

The Nigeria Start-up Act 2022 as a Catalyst for Technological Development and Economic Growth in Nigeria

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Abstract: *This century has heralded technological advancement in human history, particularly in Africa. The influx of technological advancement currently in play all over the world and the economic benefits that come with such advancement has necessitated the need for some regulations. Hence, stakeholders particularly, governments all over the world have made efforts to regulate and support investments in technology. These supports include laws, policies and other incentives that promote technology. Recently, the Nigerian National Assembly passed the Nigeria Start-up Act (NSA), 2022 to provide a regulatory framework for the development of start-ups as well as to provide an enabling environment for the establishment, development, growth and operation of start-ups and technology-related talents in Nigeria. The Act also seeks to position Nigeria's start-ups ecosystem as a leading digital technology centre in Africa in terms of excellent innovators with exportable skills and capacity. It is projected that the NSA will immensely contribute to technological development for Nigerian start-up companies to compete with their counterparts at the regional and international scene. This article examines the nature of start-ups and the Nigeria Start-up Act, 2022. It further analyses the pre-enactment of the Start-up Act era in Nigeria, the emergence of the Start-up Act, the impacts the Start-up Act might have on technological development, the challenges of the Act as well as the*

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general challenges faced by start-ups in Nigeria. The article argues that the NSA is a welcome and commendable effort for technological development and economic growth in Nigeria.

Keywords: *Start-ups, Technology, Economy, Development, Nigeria Start-up Act*

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I. Introduction

Technology is a gift of God. After the gift of life, it is perhaps the greatest of God's gifts. It is the mother of civilizations, of arts and of sciences.¹

The above aptly captures the importance of technology in modern time particularly, during and after the outbreak of Coronavirus disease otherwise known as Covid-19 pandemic. While the world is still battling with the aftermath of the Covid-19 pandemic which affected almost all strata of human life, the case

¹ Raja R and Nagasubramani PC, 'Impact of Modern Technology in Education' (*Journal of Applied and Advanced Research*) <https://updatepublishing.com/journal/index.php/jaar/article/view/6790> accessed 22 September 2023.

with technology investors is that even in the mid of the pandemic, they maximized the potential of technology for human benefits in almost all spheres of human endeavour through some technologies that allow remote workings over the traditional landscape travels.² From finance to health delivery, start-ups have created platforms for the delivery of services in a digital world. It is thus important for African countries to catch up and prepare ahead in order to benefit from the positive impacts of advancement in technology. A good example is flutter-wave; a widely recognized start-up in Nigeria with an estimated net worth of \$250 million.³

Since the outbreak of the Covid-19 pandemic, international businessmen have continued to invest in the African continent's start-ups scene.⁴ The vast majority of venture capital in Africa is scooped up by just four countries namely: Nigeria, Egypt, South Africa and Kenya.⁵ These countries have a few things in common; their youthful population, strategic alliance with the west, Ease of Doing Business (EoDB), growing Gross Domestic Product (GDP) and stability in government.⁶ According to a report by the World Economic Forum, 92% of investments in technology in Africa is won by the above four countries account for about a third of the continent's start-ups incubators and accelerators and receive 80% of Foreign Direct Investment (FDI) into Africa.⁷ Start-ups in Nigeria, Egypt, Kenya and South-Africa raised a total sum of \$1.9 billion in 2021, about 92.1% of the overall total investments raised in Africa for that year.⁸ This

² Cuevas-Vargas H, Estrada S and Larios-Gómez E, 'The effects of information communication technology as innovation facilitators for a greater business performance: Evidence from Mexico' 91 *Procedia Computer Science*, 2016, 47–56 ; Brynjolfsson E and Hitt L M, 'Beyond computation: Information technology, organizational information and business performance' 14(4) *Journal of Economic Perspectives*, 2020, 23-48.

³ Dushime A, 'These four countries are Africa's Start-ups scene: Here's why' World Economic Forum, 24 August 2022 — <https://www.weforum.org/agenda/2022/08/africa-Start-ups-nigeria-egypt-kenya-south-africa/> on 20 July 2023.

⁴ Disrupt Africa, *Funding Report*, 2022.

⁵ Disrupt Africa, *Funding Report*, 2022.

⁶ Brynjolfsson E and Hitt L, 'Beyond computation', 27-30.

⁷ African Development Bank Group, *Entrepreneurship and Free Trade: Volume II: Towards a new narrative of building resilience*, 24 September 2021 and Dushime A, 'These four countries are Africa's Start-ups scene: Here's why' World Economic Forum, 24 August 2022 — <https://www.weforum.org/agenda/2022/08/africa-Start-ups-nigeria-egypt-kenya-south-africa/> on 12 January 2023.

⁸ African Development Bank Group, *Entrepreneurship and Free Trade: Volume II: Towards a new narrative of building resilience*, 24 September 2021.

effort is undoubtedly due to the years-long trend of the big-four dominance in Africa's start-ups scene and each of these countries seems to represent their regions in Africa on the charts.⁹ Funding secured by Nigeria, Egypt, South Africa and Kenya has continually increased over the years from a 79.4% share in 2018, to 87.5% in 2019 and then 89.2% in 2020.¹⁰ Other countries such as Ghana, Morocco, Algeria and Tunisia also raised a fortune in investment and seed funds.¹¹ The Better Africa Report by Weetracker reports that more than 61% of start-ups fail within the first two years as a result of different problems such as government and regulatory policies, over-saturation of start-ups in certain sectors, skills dearth, licensing, regulatory bureaucracies and funding amongst others.¹² This mirrors the exhibition of Nigeria's start-up ecosystem in the period between 2010 and 2018.¹³

Nigeria with its GDP of roughly \$440bn and population of 206 million is projected to be the third largest country by population in the world by 2050.¹⁴ This makes Nigeria an attractive location for start-ups investment inflows. Countries like Egypt, Kenya and South Africa also boast of some of the largest economies in Africa with high GDP growth potential. Nigeria reportedly recorded over 3,300 Start-ups in 2020.¹⁵ This shows that the country is one of the most important ecosystems for start-ups in Africa. Nigeria is also home to Africa's greatest fintech Start-up such as Paystack, Flutterwave, Piggyvest and

⁹ African Development Bank Group, *Entrepreneurship and Free Trade: Volume II: Towards a new narrative of building resilience*, 24 September 2021.

¹⁰ African Development Bank Group, *Entrepreneurship and Free Trade: Volume II: Towards a new narrative of building resilience*, 24 September 2021.

¹¹ Dushime A, 'These four countries are Africa's Start-ups scene: Here's why' — <https://www.weforum.org/agenda/2022/08/africa-start-ups-nigeria-egypt-kenya-south-africa/> on 8 February 2023.

¹² GreenTec Capital Africa Foundation and WeeTracker, *The better Africa: Tracing the success and failure of African Start-upss*, 2020.

¹³ GreenTec Capital Africa Foundation and WeeTracker, *The better Africa: Tracing the success and failure of African Start-upss*, 2020.

¹⁴ Dushime A, 'These four countries are Africa's Start-ups scene: Here's why' — <https://theprint.in/world/the-big-four-are-leading-africas-start-ups-scene-nigeria-egypt-south-africa-and-kenya/1104395/?amp> on 20 July 2023.

¹⁵ 'Estimated number of Start-upsin selected African countries in 2020' Statista, — <https://www.statista.com/statistics/1290679/number-of-Start-upss-in-africa-by-country/> on 15 January 2023.

