**COUNCIL FOR THE REGULATION OF ENGINEERING IN NIGERIA (COREN)**

**NO. 22 ADDIS ABABA CRESCENT, WUSE ZONE 4, ABUJA**

**Response to ESVARBON Petition on COREN Regulations for Engineering Appraisal/ Valuation, Government Notice No. 91 in the FRN Gazette**

**of 31st July, 2018**

**ADDRESSED TO THE**

**HONOURABLE MINISTER**

**FEDERAL MINISTRY OF POWER, WORKS AND HOUSING**

**MAY 2019**

1.0 **INTRODUCTION**

1.1 **COREN Mandate**

Council for the Regulation of Engineering in Nigeria, ***COREN,*** was established as a statutory organ of the Federal Government of Nigeria by Decree No. 55 of 1970 as amended by Decree No. 27 of 1992, now Engineers (Registration, etc.) Act, CAP E 11, 2004. Sec. 1 (1)(d) of the Act empowers COREN to:-

* Regulate and control engineering practice in Nigeria in all its aspects and ramifications.
* Sec. 21 of the Act affirms “Any power to make regulations, rules or orders conferred by this Act shall include powers:
1. To make provision for such incidental and supplementary matters as the authority making the instrument considers expedient for the purpose of this instrument.

(c) To make provisions for the control of the practice of engineering in the construction industry, including rules as to the registration with Council.

In section 22 of the COREN Act, ***“practice of engineering”*** includes any professional services or creative work requiring the application of special knowledge of mathematics, physics and engineering in form of valuation inter alia.

2.0 **MAKING OF THE VALUER**

**ESVARBON CLAIM**

Asset valuation has always been more of financial than brick and mortar or steel calculation. That is why in the training of the valuer (the Estate Surveyor and Valuer, valuation as a course of study runs through each of the five years of study. Accounting and related subjects run for three out of the five years; while economics and variants of it run for three years out of the five also.

Whatever laws that are in place in relation to asset valuation only back up the courses of study.

**COREN POSITION**

Engineering Appraisal/Valuation is the art of estimating the value of specific properties where professional engineering knowledge and judgement are essential. Such properties include mines, factories, buildings, plant and machinery, industrial plants, public utilities, engineering constructions, etc.

Engineering students study engineering valuation, engineering economics, cost engineering courses in the engineering programme in the Nigerian Universities. This could be seen from pages 18 & 19 of the Bench Mark Minimum Academic Standards ***(BMAS)*** and Accreditation Scoring Criteria for under Graduate Engineering Programmes in Nigerian Universities. The latter is attached as Appendix 1.These courses expose Engineering students to the economics sides of engineering, and are therefore very compulsory for anyone passing through any engineering programme.

Due to the vastness of the engineering world, Engineers unlike other professionals study engineering science in school, and specialize in practice at the work place. Cost Engineering, Engineering Valuation/Appraisal and Engineering Economy are established fields of practice. It should also be noted that not all Engineering Practitioners engage in them. Appraisal and Cost Engineering Professional Institutions belong to Internationally recognized bodies like the International Cost Engineering Council ***(ICEC)***. The Institute of Appraisers and Cost Engineers ***(a Division of the Nigerian Society of Engineers)*** is a member of ICEC.

It is necessary to point out those who style themselves as Estate Surveyors and Valuers actually studied Estate Management while in school. They had valuation as one of the courses of study in the Estate Management Programme, just like engineering students do.

3.0 **RESPONSE ON CONTEMPORARY ENGAGEMENTS**

3.1 **NEPA Asset Valuation**

**ESVARBON CLAIM**

In 1990, which was about the first time that the assets of the National Electric Power Authority (NEPA), was valued, engineers rose up in arms, claiming to be right professionals to do the valuation. A case was made for Estate Surveyors and Valuers. The then Minister of Works and Housing, Major General Maman Kontangora, himself an engineer, ruled that Estate Surveyors and Valuers are the **Valuers**. Estate Surveyors and Valuers were appointed prime valuation consultants. Considering the nature of assets in question – engineering assets – and the fight that went for it, it was required that each participating firm of estate surveyors and valuers would nominate and work with an electrical engineer. That assignment was successfully carried-out.

**COREN POSITION**

A clear picture of the NEPA Asset Valuation exercise could be obtained from the tribute to ***Engr. Ibunkunle A. A. Okunoren FNSE,*** a past President of ACEN published in the Appraiser and Cost Engineer Journal, vol. 02 2004 which debunked the allegation raised by ESVARBON.

