer relationship by rendering services 24 hours; hence, customers can now have access to their accounts outside working hours to make withdrawal and attend to their needs.² Consequently, withdrawals can be made anywhere at any time and using any bank ATM. Some researchers³ mention in their findings that the introduction of e-banking has improved banks' efficiency in terms of services to customers. New technologies enable banks to serve and assist customers not only in branches, but anywhere in the world at any time and through any delivery channel a customer cares to select. With the convenience of digital channels, customers are visiting branches less often and they use online and mobile technology for their banking needs more often.⁴ From the customers' point of view, electronic banking allows customers easier access to financial services and time saving in managing their finance. The other perceived positive attribute of e-banking include the 24 hours and 7 days availability.⁵ The customers can obtain funds at any time from ATM machines. The customer can easily transfer the funds from one place to another place electronically.⁶

Despite this importance of e-banking, closer observation shows great level of dissatisfaction by many people with the quality of services that are provided by Nigerian banks. This may be evidenced by the occasional seemingly long queues in the banking halls and at ATM locations, failure of ATMs, network failures, unnecessary delays in resolving complaints, the unusually long period required before interbank cheques are cleared and tendencies of customers switching between products and banks.⁷ Bank cashiers are often heard of complaining of poor network while collecting or paying cash at the counter from or to customers; and customers are sometimes frustrated at ATM centers sometimes due to slow or non-dispensing of cash by the automated teller machine. One of the services that Nigerian banks render is the opportunity customer has to use another bank ATM machine where that of his bank fails to dispense cash either due to system failure or failure by the customer's bank to load the machine with cash. The availability of such ATM service undoubtedly saves customers from embarrassment, but the customer feels dissatisfied having to pay a fee for withdrawing money from another bank's ATMs which is free of charges in the customer's bank. There are situations where the machine debits a customer's account without actually physically dispensing cash. In *Kume Bridget Ashiemar v Gtbank Plc & UBA Plc*, a case decided by Benue State High Court of Justice in May, 2018,⁸ over a dispense error suit, the plaintiff sometimes in October, 2013 attempted severally to withdraw money from the ATM of 2nd Defendant but according to the plaintiff the ATM failed to dispense cash nevertheless her account was debited. The banks in their defence claimed that the ATM dispensed cash which was taken by her on each occasion she attempted to withdraw money on the dates mentioned. The court held that the plaintiff failed to prove that the ATM of the 2nd defendant (UBA Plc) did not dispense cash to her the various times she attempted to make withdrawals. The court in the judgement said it sympathised with the plaintiff but that court judgments are based on law and evidence and not on sentiments. The case indicates that the plaintiff lost on evidential ground. Sometimes, the problem is even exacerbated by way of wrong debiting of account in the process of a bank customer attempting to assess his or her bank account balance. Even a lot of bank customers over the years have been defrauded because of the introduction of e-banking in the banking industry. Customers are certainly

¹ Gefan, D. (2002), 'Customer Loyalty in E-Commerce', Journal of the Association of Information System **3** (1) p. 28.

² Imoh, C. U. (2018), 'Electronic Banking Application and Sterling Bank Customers' Adoption: Issues, Challenges and Benefits', Business and Social Sciences Journal **3** (2), p. 9.

³ Yunus D. A. and W. A. Akingbade, (2011) 'Technology Innovation and Nigeria Banks Performance: The Assessment of Employees' and Customers' Responses American Journal of Social and Management Sciences, **2**, p.329.

⁴ Drigã I. and C. Isac (2014), 'E-Banking Services – Features, Challenges and Benefits', Annals of the University of Petroșani, Vol.14No.1 p.57.

⁵ Lusaya S. and B. Kalumba, (2018), 'The Challenges of Adopting the Use of E-Banking to the Customers: The Case of Kasama District Banking Customers', Scholar Journal of Applied Sciences and Research, **1** (2) p. 26.

⁶ Nigudge, S., M. Khan A. Pathan , S. R. Nanded, (2014), 'E-banking: Services, Importance in Business Advantages, Challenges and Adoption in India', Asian Journal of Management Sciences, **2** (3) p. 191.

⁷ Woldie A. (2003), 'Nigerian Banks Service Quality', Journal of African Business **2** p.152.