Interswitch etc.¹⁶ Nigeria has thus decided to join the trend of other countries that have enacted technology-friendly laws to regulate and provide support for the start-ups ecosystem with the enactment of the Nigeria Start-up Act (NSA), 2022.¹⁷ Other countries that have enacted laws to regulate Start-ups in Africa include Tunisia and Senegal.¹⁸

This article is divided into seven parts. The first part is the introduction which is a general overview of the entire article. The second part discusses the nature of start-ups and the Nigeria Start-up Act, 2022. The third part of the article examines the pre-enactment of the NSA era while fourth part discusses the emergence of the NSA. The fifth and the sixth sections of this article analyses the impacts of the NSA on technological development in Nigeria and the challenges of the NSA with the general challenges faced by start-ups in Nigeria respectively. The seventh part of this article contains the conclusion and recommendations.

II. The Nature of Start-Ups and the Nigeria Start-up Act

Start-ups can be described as the act of initiating a development. A start-up is a legal entity or company in the early stages of doing business. This presupposes a company, business and/or project undertaken by an entrepreneur that seeks to develop and validate a scalable business model.¹⁹ The Nigeria Start-up Act, 2022 defines a Start-ups as ‘a company in existence for not more than 10 years with its objectives being the creation, innovation, production, development or adoption of a unique digital technology innovative product, service, or process’.²⁰ This definition implies that the Act will not apply to companies and businesses that are not bringing technology-based products and services to the market or whose objectives do not entail the adoption of a

¹⁶ Tochukwu I, ‘2022 in African fintech: Exploring the biggest African fintech stories that shaped the year’ — <https://paystack.com/blog/operations/african-fintech-review-2022> on 20 July 2023.

¹⁷ *NSA* (2022), hereinafter referred to as ‘the Act’, ‘Start-up Act’ or ‘NSA’ was signed into law on 19 October 2022.

¹⁸ ICRF, *Start-ups acts: An emerging instrument to foster development of innovative high-growth firms*, September 2021.

¹⁹ Antoine M, ‘What is a Start-up company?’ Impactified — <https://impactified.com/accelerated-mba/entrepreneurship-development/what-is-a-Start-ups-company-definition/> on 20 July 2023.

²⁰ Section 47, *Nigeria Start-up Act* (2022).

peculiar technology product or service.²¹ The NSA also stipulates certain requirements which start-ups must meet to be able to benefit from the incentives provided in the Act.²² The objectives of the Act are:

- a) provide a legal and institutional framework for the development of Start-ups in Nigeria;
- b) provide an enabling environment for the establishment, development and operation of Start-ups in Nigeria;
- c) provide for the development and growth of technology-related talents and;
- d) position Nigeria's Start-ups ecosystem, as the leading digital technology centre in Africa, having excellent innovators with cutting edge skills and exportable capacity.' ²³

An expansive perception of start-ups distinguishes it from conventional businesses or companies. The Company and Allied Matters Act, (CAMA) 2020 defines a business as any industry, trade and profession carried out for profit,²⁴ while a company is described as an entity or company formed and registered under CAMA or as the case may be, formed and registered in Nigeria before and/or after the commencement of CAMA.²⁵ A start-up is an entrepreneurial venture established with the primary aim of encouraging innovation and uniqueness across the nooks and crannies of the business space. Simply put, start-ups are businesses with a special focus on creativity and innovation.

A start-up by virtue of the Act must not have been in existence for more than 10 years from 2022 when the NSA was enacted, the 10 years requirement does not validate or negate the existence of a company under the CAMA.

In 2021 alone, Nigerian start-ups retained \$1.37 billion of Africa's \$4 billion funding and reviews revealed that Nigeria has the very best volume of

²¹ Takuro O, 'Are the incentives in the NSA baits or beneficial' LinkedIn, 28 October 2022 — [https://www.linkedin.com/posts/ojadamola-takuro-472303112_nigeriaStart-upsact-nigeria-fintech-activity-6991737628605747202-](https://www.linkedin.com/posts/ojadamola-takuro-472303112_nigeriaStart-upsact-nigeria-fintech-activity-6991737628605747202-LroD?utm_source=share&utm_medium=member_android)

LroD?utm_source=share&utm_medium=member_android on 8 July 2023.

²² Section 13, *Nigeria Start-up Act* (2022).

²³ Section 1, *Nigeria Start-up Act* (2022).

²⁴ Section 588(1), *Company and Allied Matters Act* (2020).

²⁵ Section 567(1), *Company and Allied Matters Act* (2020).

start-ups in Africa.²⁶ Hence, the NSA seeks to potentially increase the Nigeria's GDP through investments in innovation, science and technology is gradually yielding positive results on both government and young talented entrepreneurs.²⁷ This is because the Act provides an enabling environment for start-ups devoid of regulatory bureaucracies, inadequate funding and lack of legal and regulatory frameworks and gives Nigerian start-ups an opportunity to contribute their quota to Nigeria's GDP.²⁸ The Guardian newspaper reported in late 2022 that a total of 481 start-ups in Nigeria employed a total of 19,000 workers.²⁹

III. The Pre-Enactment of the Nigeria Start-up Act

Prior to the enactment of the NSA 2022, the start-ups ecosystem in Nigeria was considered to be relatively underdeveloped, in its nascent stages. The underdevelopment of the ecosystem has an overall effect on Nigeria's income. The Federal Government reported that it received N16.87 trillion in 2021, against a total expenditure of N20.51 trillion.³⁰ Furthermore, the Federal Government's entire fiscal operations ended in a shortfall of N10.78 trillion, which the government expects to finance with fresh borrowing, adding to the public debt of \$42.84 trillion.³¹

The ecosystem was primarily driven by private sector initiatives such as venture capital funds, angel investors and foreign investments. In this era, the

²⁶ 'Nigerian Start-ups retained USD1.37 billion of Africa's USD 4 billion' The Guardian, 8 December 2022 — <https://guardian.ng/technology/nigerian-start-ups-retain-1-37bn-of-africas-4b-funding-in-2021/> on 8 July 2023.

²⁷ 'Nigerian Start-ups retained USD1.37 billion of Africa's USD 4 billion' The Guardian, 8 December 2022 — <https://guardian.ng/technology/nigerian-start-ups-retain-1-37bn-of-africas-4b-funding-in-2021/> on 8 July 2023.

²⁸ Adeyemi A, '481 tech Start-ups employ 1900, raise \$2.1bn in seven years' The Guardian, 20 September 2022 — <https://guardian.ng/business-services/481-tech-start-ups-employ-19000-raise-2-1b-in-seven-years/> on 11 July 2023.

²⁹ 'Nigerian Start-ups retained USD1.37 billion of Africa's USD 4 billion' The Guardian, 8 December 2022 — <https://guardian.ng/technology/nigerian-start-ups-retain-1-37bn-of-africas-4b-funding-in-2021/> on 8 July 2023; Adeyemi A, '481 tech Start-ups employ 1900, raise \$2.1bn in seven years' The Guardian, 20 September 2022 — <https://guardian.ng/business-services/481-tech-start-ups-employ-19000-raise-2-1b-in-seven-years/> on 11 July 2023.

³⁰ Tunji S, 'Nigeria's debt hits N42.84tn amid revenue crisis' The Punch, 20 September 2022 — <https://punchng.com/nigerias-debt-hits-n42-84tn-amid-revenue-crisis/> on 8 July 2023.

³¹ Tunji S, 'Nigeria's debt hits N42.84tn amid revenue crisis' The Punch, 20 September 2022 — <https://punchng.com/nigerias-debt-hits-n42-84tn-amid-revenue-crisis/> on 8 July 2023.

technology sector was one of the most active areas of the ecosystem with a number of successful start-ups in areas such as e-commerce, fintech and software development.³² In a detailed report by Disrupt Africa analysis, it was revealed that the Nigerian tech start-ups raised a total of \$2 billion throughout 2015 and 2022 over and above every other country in Africa.³³ Consequently and expectedly, a series of challenges emerged for entrepreneurs in terms of access to funding and resources, mentorship opportunities and lack of legal framework for regulation of start-ups in Nigeria.