In the narrative by ***Engr. Otis Anyaeji, FNSE,*** whose Firm valued Egbin Power Plant during the exercise in 1990, a couple of things stood out:

1. NEPA initially gave the entire valuation job comprising lands and buildings, and machinery and equipment to real estate surveyors.
2. Engineers under the leadership of the late ***Engr. Okunoren,*** a frontline **Engineering Valuer**, protested the abnormality.
3. NEPA in response to Engineers’ protest, decided to split the job into two ***(2)*** categories and re-awarded the contract as follows:-
4. LAND AND BUILDINGS to Estate Surveying Firms.
5. PLANTS, MACHINERY, EQUIPMENT AND FITTINGS to Engineering Firms.

From the narrative, it is clear that the Engineering Firms were directly engaged by NEPA for valuation and not to merely provide advice.

3.2 **APBN Ruling**

**ESVARBON CLAIM**

In 2001/2002 without any job particularly in view, the engineers re-opened the dispute about who is the valuer, in relation to plant and machinery assets. Both groups made claims and counter claims in the print media, until the Association of Professional Bodies of Nigeria (APBN) called them to order on the issue. APBN is made up of all recognized professional bodies, including the Nigerian Society of Engineers (NSE), the Nigerian Institution of Estate Surveyors and Valuers (NIESV), Institute of Chartered Accountants of Nigeria (ICAN), Nigerian Bar Association (NBA), and a host of others. **The APBN ruled that Estate Surveyors and Valuers are the Valuers**, but added that in complex engineering assets, Estate Surveyors and Valuers may wish to work with engineers. (Copy of the APBN ruling attached).

**COREN POSITION**

ESVARBON is being economical with the truth on the Association of Professional Bodies of Nigeria ***(APBN)*** ruling. Sequential to events that played out in 2001 – 2002, Engineers protested the statement that Estate Surveyors and Valuers are the only valuers. This led to another mediation meeting by APBN with the Nigerian Society of Engineers, ***NSE*** and Nigerian Institution of Estate Surveyors and Valuers, ***NIESV***, on ***20th October, 2003*** at ICAN Building, 16 Idowu Taylor Street, Victoria Island, Lagos. Another meeting was held at the same venue on the ***13th February, 2004,*** Highlights of the meetings were as follows:-

1. To ascertain the position of the law with respect to the practice of valuation, the following documents were circulated and discussed.
2. Annexure to the COREN Act 27 of 1992, section 22.
3. Official gazette No. 5 Vol. 76 of 1989 ***(NIESV Rules and Regulations)*** as provided by NIESV Decree 24 of 1975.
4. Company and Allied Matters Decree 1 of 1990 Section 137, 554 and 603.
5. Another document that was circulated but was not captured in the minutes was Decree No. 46 of 1991.
6. In the discussion of the documents, it was established that the law defined valuation in general sense without exclusivity.

Part of the resolutions from that meeting was that conscious efforts must be made to develop capacities to work together in order to help the professions grow and make the expected difference in the polity.

Furthermore, it was noted that most significant jobs today require multi-disciplinary approach and that clients would always be at liberty to decide who should lead them. (***See Annexure 2 minutes of the two meetings).***

3.3 **M. A. Bello and Partners Vs Engr. Otis Anyaeji**

**ESVARBON CLAIM**

In 2011, this case, decided in the High Court of Lagos by Honourable Justice V.O. Idowu (Mrs) made copious references to the fact of only Estate Surveyors and Valuers belonging to the IVSC and so being the Valuers and granted M.A. Belo & Partners all the reliefs sought. M.A. Belo & Partners is a firm of Estate Surveyors and Valuers (Copy of the judgment attached).

**COREN POSITION**

As stated in the ESVARBON petition, the case was decided in the High Court of Lagos and it is on appeal now. The case No is LD/2663/2003 M. A. Bello & Partners and Engr. Otis Anyaeji.

3.4 **Bureau of Public Procurement**

**ESVARBON CLAIM**

In 2014, the BPP had cause to issue a letter confirming that Estate Surveyors and Valuers are the Valuers. (Copy of letter from BPP attached).

**COREN POSITION**

The response to this is simply that Bureau of Public Procurement does not have the mandate to determine who qualifies to be a valuer. Only the laws of the Federation have that mandate. The Procurement Act 2007 Section 5(a) – (s) and Sec.6 (1) (a)-(m) do not include the determination of who is a valuer.

3.5 **Valuation of NNPC Assets, Including Refineries, Pipeline and Petroleum Storage Depots**

**ESVARBON CLAIM**

In 2016/17, once again the struggle of who is the valuer came up again in the valuation of the assets of the Nigerian National Petroleum Corporation (NNPC). Again this was resolved in favour of Estate Surveyors and Valuers as prime valuation consultants, but had to work in collaboration with engineers as advisers.

 **COREN POSITION**

 It was not resolved in their favour as they claimed because contract is awarded based on three ***(3)*** Evaluation Criteria namely:-

1. Legal/Administrative Criteria,
2. Technical Competence Criteria and
3. Financial Competence Criteria.

Thus engineering valuation firms could have been eliminated based on Legal/Administrative or/and Financial criteria.