⁸ *Kume Bridget Ashiemar v Gtbank Plc & UBA Plc* Suit No. MHC/198/14.

concerned about their security on the internet, they are scared of providing their account details on the internet as this could be abused and used for other fraudulent activities such as phishing.¹

The other challenge of adopting the use of e-banking is the cost associated with e-banking services. The cost may include charges per usage, incomplete transactions, and defective service among others. Customers may fear that at any time, the transaction may not be completed but may be charged for the service which becomes costly.² Another reality of the banker-customer relationship is the inadequacy of disclosure by banks to their customers in relation to products and services rendered to customers and their cost implications. Moreover, the reality on the customer's end is evident in the customer's ignorance about charges they are expected to pay for services rendered to them. Most of the customers of financial institutions are not aware of some of the negotiable charges as stipulated in the Bank Charges Guidelines and banks are taking advantage of it. One of the major requirements for banks' efficiency is to match their service facilities with the needs of customers without much delay. Customers have experienced challenges ranging from delay transaction notification. The issue of delay in posting transactions such as money transfer and payments made between customers is a major problem that customers of Nigerian banks have been made to experience. In most cases, the customer hardly receives the notification that an account has been credited or debited immediately. The common experience in Nigeria is that most banks do not have the facilities and capacities to service the number of customers without much delay on the part of the customers. This situation has led to poor efficiency in banking service delivery in Nigeria and has thus caused low customer satisfaction. There is no sufficient infrastructural development for performing e-banking activities in some banks. The banking infrastructure in terms of electronic payments and inter-bank connectivity is not good enough. There is no effective legal system to encourage e-banking activities in the country. While electronic banking is taking place the law has been slow in protecting customers in electronic banking. In addition, our laws have not incorporated tools of effecting electronic transactions. The above shortcomings adversely affect the quality of service delivery in the e-banking industry.

6. Central Bank of Nigeria regulation of electronic banking services

The Central Bank of Nigeria (CBN) in exercise of the powers conferred on it by the Central Bank of Nigeria Act of 2007, as amended and the Banks and Other Financial Institutions Act of 2007, as amended, introduced several measures through guidelines towards enhancing quality services in e-banking.

6.1 Guidelines on Electronic Banking 2003

The CBN puts in place Guidelines on E-Banking which seeks to address key issues such as (a) Information and Communications Technology standards (b) Monetary Policy (c) Legal guidelines on banking regulations and consumer rights protection (d) regulatory and supervisory issues. Information and Communications Technology (ICT) standards seeks to address issues relating to technology solutions deployed, and ensure that they meet the needs of consumers, the economy and international best practice in the areas of communication, hardware, software and security.³ The Information and Communications Technology sets the standards for Computer Networks and Internet including Standards on Application and System Software, Delivery Channels (Mobile Telephony, Automated Teller Machines, Internet Banking, Point of Sale Devices, International Card Schemes, Electronic Bill Presentment, witches, Cards Schemes, and Electronic Transfer of Funds); and Standards on Security and Privacy.⁴

On standards for computer networks and internet, networks used for transmission of financial data must be demonstrated to meet the requirements specified for data confidentiality and integrity. Banks are required to deploy a proxy type firewall to prevent a direct connection between the banks back end systems and the Internet. For dial up services, banks must ensure that the modems do not circumvent the firewalls to prevent direct connection to the bank's back end system. External devices such as Automated Teller Machines (ATMs), Personal Computers, (PC's) at remote branches, kiosks, etc. permanently connected to the bank's network and passing through the firewall must at the minimum address issues relating to non-repudiation, data integrity and confidentiality. The CBN guideline addresses the issues of security by stating that banks may consider

¹ Yusuf, S. E., K. J. Adebayo and E. O. Adetula, (2013) 'Mitigating Cyber Identity Fraud using Advanced Multi Anti-Phishing Technique', International Journal of Advanced Computer Science and Applications, 4 (3) p. 158.

² S. Lusaya and B. Kalumba, op. cit. p. 30.

³ Section 1.0 dealing with Technology and Security Standards, Central Bank of Nigeria Guidelines on Electronic Banking 2003.