Funding constituted one of the major challenges to the ecosystem of start-ups in Nigeria before the enactment of the Nigeria Start-up Act. There were limited options for founders to access funding, such as venture capital and angel investors, and these options were often overly focused on technology start-ups, meaning the more fringe sectors of the ecosystem such as agri-tech or other non-technology related services were often left out of the piece of the funding pie.³⁴ Start-up activities significantly increased in the Nigerian technology industry as the country has the biggest amount of start-ups in Africa.³⁵ Start-ups across Nigeria alone received slightly more than \$1 billion of Africa's \$4 billion in funding throughout 2021 and this made it difficult for entrepreneurs in these sectors to secure funding for early-stage start-ups to get the seed funding they needed to get started.³⁶

Another challenge that was facing start-ups in this era was the issue of access to mentorship and training. This was very limited for founders and entrepreneurs. There were few business incubators and accelerators in Nigeria

³² Mary I, '383 Nigerian tech Start-upsraised over \$2 billion in seven years' Premium Times, 20 September 2022 — <https://www.premiumtimesng.com/news/top-news/554968-383-nigerian-tech-Start-upss-raised-over-2-billion-in-seven-years-report.html> on 8 July 2023.

³³ Mary I, '383 Nigerian tech Start-upsraised over \$2 billion in seven years' Premium Times, 20 September 2022 — <https://www.premiumtimesng.com/news/top-news/554968-383-nigerian-tech-Start-upss-raised-over-2-billion-in-seven-years-report.html> on 8 July 2023.

³⁴ Adeyemi A, 'Nigerian Start-upsretain \$1.37bn of Africa's \$4b funding in 2021' The Guardian, 8 December 2021 — <https://guardian.ng/technology/nigerian-Start-upss-retain-1-37bn-of-africas-4b-funding-in-2021/> on 8 July 2023.

³⁵ Adeyemi A, 'Nigerian Start-upsretain \$1.37bn of Africa's \$4b funding in 2021' The Guardian, 8 December 2021 — <https://guardian.ng/technology/nigerian-Start-upss-retain-1-37bn-of-africas-4b-funding-in-2021/> on 8 July 2023.

³⁶ Adeyemi A, 'Nigerian Start-upsretain \$1.37bn of Africa's \$4b funding in 2021' The Guardian, 8 December 2021 — <https://guardian.ng/technology/nigerian-Start-upss-retain-1-37bn-of-africas-4b-funding-in-2021/> on 8 July 2023.

who focused primarily on technology start-ups and therefore entrepreneurs in the fringe non-tech related sectors had limited access to mentorships and training.³⁷ This resulted in founders in these areas not being able to develop the skills and knowledge needed to grow their business. These factors had an overall effect on Nigeria's total technological and innovative growth, as Nigeria's technological acumen in the global community remains embarrassingly low. Nigeria experienced a drop from 137th to 143rd in the world according to the ICT Progress Index in 2016.³⁸ According to the *Guardians* newspaper, it was reported that in the last seven years, the country has been regularly rated lowest as revealed by the Global Innovation Index (GII) in 2020.³⁹ Nigeria has also been evidently excluded off the list of the ten most innovative economies in Sub-Saharan Africa for 2022.⁴⁰ These figures provide a lucid picture of Nigeria's poor stance when it comes to technological advancement.

Further, there was a lack of a clear legal framework for start-ups in Nigeria to guide general operations. This made it difficult for entrepreneurs to navigate the legal and regulatory environment and for investors to understand the risks and opportunities associated with investing in Start-ups.⁴¹ This lack of a clear legal framework was a major barrier for entrepreneurs and investors and it hindered the growth of the start-up ecosystem in Nigeria.⁴²

³⁷ 'Nigeria should advance technologies in new decade' *The Guardian*, 30 September 2020 — <https://guardian.ng/technology/nigeria-should-advance-technologies-in-new-decade/> on 8 July 2023; Bunmi B, 'Nigeria not among 10 most innovative sub-Saharan African economies' *Business Day*, 17 October 2022 — <https://www.google.com/amp/s/businessday.ng/amp/business-economy/article/nigeria-not-among-10-most-innovative-sub-saharan-african-economies/> on 8 June 2023.

³⁸ Adeyemi A, 'Nigeria ranks 137th in ICT Development Index' *The Guardian*, 21 December 2016 — <https://guardian.ng/technology/nigeria-ranks-137th-in-ict-development-index/> on 8 July 2023.

³⁹ 'Nigeria should advance technologies in new decade' *The Guardian*, 30 September 2020 — <https://guardian.ng/technology/nigeria-should-advance-technologies-in-new-decade/> on 8 July 2023.

⁴⁰ Bunmi B, 'Nigeria not among 10 most innovative sub-Saharan African economies' *Business Day*, 17 October 2022 — <https://www.google.com/amp/s/businessday.ng/amp/business-economy/article/nigeria-not-among-10-most-innovative-sub-saharan-african-economies/> on 8 June 2023.

⁴¹ Omoniyi O, 'Does Nigeria need a Start-up Act?' *AELEX*, 2022 — <https://www.aelix.com/wp-content/uploads/2021/05/Does-Nigeria-Need-a-Start-ups-Act.pdf> on 8 June 2023.

⁴² Omoniyi O, 'Does Nigeria need a Start-up Act?' *AELEX*, 2022 — <https://www.aelix.com/wp-content/uploads/2021/05/Does-Nigeria-Need-a-Start-ups-Act.pdf> on 8 June 2023.

On a comparative analysis, the situation above is virtually the same with the pre-enactment challenges of the Tunisia Start-up Act. Despite several efforts towards expanding budget and current account deficits, Tunisia's economic performance continued to dwindle for a period of five years after the uprising of 2011. This happened side by side with other developments and economic policies insufficient to substantially deal with the increase in poverty, unemployment and inequality in Tunisia. The public sector dominated the Tunisian entrepreneurship ecosystem and the business sector's hierarchical structure in Tunisia barred the entry of youth entrepreneurs who were not yet part of established business communities but eager to bring innovative, often unorthodox concepts to the market.⁴³

IV. The Emergence of the Nigeria Start-up Act

In today's world, the importance of technology cannot be overemphasized. This is especially true for Africa, where the population is young and hungry for opportunities to prosper. Technology has become a necessity for economic growth and development.⁴⁴ The contribution of the tech sector to the Nigerian economy was minimal until recently due to the absence of a regulatory framework, lack of governmental support and access to funding and mentorship opportunities for the young Start-ups in Nigeria.⁴⁵ Although the path to technological advancement in Nigeria has proven rough, the technology sector represents one of the fastest growing sectors of the country's economy.⁴⁶

⁴³ 'The Tunisian Start-up Act' — <https://www.insme.org/the-tunisian-start-ups-act/> on 11 July 2023.

⁴⁴ Olakunle M, 'Is Nigeria's tech industry about to overtake the oil sector' African Liberty, 8 April 2021 — <https://www.africanliberty.org/2021/04/08/is-nigerias-tech-industry-is-about-to-overtake-the-oil-sector/> on 8 July 2023.

⁴⁵ Adeyemi A, 'Nigeria ranks 137th in ICT Development Index' The Guardian, 21 December 2016 — <https://guardian.ng/technology/nigeria-ranks-137th-in-ict-development-index/> on 8 July 2023; Bunmi B, 'Nigeria not among 10 most innovative sub-Saharan African economies' Business Day, 17 October 2022 — <https://www.google.com/amp/s/businessday.ng/amp/business-economy/article/nigeria-not-among-10-most-innovative-sub-saharan-african-economies/> on 8 June 2023.

⁴⁶ Olakunle M, 'Is Nigeria's tech industry about to overtake the oil sector' African Liberty, 8 April 2021 — <https://www.africanliberty.org/2021/04/08/is-nigerias-tech-industry-is-about-to-overtake-the-oil-sector/> on 8 July 2023.