The advert for the said valuation of the NNPC job of the Guardian of Monday, October, 19th, 2015 stated and we quote:-

**“The Nigerian National Petroleum Corporation (NNPC) is an Integrated Oil and Gas Company engaged in Petroleum/Gas Exploration, Transportation, Storage and Marketing. The Corporation is seeking to engage Consulting Firms that have the capacity to determine asset value and asset replacement value of her plants and machinery nationwide.**

It has been established that Engineers have their own role by nature of knowledge, skills, and experience. They are also guided by the principle of specialization in which every valuer is trained based on his/her basic discipline which ensures competency on the job. The law does not give any one profession exclusivity in the case of valuation which we have clearly shown in our exposition.

COREN Law also has valuation in it and COREN regulations are for the Safety and Health of the Nation. Each profession has its own areas of specialization and in engineering valuation, engineering judgement and knowledge are required. Hence for ESVARBON to claim that they got the job because they were the only valuers is a mere fallacy. Also the fact that they were asked to work with Engineers as advisers shows lack of core competence required to carry out the job on their part. (***See Annexure 3, News paper advert that clearly shows that there was no exclusivity in advertising for the job).***

3.6 **International Best Practices**

**ESVARBON CLAIM**

Today, the International Valuation Standards Council is the globally recognized valuation standards setting body. Presently, the only standards published as the International Valuation Standards 2017 holds sway.

Every country of note in the world that does business with international bodies including the World Bank and the International Monetary Fund (IMF) recognizes and submits to the IVSC. ESVARBON is an Institutional member of the IVSC.

The IVSC expects every national valuation body or regulator to:

1. Accept the valuation standards approved of it. In Nigeria, ESVARBON accepts and commits to IVS 2017 and has in fact incorporated same into the Nigeria Valuation Standards – The Green Book.
2. Apply the valuation standards in all relevant valuations. All persons registered by ESVARBON are expected to adhere to the valuation standards.
3. Have a valuation regulatory and standards setting body. ESVARBON is it. The importance of being regulated by an internationally recognized body cannot be over-emphasized. There is no other valuation standards setting and regulatory body in Nigeria apart from ESVARBON.
4. Have a disciplinary procedure to check erring members.
* ESVARBON has a Regulatory Compliance and Enforcement Unit.
* Investigating Panel, which investigates all complaints of professional misconduct.
* Disciplinary Tribunal, which sits over matters where the Investigating Panel had established that a prima facie has been made out.

ESVARBON meets all these IVSC requirements. No other professional body or regulatory body in Nigeria claims these credentials.

**COREN POSITION**

As at today, individuals or organizations can opt to be part of any internationally recognized body in order to further their objectives. Globally recognized valuation standards setting bodies include:-

The Appraisal Foundation. The latter is authorized by the US Congress as the source of Appraisal Standards and Appraisal Practice. Uniform Standards of Professional Appraisal Practice (USPAP) are the valuation standards issued by the Appraisal Standards Board of the Appraisal Foundation. The Institute of Appraisers and Cost Engineers (a Division of NSE) is committed to USPAP.

The claim by ESVARBON that their membership of IVSC is the ultimate and the icing on the cake is to say the least unfortunate. This assertion is unfortunate because Brett’s RICS document categorically states that IVSC does not have the backing of the law except insofar as its standards may be adopted into national laws or be required by international agreements. It further states that IVSC does not have powers to recognize or regulate valuers in the way a professional body such as RICS has. The above facts put a lie to the assertions of a section of the NIESV that IVSC recognizes or regulates valuers. It should be noted also that as long as standards or laws are not domesticated in Nigeria, they are not binding but could serve as a guide. See Annexture 4: Relevant extract from Valuation Standards for the global market by Michael Brett for the Royal Institution of Chartered Surveyors (RICS). Pg 12. Published November 2002.

3.7 **Capacity Building**

**ESVARBON CLAIM**

All over the world, most of the study materials on valuation, including valuation of plants and equipment (books, professional articles, etc) are written by no other than the equivalents of Estate Surveyors and Valuers. Nigerian is not too far behind in these endeavours, as a couple of Estate Surveyors and Valuers have written treatises on valuation (including plant, machinery and equipment). ESVARBON will continue to draw resources within and outside Nigeria to improve our competencies. Presently, ESVARBON has on its Register COREN registered engineers and other professionals who are also Estate Surveyors and Valuers, because additionally they have trained as Estate Surveyors and Valuers. ESVARBON welcomes all who want to practice valuation, but such persons must be registered in accordance with the law.

**COREN POSITION**

Engineers who had specialized in valuation had also written books for others who wish to specialize in those specifics.