⁴ Ibid, section 1.5

authentication via Media Access Control (MAC) address in addition to other methods. Adopt the chip (smart card) technology as the standard. Banks are also required to implement proper physical access controls over all network infrastructures both internal and external.¹ Banks must ensure that their banking applications interface with a number of external sources. They must ensure that applications deployed can support these external sources (interface specification or other CBN provided interfaces) or provide the option to incorporate these interfaces at a later date. They must also ensure continued support for their banking application in the event the supplier goes out of business or is unable to provide service. Banks should ensure that at a minimum, the purchase agreement makes provision for this possibility. The bank's information system (IS) infrastructure must be properly physically secured. Banks are required to develop policies setting out minimum standards of physical security.²

There are guidelines on Delivery Channels.³ The CBN acknowledges the fact that Mobile phones are increasingly being used for financial services in Nigeria. Banks are enabling the customers to conduct some banking services such as account inquiry and funds transfer. Therefore networks used for transmission of financial data must be demonstrated to meet the requirements specified for data confidentiality, integrity and nonrepudiation. An audit trail of individual transactions must be kept.⁴ The guidelines for ATM primarily focuses on physical and transactional security. Networks used for transmission of ATM transactions must be demonstrated to meet the guidelines specified for data confidentiality and integrity. ATMs at bank branches should be situated in such a manner as to permit access at reasonable times. Access to these ATMs should be controlled and secured so that customers can safely use them within the hours of operations. However, CBN fails to recommend a standard for total number of simultaneous connections to the ATM network. As a condition of Service, CBN should define acceptable ATM Network saturation point.

The standards on Internet Banking requires that only authorized staff should be able to change information on the Banks Web Site. The CBN requires that when hosting services are outsourced by the banks to ISP's, the ISP must ensure that firewalls are configured properly by the ISP. In the opinion of this review, the ISP must not be allowed to have any technical administrative controls whatsoever, to any security device protecting the Banks Information asset. Even when outsourced, banks must make sure that any gatekeeper technology remains solely in their control. Allowing Firewalls, and similar devices to be managed by non-banking employees might open the door for unprecedented security breaches.

Despite its numerous technical specifications the Guidelines have been widely criticized as not being enough to check the growing popularity of Internet banking against the backdrop of growing sophistication in technology related crimes and frauds. Closer examination of the contents of the Guidelines equally shows that the document fails to meet up with the four key areas where Internet banking may have regulatory impact – changing the traditional lines upon which existing regulatory structures are laid; handling concerns about existing public policy issues; changing the nature and scope of existing risks; and rebalancing regulatory rules and industry discretion. The Guidelines also do not provide penal consequences for the infraction of its provisions. This lacuna appears to have been addressed by legislative intervention when the National Assembly enacted the Cybercrimes (Prohibition, Prevention, Etc) Act, 2015 and subsequent CBN guidelines. On some other aspects, the Guidelines have also been criticized for not addressing adequately the critical issues concerning Internet security. It failed to explicitly recommend a standard that allows banks to examine potential threats that may already be in existence in each individual financial institution's current network. In addition to this array of criticisms, the workability of proper Internet framework is also queried amidst the poor state of basic information technological infrastructure in the country. This is essentially necessary since e-banking generally relies on the existence of adequate operational infrastructure like telecommunications and power to function effective. Though more success has been recorded, the supply of these requisite facilities is still erratic.

6.2 The Consumer Protection Framework 2016

The CBN on November 7, 2016, issued the Consumer Protection Framework (“Framework”) for banks and other financial institutions regulated by it (Regulated Institutions). The broad objective of the Framework is to enhance consumer confidence in the financial services industry and promote financial stability, growth and innovation.⁵

¹Ibid, section 1.1.

² Ibid, section 1.3.

³ Ibid, section 1.4.

⁴ Ibid, section 1.4.1.

⁵ Section 1.1 Consumer Protection Framework 2016.

The Framework formulates nine key principles for consumer protection which include responsible business conduct, financial education of customers, adequate disclosure and transparency, fairness, competition, protection of assets, data and privacy, effective legal and regulatory structures, complaint handling/redress and enforcement procedures.

The principle of responsible business conduct¹ entails that financial institutions shall observe high ethical standards and professionalism in their business transactions with consumers. They are required to assess the financial capabilities of consumers and offer only suitable products/services based on their needs and capability. In addition, they must provide channels for consumers to make enquiries and complaints. Specific areas addressed under Responsible Business Conduct include communication. All requests for information must be responded to timely and with clarity. Provision of financial advice requires that financial institutions provide consumers with objective advice to enable them make informed decisions. All banks (and other Regulated Institutions) are mandated by the CPF to resolve complaints lodged by customers within 14 days of receipt of such complaint. In the event the bank, at first instance, does not satisfactorily resolve such complaints, a customer has the right to proceed to the consumer protection department of the CBN. It is important to note that most banks have in place robust customer/handling systems to adequately redress complaints arising from transactions, and there is a structure in place for customers to channel their grievances.