The recently enacted Nigerian Start-up Act aims to address the challenges confronting the sector as well as to promote innovations, creativity and entrepreneurship among Nigerians. On 19th October, 2022, the immediate former Nigerian President Muhammadu Buhari, signed the NSA into law. Between June and September 2021, the Bill went through the process and procedure of signing a bill into law, and over 25 leaders in Nigeria's tech ecosystem contributed to its drafting which makes the Act peculiar because of stakeholders collaboration.⁴⁷ Hence, the Act can be described as a collaborative effort by Nigerian tech start-ups to support the potential of the digital economy through co-created rules and regulations.

The NSA is therefore, the basic law regulating the tech ecosystem in Nigeria. It aims to provide a conducive environment for Nigerians to have more and better access to technology at lower costs in order to find innovative solutions to some daily problems in order to make life easier and better for people in Nigeria. The NSA does not only provide incentives such as tax exemptions, grants, funding and patent protection but also ensure that there is a conducive environment for innovations by way of research and development as well as creative thinking for entrepreneurs.⁴⁸ The commendable provisions in the NSA will ensure rapid growth and development of young Nigerian talents in the tech sector to stand out among other African nations and the rest of the world. The NSA will therefore help Nigerian entrepreneurs in the tech industry to scale up their businesses and create more employment opportunities for people. It will also serve as a veritable instrument for maintenance of favourable and conducive ecosystems and reduce the failure rate of Start-ups in Nigeria.⁴⁹

On a comparative analysis, over thirty-four million euros of investments went into Italian Start-ups between 2012-2015 following the enactment of a Start-up Act.⁵⁰ Similarly, Tunisia recorded twenty-two million four hundred thousand United States Dollars from investors who invested in Start-ups

⁴⁷ Oturu D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁴⁸ See sections 19, 21 and 29, *Nigeria Start-up Act* (2022).

⁴⁹ Oturu D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵⁰ Oturu D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

following the enactment of a Start-up Act.⁵¹ The implementation of the Tunisian Start-up Act in 2018 by extension resulted in a rise in the amount of start-ups applications in the country.⁵² Also, before the Italian Start-up Act of 2012, the number of existing start-ups was 515, and in 2016, the number of start-ups increased to 5,943.⁵³

Nigeria's technology sphere and her start-ups ecosystem has been gaining momentum and recording tremendous growth in recent years.⁵⁴ Reports show that Nigeria has the second highest number of start-ups in Africa; unfortunately, Nigerian start-ups have a high failure rate.⁵⁵ Consequently, pragmatic and proactive measures must be taken to address the high failure rate and to maintain the continuous development of start-ups in Nigeria. Achieving these require conscious and consistent governmental efforts. A measure through which concerned governments of countries around the world have been able to maintain and spur the growth of their start-ups by enacting a Start-up Act. Nigeria has joined the list of countries that have enacted a Start-up Act. The NSA has been described by numerous technology professionals as a game changer because it provides a conducive environment for technology-enabled businesses in Nigeria.⁵⁶ The NSA serves as a haven to young intellectuals and entrepreneurs who are now coming up with innovative technology-driven ideas and businesses.⁵⁷

In diverse ways, investment in research and development (R&D) determines countries fore front and has been interpreted to be the persuasive reason for China having the greatest level of investment in ICT companies with

⁵¹ Oтуру D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵² Oтуру D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵³ Ludovica C, 'The contribution of the Italian Start-up Act to the country's economic growth and job creation: The anatomy of a successful implementation' LUISS Guido Carli, 2016 — http://tesi.luiss.it/17979/1/625462_CHIAPPINI_LUDOVICA.pdf on 8 July 2023.

⁵⁴ Oтуру D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵⁵ Oтуру D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵⁶ Oтуру D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵⁷ Oтуру D, and Dosunmu A, 'The Nigeria Start-up Act: What it is and why it matters' AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

approximately \$215 million in 2015.⁵⁸ China prioritises talent development and R&D accounts for 12% of global R&D efforts. Upon careful examination of the activities of China in 2008 and 2012, the country's R&D spending increased by more than double. China is second in the world in both the number of theses and the number of patents. The lesson to be learned from China's success story for Nigeria is the prioritisation of R&D in bringing new innovations into the technological environment through massive funding.

V. Impacts of the NSA on Technological Developments in Nigeria

This part of the article analyses the NSA and its effect on innovation development in Nigeria.

i. Establishment of the National Council for Digital Innovation and Entrepreneurship and Provision of Enabling Environment for Technology Entrepreneurships and Innovative Business

One of the important provisions of the Act is that it provides for the creation of the national council for digital innovation and entrepreneurship (the "Council") and makes provisions for innovative businesses and a conducive or enabling environment for technology entrepreneurship to thrive.⁵⁹ The NSA establishes the council to be a body corporate with perpetual succession and headed by the President of the Federal Republic of Nigeria, who serves as the chairman,⁶⁰ the Director-General of National Information and Technology Development Agency (NITDA) and other members drawn from both the public and private sectors including representatives of the Start-ups Consultative Forum. The NSA empowers the council to, among other powers, review policies and directives of government ministries, departments and agencies (MDAs) which may affect the operation, establishment, and investment in a Start-ups. It is trite knowledge that an encouraging atmosphere is needed for any initiative or market to succeed and flourish. The Nigerian innovation industry exists as an

⁵⁸ Oтуру D, and Dosunmu A, "The Nigeria Start-up Act: What it is and why it matters" AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁵⁹ Section 3, *Nigeria Start-up Act* (2022).

⁶⁰ Sections 3(2)(a) and 4(1)(a), *Nigeria Start-up Act* (2022).

exception, as businesses fail at a high rate due to an adverse business environment.⁶¹ According to the Global Entrepreneurship Index (GEI), Nigeria ranked 101 out of 137 in terms of ease of doing business in 2020. Furthermore, the difficult business environment and the harsh economic situation of Nigeria as give rise to the common expression that has been found on the lips of many Nigerian entrepreneurs that; ‘If you are able to make it as an entrepreneur in Nigeria, you can make it everywhere else,’ This expression common or general expression is based on the tough business environment, inadequate incentives for entrepreneurs especially MSMEs, lack of regulatory frameworks that will encourage and promote foreign and domestic investment activities in businesses. An analysis of the year 2010 and 2018 reveals that 61% of Start-ups in Nigeria crumbled due to aggressive high company costs, government policies and finance issues.⁶² Hence, the enactment of the NSA provides a conducive and favourable atmosphere for technology-enabled start-ups growth and development in Nigeria.⁶³ The NSA envisions expanded engagement of start-ups in order to create a culture of entrepreneurship in the Nigerian technology ecosystem in order to create more wealth, more jobs and increase its adaptability to solve additional difficulties.⁶⁴ However, the provision that makes the president the head of the council will affect the efficiency and effectiveness of the council in view of the tight schedule of the president as he may not be available for some important decisions of the council because of other national assignments.

An in-depth analysis of the Nigeria Start-up Act, particularly section 4 reveals that there is the need to distinguish and separate the involvement of the executive from the national council as provided in the Nigeria Start-up Act. Section 4 of the Nigeria Start-up Act reveals that a large chunk of the National Council for Digital Innovation and Entrepreneurship consists of the Nigerian Executive Council, being: a) the President of the Federal Republic of Nigeria, who shall serve as the Chairman; b) the Vice-President of the Federal Republic of Nigeria, who shall serve as the Vice-Chairman; c) the Minister responsible for Communications and Digital Economy, who shall preside over the Council in

⁶¹ Nigeria recorded 61% start-ups failure from 2010-2018 due to aggressive government policies, high cost of doing business and funding challenges.