For example, we have:

1. Engineering Valuation and Depreciation,

Anson Marston – Dean Emeritus of Engineering, Iowa State University Robley Winfrey – Registered Professional Engineer

Jean C. Hempstead – Professor of Mathematics

Published 1974 by the Iowa State University Press.

1. Valuation of Intellectual Property and Intangible Assets,

Gordon Smith – Lawyer

Russell L. Parr – Electrical Engineer

Published 2000 by John Wiley and Sons Inc.

1. Appraising Machinery and Equipment Sponsored by the American Society of Appraisers

Edited by John Alico – Professional Engineer

ISBN 0 – 07 – 001475 – 2 Published in 1989 by McGraw-Hill Publishers

1. Mineral Property Economics Vol.I-III

John M. Campbell Jr – Petroleum Engineer

Published 1978 by Campbell Petroleum Series.

1. Appraisal Principles and Procedures

Henry A. Babcock – Consulting Engineer

First Edition 1968, copyrighted and Published in 1994 by the American Society of Appraisers.

1. The Valuation of Technology

F. Peter Boer – Professor of Management and Engineering

Member of American National Academy of Engineers

Published by John Wiley and Sons Inc. in 1999.

**3.8 LAWS GUILDING PROFESSIONALS IN NIGERIA**

**ESVARBON CLAIM**

To a very large extent, the laws recognizing the professions and setting up regulatory boards and councils, especially in the built industry in Nigerian are similar in content. The promulgators or enactors never intended that any should be in conflict with any other. But each of the laws empowers the board or council to make rules and regulations. In making such rules and regulations, some of these boards and councils may have introduced definitions that may bring them on a collision course with other professions. That is exactly what the COREN Regulations for Engineering Appraisal/Valuation published as Government Notice No.91 in the Federal Republic of Nigeria Gazette of 31st July 2018 has done. It should not be allowed to stand. Both professions – Engineering and Estate Surveying and Valuation – are supervised by your ministry. The main Acts setting them up do not contain any conflicts; but the subsidiary legislation referred to above does.

We must remove anything that will tend to confuse the public that we serve.

**COREN POSITION**

**Laws Guiding Engineers in Valuation**

(i) Decree No. 55 of 1970 as Amended by Decree 27 of 1992, now Engineers (Registration, etc.) CAP E11, 2004 Section 22.

(ii) COREN Regulations for Engineering Appraisal/Valuation No. 98 Vol. 105 of July, 2018 pursuant to Section 21 and 22 of Engineers (Registration, etc), CAP E11 2004.

(iii) The Companies and Allied Matters Act, CAMA, CAP C20, Section 137(6).

1. Industrial Inspectorate Act CAP 180 L.F.N. 1990 Act CAP I 8 L.F.N 2004.

4.0 **THE HONOURABLE MINISTER MAY WISH TO NOTE THAT:**

(a) the course of study realtors pass through as approved by Nigerian University Commission ***(NUC)*** is termed Estate Management. It is unusual for a professional to be trained in a particular field with a well-defined nomenclature and then begin to practice with a different nomenclature. It is this self-styling as estate surveyors and valuers instead of Estate Managers that has misled them into believing that they are the only valuers.

(b) Section 21 of Engineers (Registration, etc), CAP E11, 2004 mandates COREN to make Regulations, Rules and Orders.

(c) Section 137(6) of CAMA CAP C20 clearly recognizes the Engineer as a valuer.

(d) Section 22 of Decree No 55 of 1970 as Amended by Decree 27 of 1992, now Engineers (Registration, etc.) Act CAP E11, 2004 mandates the Engineer to practice valuation.

(e) the COREN Regulations for Engineering Appraisal/Valuation No. 98 Vol.105 of July, 2018 are derived from the mandate given by the interpretation clause of Decree No. 55 of 1970 as Amended by Decree 27 of 1992 now Engineer (Registration, etc.) Act, CAP E11, 2004.

(f) we agree with Estate Managers that the Acts setting COREN and ESVARBON do not contain any conflict. They have their mandate in Land and Building ***(Real Property)*** while Engineers have theirs in personal property ***(plant, machinery, equipment, etc.).***

(g) APBN has established that there was no exclusivity in the fields of valuation given to any profession by Nigerian Laws.

5.0 **PRAYER**

**In view of the issues raised in paragraphs 1.0 – 4.0 above, Honourable Minister, Federal Ministry of Power, Works and Housing is prayed to**

(a) Affirm that Valuation is a multidisciplinary activity and therefore not exclusive to Estate Managers vide CAMA 2004 Sec 137 (6), and Engineer (Registration, etc.) Act, CAP E11, 2004, Section 22

(b) Direct ***NIESV*** and their Registration Board ESVARBON to conform with their course of study which is Estate Management in the name and title they bear.

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