The Framework contains comprehensive dispute resolution. Financial institutions are mandated to develop a Customer Compensation Policy to address various category of complaints which may arise due to service failures. Financial institutions must publicly display this policy on various media such as bank websites and branches. The Customer Compensation Policy must be in line with guidelines issued by the CBN and contain provisions for probable infractions such as unauthorized or erroneous debits; excess charges; and financial loss to consumers due to staff negligence/fraudulent activities.² The Framework contains sanctions against banks and other financial institutions that violate the Framework. Some of the stipulated sanctions include, refund to customers in line with relevant regulations issued by CBN, letter of apology, suspension/withdrawal of Foreign exchange dealership licence, publication of infractions and sanctions and supervision/removal of Board/Management Staff/ Employee. Others are revocation of banking licence, monetary penalties and others deemed appropriate.³

6.3 The Guide to Charges by Banks and other Financial Institutions 2017

The Guide to Charges by Banks and Other Financial Institutions (the Guide) provides a basis for the application of charges on various products and services offered by banks and Other Financial Institutions (OFIs) in Nigeria to their customers. This Guide to Charges, which replaces the Guide to Bank Charges issued in 2013. Section 10 of the Guide deals with Electronic Banking charges. The Guide provides that new hardware tokens will cost a maximum of N3, 500,⁴ while software tokens are free, and banks will charge a Short Message Service (SMS) rate of not more than N4/SMS. According to the Guide, SMS alert is mandatory. However, where a customer opts not to receive SMS alert, the customer should issue an indemnity (for losses that may arise as a result) to the bank. The Guide indicates that no bank should charge customers on E-mail notification. If customer misplaces his hardware token and want it recovered, he is expected to pay a maximum of N3, 500. However, he bears the full cost only in the event of physical damage, loss of token or replacement after expiration. Electronic fund transfers incurs a charge of N50 if below N10 million. Transfers above N10 million will cost N50 flat. RTGS transfers will cost N550.⁵ Banks are allowed to charge card maintenance fees at \$20 per annum (or its equivalent) for foreign currency denominated debt/credit cards. Naira debit/credit cards will cost N50 monthly in

¹Ibid, section 2.2.

²Ibid, section 2.7.3.

³Ibid, section 2.9.2.

⁴Section 10.1.1 Guide to Charges by Banks and Other Financial Institutions.

⁵The CBN, on 13th of September, 2018, issued a circular on the regulation on instant inter-bank electronic funds transfer services in Nigeria to all Deposit Money Banks, microfinance banks, other financial institutions, mobile money operators, development finance institutions, payment service providers and other stakeholders. The purpose of this regulation is to set out the rules for the operation of Instant Electronic Funds Transfer services in Nigeria; prescribe the rights and obligations of the parties to such services; provide the minimum standards for the operations of the parties to EFT services and stipulate procedures geared towards the enhancement of the soundness of instant EFT services, while adequately protecting the interests of instant EFT customers and operators.

card maintenance fees. Banks will also charge N1, 000 one-off charge for issuance of debit cards. If one loses the card and wants it replaced it will also cost N, 1000 one-off. “On-us” withdrawals refers to cash withdrawals from an ATM in any of the branches of a customer’s bank while “Not -on-us” withdrawals refers to cash withdrawals using an ATM from a customer’s bank on an ATM of another bank. The Guide provides that Not on-us charges is N65 after the third withdrawal within the same month and no charges applicable On-us withdrawal from the ATM.¹

The N65 charge, according to the Guide, is only applicable after three transactions at the machine of bank that is not the card issuer. At a time, all ATMs had the capacity to dispense N40, 000 in a single withdrawal if a customer was carrying out the transaction with the card issued by his/her bank, while a maximum of N20,000 could be withdrawn at once if a card issued by another bank was being used. While this remains in operation in some banks, many other banks have re-configured their machines to dispense lower amounts, thereby creaming off N65 on each transaction, especially from users withdrawing sizeable sums. The Guide does not prescribe single withdrawal limits. However, the N65 ATM charge is a violation of consumers’ rights where the three withdrawal rule is not adhered to before charging N65. Preface to the Guide states that where a charge is stipulated as “negotiable”, banks are required to draw the attention of customers to their rights to negotiate and the two parties are required to mutually agree on the applicable interest and/or charge via a verifiable means. The practice of subjecting certain charges to negotiation is not common in the Nigerian banking system left alone drawing customers’ attention to the exercise of this right.