⁶² Otoru D, and Dosunmu A, ‘The Nigeria Start-up Act: What it is and why it matters’ AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

⁶³ Section 1, *Nigeria Start-up Act* (2022).

⁶⁴ Otoru D, and Dosunmu A, ‘The Nigeria Start-up Act: What it is and why it matters’ AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

the absence of the President and the Vice-President; d) the Minister responsible for Finance, Budget and National Planning; e) the Minister responsible for Industry, Trade and Investment; and f) the Minister responsible for Science, Technology and Innovation. A major issue in involving a large chunk of the executive arm is the issue of conflict of interest.

Conflict of interest subsumes clash between the personal gains of officials and their legally imposed duties, particularly as civil servants or statutory officials.⁶⁵ Conflict of interest, particularly by the aforementioned officials should be avoided in its entirety. The primary reasons why conflict of interest should be avoided at the state and federal level is for the avoidance of the likelihood of bias in the enforcement of legally imposed duties and the possibility of the risk of tarnishing the image of act in its entirety due to its poor execution and execution outside integrity.

The involvement of the executive arm in the provision of the Start-up Act can result in an attack on the trust in public decision making and the evasion of performance of duties outside bias.

ii. Establishment of the Start-ups Support and Engagement Portal and the Start-Ups Investment Seed Fund

The NSA establishes a start-ups support and engagement portal (the “Start-ups portal”) and the start-ups investment seed fund are some of the commendable provisions in the NSA.⁶⁶ Prior to the enactment of the NSA, there was no provision of any public financial support for young technology entrepreneurs in Nigeria . Hence, the start -ups support and engagement portal and the start-ups investment seed fund are designed to provide a wide range of benefits to start-ups in Nigeria. Some of the key benefits provided by the portal include the facilitation of the issuance of permits or licences for start-ups.⁶⁷ This will make it easier for start-ups to obtain the necessary legal approvals and authorizations to operate in Nigeria. It will therefore reduce the time and effort required for start-ups to navigate the regulatory environment and allow them to focus on growing their businesses. The NSA makes provision for a platform for interactions between start-ups and the government, private institutions and

⁶⁵ (*Managing conflict of interest in the public sector* - OECD) <https://www.oecd.org/gov/ethics/49107986.pdf> accessed 23 September 2023

⁶⁶ Sections 10 and 19, *Nigeria Start-up Act* (2022).

⁶⁷ Section 10(2)(a), *Nigeria Start-up Act* (2022).

investors.⁶⁸ This will enable start-ups to connect with a wider range of potential partners, collaborators and investors. It will also provide an opportunity for start-ups to engage with the government and other stakeholders in the ecosystem and provide feedback on policies and programmes that impact their businesses.

Furthermore, the Act also makes provisions for opportunities for start-ups to participate in beneficial programmes and access to accelerators and incubators that could assist them in their businesses.⁶⁹ The portal will also provide access to a range of programmes such as incubation and accelerator programmes, pitch competitions, fellowships and other initiatives that can help start-ups and founders to develop new skills, gain visibility and access to resources and funding for their products and ideas. There is also a provision for access to finance, information, innovation and the global markets in the NSA.⁷⁰ By this, the portal will provide start-ups with access to a wide range of resources and tools that can help them grow and scale their businesses. This includes access to funding, information on innovation and new technologies, opportunities to enter new markets. The NSA also makes provision for information exchange among stakeholders.⁷¹ The portal will also serve as a platform for industry stakeholders, including government agencies, investors and other organisations to share information and best practices.⁷²

The start-ups investment seed fund is created to be managed by the Nigeria Sovereign Investment Authority (NSIA).⁷³ A sum of money not less than ten billion Naira will be paid into the fund annually.⁷⁴ The funds are to be used to provide finance for start-ups, especially early-stage act for labelled start-ups on the recommendation of the fund manager subject to the approval of the Council.⁷⁵ It is also meant to provide a labelled start-ups with finance and provide reliefs to technology laboratories, accelerators, incubators and hubs.⁷⁶ A credit guarantee scheme is also set up under the Act.⁷⁷ There are provisions

⁶⁸ Section 10(2)(b), *Nigeria Start-up Act* (2022).

⁶⁹ Section 10(2)(c), *Nigeria Start-up Act* (2022).

⁷⁰ Section 10(2)(d), *Nigeria Start-up Act* (2022).

⁷¹ Section 10(2)(e), *Nigeria Start-up Act* (2022).

⁷² Section 10(2)(e), *Nigeria Start-up Act* (2022).

⁷³ Section 19(1), *Nigeria Start-up Act* (2022).

⁷⁴ Section 19(2), *Nigeria Start-up Act* (2022).

⁷⁵ Section 19(3), *Nigeria Start-up Act* (2022).

⁷⁶ Section 19(3), *Nigeria Start-up Act* (2022).

⁷⁷ Section 28, *Nigeria Start-up Act* (2022).

guaranteeing access to grants and loan facilities administered by the Central Bank of Nigeria (CBN), the Bank of Industry, and other bodies statutorily empowered to assist small and medium-size enterprises (SMEs) and entrepreneurs.⁷⁸ These measures if properly managed will spur tremendous technology talent utilisation for people who are affected by the challenge of not having enough money to fund their businesses as the money required to run their businesses will be provided by the bodies mentioned above. In turn, these measures provided in various sections of the Act will inevitably bolster technology development in Nigeria.

iii. Tax and Fiscal Incentives

Based on the National Bureau of Statistics' current GDP report, the information and communications technology (ICT) industry generated 18.44% of Nigeria's GDP in the second quarter of 2022.⁷⁹ Similarly, the Nigerian Start-ups ecosystem report 2022 identified Nigeria as one of Africa's "big four" start-ups ecological systems, along with Egypt, Kenya, and South Africa.⁸⁰ Between 2015 and 2022, around 383 tech start-ups raised a total of \$2,068,709,445 in capital in Nigeria, the most of any country.⁸¹

Furthermore, as of August 2022, 107 Nigerian businesses had raised money, accounting for almost one-third of all funded start-ups on the African continent that year.⁸² These are only a few of the notable accomplishments in this field. It is therefore disheartening that, despite the fintech industry's tremendous contribution, several announcing tech start-ups in Nigeria with the potential to enormously drive profit in the nation's economy have ceased operations due to the government's inconsistent treatment of policies relating to tech support.⁸³ The passage of the NSA is to minimise the obstacles experienced

⁷⁸ Section 27, *Nigeria Start-up Act* (2022).

⁷⁹ Dosunmu D, 'Technology now contributes more than oil to Nigeria's GDP' Techcabal, 01 September 2022 — <https://techcabal.com/2022/09/01/tech-drives-nigeria-gdp/> on 8 July 2023.

⁸⁰ Disrupt Africa, *Nigerian Start Up Ecosystem Report*, 2022.

⁸¹ Disrupt Africa, *Nigerian Start Up Ecosystem Report*, 2022.

⁸² Izuaka M, '383 Nigerian tech Start-upsraised over \$2 billion in seven years' Premium Times, 20 September 2020 — <https://www.premiumtimesng.com/news/top-news/554968-383-nigerian-tech-Start-upss-raised- over-2-billion-in-seven-years-report.html> on 8 July 2023.

⁸³ Izuaka M, '383 Nigerian tech Start-upsraised over \$2 billion in seven years' Premium Times, 20 September 2020 — <https://www.premiumtimesng.com/news/top-news/554968-383-nigerian-tech-Start-upss-raised- over-2-billion-in-seven-years-report.html> on 8 July 2023.

by tech and other Start-ups and create a favourable atmosphere for the establishment, development and growth of Start-ups in Nigeria.