Conclusion

The introduction of e-banking does not change the contractual relationship between bank and customer. Data transmitted from the bank to the customer and vice versa may result in the establishment of legal rights and obligations in accordance with the contract between the bank and the customer. In that respect, the internet enables the initial establishment of the banker customer relationship and performance of services thereafter, within the boundaries set by available technical and legal mechanisms of authorization and access control. Personal relationship has however been replaced with man-to-machine interaction. In developing economies including Nigeria, today’s customers of banks are no longer concerned about safety of their funds and increased returns on investment only; they are also interested in convenient, fast and efficient services rendered to them within and outside the banking hall. These have significantly increased the expectations and demand of modern customers of banks. Customers want a bank that will offer them flexible services that will meet their particular needs and support their business goals. Most banks in Nigeria have invested large sum of money in information and communication technology (ICT). Expectedly, such banks services have improved. However, the rate of the improvement does not match customers’ demands for e-banking services. The investment in some banks is low. Moreover, e-banking facilities are often not upgraded. The resultant effect is the deficiency in e-banking services rendered. Customers’ complaints about payment channels are rife. Non-compliance with the apex bank policy and guidelines on e-banking by some commercial banks stifles quality service. Considering the risk and challenges of electronic banking especially in Nigeria where internet crime rate has significantly increased, the question of how to achieve quality e-banking services in the country’s banking system becomes imperative or inevitable. Service providers who seek improvements in profits ought to monitor and employ means of improvements in service quality on a continuous basis.

The government of every country is the provider of legislation defining the country’s financial institutions to be licensed; and constantly monitoring the activities of the financial institutions to maintain sound and efficient system in order to retain customer’s trust and confidence. The Central Bank of Nigeria does not shirk from its responsibility in regulating e-banking services. It lays down standards for facilities to be deplored for e-banking as contained in the guidelines on e-banking. This is considered to be the bedrock for quality service within the purview of bank customer relationship. However, the guidelines on e-banking can no longer cope with emerging trends in e-banking. In addition, it formulated guidelines on some specific aspects of e-banking in order to ensure that quality service to customers is not compromised. The challenges faced by customers have been attributed to poor service delivery by banks and failure to adhere to the provisions of extant guidelines.

The quality of web sites and reliability of automated teller machine has a direct and indirect impact on both satisfaction and loyalty. Banks have to redesign their website with a view to enhancing usability and usefulness. Banks may need to be proactive to consistently keep their customers interest in a turbulent business environment

¹ Section 10 Guide to Charges by Banks and other Financial Institutions 2017.

like Nigeria by ensuring that nothing interrupts the flow of service delivery. Investment should be made in this area to keep abreast of the level of competition in the industry. Banks must invest in upgrading and expanding infrastructure particularly information technology. Complaints management is a vital indicator of the reality of the Banker customer relationship. Customers' complaints, grievances and dissatisfaction could be reduced by banks through proper service delivery and review mechanism. Where this cannot be avoided, dispute channels stipulated in relevant guidelines should be utilized for prompt settlement.

The Central Bank of Nigeria which consistently and continuously monitors level of compliance with the guidelines¹ by the banks in Nigeria should compel banks to adopt operational guidelines that comply with the CBN electronic policy. CBN should stipulate clearly standards for the banks to follow in order to compel upgrading of technological infrastructures and update the software on a regular basis in order to avoid interruption of service. In light of how rapidly technology is changing and what the changes mean for banking activities, keeping regulations up to date would be a great task by the CBN. This would accommodate new development and fill noticeable missing gaps in the regulations.

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¹ The CBN conducted an examination of 19 banks in April 2017 to ascertain banks' level of compliance with consumer protection policies and guidelines, particularly the provisions of the Revised Guide to Bank Charges. The result of the examination reveals that maximum fees applied on facilities is 50%. See CBN Financial Stability Report 2017 p. 60.

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