The NSA further recognizes the importance of private sector funding in the development of the start-ups ecosystem in Nigeria and to encourage local and foreign investors to invest in start-ups, the NSA introduces a number of tax and fiscal incentives for investors.⁸⁴ Furthermore, to reduce the cost of doing business, the Act introduced various tax incentives for start-ups. For example, start-ups may be exempted from payment of income tax in specific circumstances.⁸⁵

For example, Section 25(2) provides that; “a labelled startup may be entitled to exemption from the payment of income tax or any other tax chargeable on its income or revenue for a period of three years and an additional two years if still within the period of a labelled startup, provided that the commencement date of the tax relief shall be the date of the issuance of the startup label.”

Also, Section 25(3) of the Nigeria Startup act provides that; “A labelled startup shall enjoy full deduction of any expenses on research and development which are wholly incurred in Nigeria and the restrictions placed by the Companies Income Tax Act shall not apply to a labelled startup.”

A labelled start-up is also entitled to enjoy full deduction of any expense on research and development which are wholly incurred in Nigeria, and the restrictions placed by the Companies Income Tax Act do not apply to a labelled start-up.⁸⁶ Also, a labelled Start-ups which falls within industries captured under the Pioneer Status Incentives (PSI) scheme may upon application through the Secretariat receive expeditious approval from the Nigerian Investment Promotion Commission (NIPC) for the grant of the tax reliefs and incentives under the PSI scheme.⁸⁷

Considering the fact that funding from the private sector also has a role to play, the Act introduced tax incentives to encourage local and foreign investors to invest in Start-ups in Nigeria.⁸⁸ These incentives includes an

⁸⁴ See generally sections 24 and 25, *Nigeria Start-up Act*, 2022.

⁸⁵ Section 25(2), *Nigeria Start-up Act* (2022).

⁸⁶ Section 25(3), *Nigeria Start-up Act* (2022).

⁸⁷ Section 24, *Nigeria Start-up Act* (2022).

⁸⁸Oturu D, and Dosunmu A, ‘The Nigeria Start-ups Act: What it is and why it matters’ AELEX — <https://www.aelix.com/the-nigeria-start-ups-act-what-it-is-and-why-it-matters/> on 8 July 2023.

investment tax credit of 30% of the investment in a labelled start-ups and the exemption from capital gains tax on gains from the disposal of assets by angel investors, venture capitals, private equity funds, accelerators or incubators with respect to a labelled start-ups provided the assets have been held in Nigeria for a minimum of 24 months.⁸⁹

These measures are intended to attract local and foreign investors to the Nigerian start-ups ecosystem and position the country as a leading digital technology centre in Africa. Additionally, the Act includes provisions for export incentives and financial assistance for start-ups engaged in exportation and support for holders of intellectual property rights to commercialise and internationalise those rights.⁹⁰ It also provides a legal framework for start-ups to raise funds through crowdfunding intermediaries and commodities investment platforms licensed by the Securities and Exchange Commission (SEC).⁹¹ All these measures are aimed at reducing the high failure rate of Start-ups in Nigeria. The Tony Elumelu Foundation, Lagos State Employment Trust Fund, Bill and Melinda Gates Foundation, Ford Foundation, Bank of Industry and Final thoughts are institutions that give equity free funding to start-ups in Nigeria.

iv. Start-Ups Labelling and Eligibility

The Start-up Act established a process known as “Start-ups labelling”.⁹² Labelling under the Act is the status given to start-ups or companies registered under the CAMA for less than 10 years having their objects related to innovation, development, production, improvement and commercialization of a digital technology product or process.⁹³ The essence of the labelling is to distinguish between start-ups that are entitled to incentives and benefits under the Act, thus a start-up obtaining such a label would be entitled to myriads of fiscal and access incentives.⁹⁴ In order for a start-ups to be labelled, such start-up must meet the requirements outlined under the Act. The first requirement and perhaps the most important is that the company must be registered as a limited liability company under the CAMA and its object must be related to innovation,

⁸⁹ Section 29 (2), *Nigeria Start-up Act* (2022).

⁹⁰ Sections 26 and 31(2), *Nigeria Start-up Act* (2022).

⁹¹ Section 32, *Nigeria Start-up Act* (2022).

⁹² Section 13, *Nigeria Start-up Act* (2022).

⁹³ Section 13(2)(a) and (b), *Nigeria Start-up Act* (2022).

⁹⁴ Section 13(6), *Nigeria Start-up Act* (2022).

development, product, improvement and commercialization of a digital technology product or process, being the holder or repository of a product or process of digital technology or the owner or author of a registered software, having at least one-third local shareholding held by one or more Nigerians as founders or co-founders.⁹⁵ For sole proprietorships or partnerships, meeting the same conditions but with a six month concession for pre-label status. Start-ups who meet the requirements therein must apply for the label via the portal, upon grant, the label will last for 10 years from the date of issuance.⁹⁶

v. The Start-Ups Consultative Forum and Regulatory Support

The NSA also established a consultative forum and regulatory support.⁹⁷ The creation of the start-ups consultative forum has the potential to positively affect the start-ups ecosystem in Nigeria by providing a central point of contact for start-ups to access information and resources related to their development.⁹⁸ The forum can also help to streamline the process of starting and growing a business. This can help to reduce the barriers to entry for entrepreneurs and make it easier for them to access funding and other resources. Furthermore, by providing access to incubation and accelerator programmes, pitch competitions, fellowships and other related programmes, the forum can help start-ups to develop their ideas, grow their business and access funding from angel investors, venture capitalists and other funding organisations.⁹⁹ This can help foster a supportive ecosystem for start-ups in Nigeria and can encourage more entrepreneurs to start new businesses and develop innovative products and services.

The Act recognizes the importance of collaboration and wants start-ups to work together with government agencies, experts and investors. To make this happen, the Act provides that the Corporate Affairs Commission and the National Information Technology Development Agency (Secretariat) will make sure the process for start-ups at the Commission is easy and fast.¹⁰⁰ The Secretariat will work with the Nigerian Copyright Commission and the

⁹⁵ Section 13(3), *Nigeria Start-up Act* (2022).

⁹⁶ Section 13(4) and (5), *Nigeria Start-up Act* (2022).

⁹⁷ See sections 12 and 23, *Nigeria Start-up Act* (2022).

⁹⁸ Section 12(1), *Nigeria Start-up Act* (2022).

⁹⁹ Section 12(2), *Nigeria Start-up Act* (2022).

¹⁰⁰ Section 30, *Nigeria Start-up Act* (2022).

Trademark, Patent and Design registries to make it easy for start-ups to register their intellectual property and handle any legal issues.¹⁰¹ It also makes a provision for the Secretariat to work with the National Office for Technology Acquisition and Promotion to make it easy for Start-ups to register their technology transfer, get discounts on fees and get help to make money from their research.¹⁰² The Secretariat is also expected to work with the Central Bank of Nigeria (CBN) and Securities and Exchange Commission (SEC) to make it easy for start-ups to get licences to operate as fintech companies and be informed of new regulatory developments.¹⁰³ The Council is also empowered to help start-ups that desire to be listed on the Nigerian Exchange (NGX) and provide assistance in fulfilling the needed requirements for such listing.¹⁰⁴ All these will happen through the start-ups support and engagement portal where start-ups can register with government agencies. One major challenge of these provisions is the bureaucracy in government agencies and lack of sanction and or provisions to ensure compliance.

vi. Incubators, accelerators, hubs and innovation parks

Just like the Silicon Valley in the United States or the technology hubs in London, the Act seeks to establish a technology ecosystem in Nigeria. Hence, the Act seeks to develop a national accelerator and incubator policy for the establishment and development of accelerators and incubators.¹⁰⁵ These accelerators and incubators shall in collaboration with the council and the secretariat develop programmes targeted at start-ups.¹⁰⁶ Incubators, accelerators, clusters, hubs and innovation parks are all programmes and facilities that provide support to start-ups in their early stages of development.¹⁰⁷

Incubators provide start-ups with resources such as office space, mentorship, and access to funding. They also offer business development services such as marketing and accounting assistance. Accelerators on the other hand, are similar to incubators but they provide more intensive support for a shorter period of time. They often focus on a specific industry or business model

¹⁰¹ Section 31(4), *Nigeria Start-up Act* (2022).

¹⁰² Section 33, *Nigeria Start-up Act* (2022).

¹⁰³ Section 34, *Nigeria Start-up Act* (2022).

¹⁰⁴ Section 36, *Nigeria Start-up Act* (2022).

¹⁰⁵ Sections 38 and 39, *Nigeria Start-up Act* (2022).

¹⁰⁶ Sections 38, *Nigeria Start-up Act* (2022).

¹⁰⁷ Section 40, *Nigeria Start-up Act* (2022).

and they help start-ups to quickly develop their business and prepare for fundraising.

Clusters are groups of companies and organisations in a specific industry or geographical location that work together to promote economic development, while hubs are similar to clusters, but they focus on a specific technology or industry.¹⁰⁸ They provide a collaborative environment for start-ups, investors, and other stakeholders to network and share resources.¹⁰⁹ Innovation Parks are physical or virtual spaces where start-ups can access resources such as office space, mentorship and funding.¹¹⁰ They also provide a platform for Start-ups to showcase their products and services.¹¹¹

The Act has provisions which are pivotal in ensuring the optimum utilisation of technology talents in the country and helping the businesses of Start-ups to thrive. It has provisions for training and capacity building programmes for start-ups.¹¹² The law provides for granting start-ups access to training facilitated by the Industrial Training Fund and any organisation that partners with the secretariat for the training of entrepreneurs and their employees.¹¹³ This is to ensure the growth and optimum utilisation of native talents. The Act also makes provision for the establishment of accelerator and incubator programmes for Start-ups and development of a national accelerator and incubator policy for the establishment and development of accelerators and incubators.¹¹⁴

The Act further provides for the establishment of the start-ups innovation clusters, hubs, and physical and virtual innovation parks in each state of the Federation to aid the activities of the Start-ups.¹¹⁵ This will ensure adequate and collaborative workshops and exchange of knowledge among the pioneering and other entrepreneurs in the ecosystem, promote technology and innovative thinking, give growing Start-ups the needed guidance to make them thrive and bolster the growth of start-ups in Nigeria.

¹⁰⁸ Section 41, *Nigeria Start-up Act* (2022).

¹⁰⁹ Section 41, *Nigeria Start-up Act* (2022).

¹¹⁰ Section 41, *Nigeria Start-up Act* (2022).

¹¹¹ Section 41, *Nigeria Start-up Act* (2022).

¹¹² Section 21(1), *Nigeria Start-up Act* (2022).

¹¹³ Section 21(2), *Nigeria Start-up Act* (2022).

¹¹⁴ Sections 38(1) and (2), *Nigeria Start-up Act* (2022).

¹¹⁵ Section 40(1), *Nigeria Start-up Act* (2022).

These accelerators and incubators registered with the Secretariat are entitled to incentives as may be provided by the Federal Government through a regulation. The Act also makes it clear that the secretariat shall collaborate with the Nigerian Export Processing Zones Authority to establish a Technology Development Zone. This is to spur the growth and development of Start-ups, accelerators and incubators. These measures among other progressive provisions in the Act are commendable efforts and welcome development for technology development and economic growth that can spurt Nigeria ahead of other countries and position Nigeria as the start-ups hub in Africa.

Investment in research and technology development greatly influences and determines growth and development of nations. This could perhaps be the convincing explanation for China as a country with the highest level of investment in ICT Start-ups with nearly 215 million dollars in 2015. China prioritises R&D and skills development which represents 12% of the world's efforts in R&D. The country's R&D expenditure doubled between 2008 and 2012. China is also the world's second in terms of the number of patents, and also in terms of the number of these . Nigeria can learn from China's success story through the prioritisation of research and development in driving more innovations into the technology ecosystem through huge funding.

On a further comparative analysis, the Tunisia Start-up Act consists of three parts; a legal structure that streamlines the Start-ups launch procedure, a €200 million fund deployed to certain verticals and a component strategy for bolstering Tunisia's ecosystem and hubs.¹¹⁶ There are multiple advantages for various actors in the Start-ups ecosystem. Entrepreneurs can apply for a one-year allowance for expenses for living for the co-founder and shareholder, state support for start-ups patent registration processes and service charges at both the global and national levels, and a year off to fully commit to the debut and growth of their start-ups.¹¹⁷

A gateway for applying for start-ups categorization, the possibility of establishing a special foreign currency account, and corporate tax exemption are

¹¹⁶ Hinrichsen S, 'Exploring the rising Tunisian Start-ups ecosystem' GSMA, 20 November 2020 — <https://www.gsma.com/mobilefordevelopment/blog/exploring-the-rising-tunisian-Start-ups-ecosystem/> on 8 July 2023.

¹¹⁷ Hinrichsen S, 'Exploring the rising Tunisian Start-ups ecosystem' GSMA, 20 November 2020 — <https://www.gsma.com/mobilefordevelopment/blog/exploring-the-rising-tunisian-Start-ups-ecosystem/> on 8 July 2023.

among the benefits for start-ups in Tunisia.¹¹⁸ Finally, shareholders gain from tax-deductible start-ups investment as well as capital gains tax exemption on profits from the sale of assets tied to participation in a start-ups.¹¹⁹ Start-ups labelled under the Tunisia Start-up Act are given much opportunity to thrive although there is provision for a calm winding down of enterprises on account of honourable or good failure.¹²⁰

VI. Challenges of the NSA and the General Challenges Faced by Start-Ups in Nigeria

The NSA in its entirety is a progressive piece of legislation that could potentially, if properly implemented, lead to massive gains for the Nigerian start-ups ecosystem. However, the Act has a number of issues with regard to some key provisions and even with the overall practicability of some core aspects. One of the flaws of the Act is that it does not specifically provide or determine how the agencies created therein would work with other regulatory bodies in helping Start-ups with limited funding to access licences. For a proper context, the main driver of the Start-ups ecosystem in the country are financial technology companies (fintechs), accordingly out of 481 Nigerian tech Start-ups in 2022, a total of 173 of such ventures are fintech ventures, which is 36% a challenger to the next biggest challenger, the e-commerce and retail-tech.¹²¹ This becomes a flaw because most fintech ventures require licences and licences for these ventures are usually pegged at relatively astronomical amounts by the regulatory

¹¹⁸ ‘What difference have Start-ups acts made in African countries where they exist?’ African Heroes, 13 December 2020 — <https://afrikanheroes.com/2020/12/13/what-difference-have-Start-ups-acts-made-in-african-countries-where-they-exist/> on 9 July 2023 and Hinrichsen S, ‘Exploring the rising Tunisian Start-ups ecosystem’ GSMA, 20 November 2020 — <https://www.gsma.com/mobilefordevelopment/blog/exploring-the-rising-tunisian-Start-ups-ecosystem/> on 8 July 2023.

¹¹⁹ Hinrichsen S, ‘Exploring the rising Tunisian Start-ups ecosystem’ GSMA, 20 November 2020 — <https://www.gsma.com/mobilefordevelopment/blog/exploring-the-rising-tunisian-Start-ups-ecosystem/> on 8 July 2023.

¹²⁰ ‘What difference have Start-ups acts made in African countries where they exist?’ African Heroes, 13 December 2020 — <https://afrikanheroes.com/2020/12/13/what-difference-have-Start-ups-acts-made-in-african-countries-where-they-exist/> on 9 July 2023.

¹²¹ Jackson T, ‘Fintech is the main driver of Nigeria’s continent-leading Start-ups ecosystem’ Disrupt Africa, 6 October 2022 — <https://disrupt-africa.com/2022/10/06/fintech-is-the-main-driver-of-nigerias-continent-leading-Start-ups-ecosystem/> on 7 July 2023.

bodies, the SEC and CBN. Thus, the NSA does not specifically speak to how this could be made more accessible for such start-ups.

Secondly, the provision of 10 billion naira as the cap funding amount for the start-ups investment seed fund in the NSA is grossly inadequate for the scale and ambitious heights the NSA seeks to achieve. To put into perspective, China's tech start-ups generated \$131 billion in 2021, while the United States of America generated \$396.6 billion in the same year. Available records estimate the number of start-ups in Nigeria to be between 4,500 to 6,700¹²² as the largest in Africa but the scaling and survival ability is very low due to limited funds and organised infrastructure such as IT or knowledge parks, standard innovation hubs, accelerators and investment promotion circuits.¹²³

Furthermore, the NSA's limited definition of 'Start-ups' is not in line with modern realities. Start-ups, albeit conventionally heavily technologically aligned, do not always qualify as tech Start-ups. The NSA's definition of start-ups is exclusively limited only to technology companies, which poses a problem for start-ups that do not follow the conventional way of building tech products, such as food and beverage, retail, healthcare, agriculture, fashion, construction etc. All these are prominent sectors of the Nigerian economy with an ever-increasing presence in the ecosystem which by are excluded from the benefits the Act offers by implication.

The NSA does not put in place a compliance system. The Secretariat is obliged with the Council's permission to build a start-ups portal that will function as the platform for start-ups to register with key MDAs. The start-ups portal was recently deployed. There is no mechanism to ensure compliance with the register among other provisions of the Act as well as penalty for non compliance. Further to this provision in the conflicting provisions for the legitimacy requirements of a start-ups label because it is nebulous and vulnerable to numerous interpretations. To be specific, section 13(2)(a) of the NSA requires a firm to be incorporated as a limited liability company under the CAMA and must have been operating for a maximum of ten years from the date of

¹²² Adeyemi Adepetun (Lagos) and Joseph Chibueze (Abuja), 'Start up Act: Experts List Gains, Warn against Pitfalls' (- *Nigeria - The Guardian Nigeria News – Nigeria and World News*, 21 October 2022) <https://guardian.ng/news/start-up-act-experts-list-gains-warn-against-pitfalls/> accessed 22 September 2023.

¹²³ Adepetun A, and Chibueze J, 'Start-ups Act: Experts lists gains, warn against pitfalls' *The Guardian*, 22 October 2022 — <https://guardian.ng/news/Start-ups-act-experts-list-gains-warn-against-pitfalls/> on 22 January 2023.

incorporation before it may be labelled a start-ups. Section 15(3) of the NSA, on the other hand, asserts that a start-ups label (certificate) is valid for ten years from the date of issuance!

As regards the general challenges faced by Start-ups over the years, the Nigerian start-ups ecosystem has grown into the spotlight beyond imagination. These start-ups have faced numerous challenges which limits their ability and opportunity to compete with their colleagues around the globe. These challenges include but are not limited to lack of adequate finance, policy inconsistency, exclusion from official foreign exchange windows , high lending or interest rate by commercial banks, high operating cost, poor supporting infrastructure, overlap in regulation by government agencies, multiple taxations and insecurity.¹²⁴

Consequently, finance has proven to be a paramount challenge affecting the growth of start-ups companies in Nigeria. Financial constraints have over the years imposed restrictions to the advancement of early stage and already established start-ups in Nigeria.¹²⁵ The cost of establishing, operating and managing a Start-ups company requires a lot of capital and persistent funding to ensure the smooth running of the company. Although reports have shown that start-ups companies recorded great achievements in recent times , the achievements could have been more if they had more access to funds.¹²⁶

Lastly, the peculiarities of business transactions in start-ups companies were not fully guided by the extant laws in Nigeria. This created a lacuna in the laws regulating start-ups. The absence of a proper regulatory and legal framework created an unconducive environment for start-ups opening the floor

¹²⁴ Adepetun A, and Chibueze J, 'Start-up Act: Experts lists gains, warn against pitfalls' The Guardian, 22 October 2022 — <https://guardian.ng/news/Start-ups-act-experts-list-gains-warn-against-pitfalls/> on 22 January 2023.

¹²⁵ Adepetun A, and Chibueze J, 'Start-up Act: Experts lists gains, warn against pitfalls' The Guardian, 22 October 2022 — <https://guardian.ng/news/Start-ups-act-experts-list-gains-warn-against-pitfalls/> on 22 January 2023.

¹²⁶ Adepetun A, and Chibueze J, 'Start-up Act: Experts lists gains, warn against pitfalls' The Guardian, 22 October 2022 — <https://guardian.ng/news/Start-ups-act-experts-list-gains-warn-against-pitfalls/> on 22 January 2023, Jackson T, 'Fintech is the main driver of Nigeria's continent-leading Start-ups ecosystem' Disrupt Africa, 6 October 2022 — <https://disrupt-africa.com/2022/10/06/fintech-is-the-main-driver-of-nigerias-continent-leading-Start-ups-ecosystem/> on 7 July 2023.

for known Start-ups to easily access funds and oppress early staged start-ups. As a result of this, many early-stage start-ups have folded up.

VII. Conclusion and Recommendations

This article examines the nature of start-ups and the Nigeria Start-up Act, 2022, the pre-enactment of the NSA era in Nigeria and the emergence of the Start-up Act. It found that the status of technological development in Nigeria is abysmally slow which prompted the enactment of the NSA for technological development and economic growth among start-ups. The NSA is intended to revamp the Start-ups ecosystem and position it as a leading technology hub in Africa. This is with the aim of promoting technological advancement for economic growth in Nigeria. The article has further examines the impact that the Start-up Act has on technological development and economic growth in Nigeria, the challenges of the Start-up Act and the general challenges faced by Start-ups in Nigeria.

The article found that the NSA is a welcome and commendable development as there are laudable provisions that promote both technology and talent developments by creating a healthy environment for the exhibition of technological innovations with adequate funding. The Act also contains provisions that addressed the challenges bedevilling Start-ups in Nigeria thereby promoting technological development and economic growth. The NSA is unequivocally a step in the right direction as it seeks to address some basic issues bedevilling most early-stage Start-ups in Nigeria. However, the issue impeding almost all spheres of the Nigerian sector today is not as a result of the absence of beautiful pieces of legislations but effective implementation of the extant laws. This assertion is deduced from Guy Kawasaki's quote: "Ideas are easy. Implementation is hard".¹²⁷

The article therefore, recommends that the relevant stakeholders and regulatory bodies should strive to fully implement the provisions of the Start-up Act so this laudable and commendable piece of legislation will not be a facade. Hence, a timeline is recommended to be set for the implementation of the many laudable provisions of the Act. Furthermore, the Act should be amended to include provisions that will ensure compliance of the collaborative support of

¹²⁷ *Ideas are easy, implementation is hard* (2013) *Forbes*. Available at: https://www.forbes.com/2004/11/04/cx_gk_1104artofthetart.html?sh=43e04b081efe on 22 September 2023.

government agencies with the provisions of the Act and sanction for non-compliance.

Furthermore, it is recommended that the scope of the Act should not be made exclusively for tech Start-ups but extended to other Start-ups for them to harness the opportunities made available for the edification of the Start-ups ecosystem. Essentially, the Start-up Act should also contain provisions (or interpreted in such a way) that accommodate Start-ups companies other than tech Start-ups.

It is also recommended that the provision that makes the president the head of the Council be amended to make another person preferably, a distinguished tech-savvy entrepreneur the head of the Council in order to ensure efficiency and effectiveness of the council in view of the fact that the president may not be readily available because of other national assignments.