



**Single Membership Innovation is for  
all Private Companies:  
A Review of Decision in *Primetech  
Designs & Engineering Nig. Ltd. et  
al. v. Corporate Affairs Commission***

**G. ELIAS**

## Introduction

Prior to the Companies and Allied Matters Act, 2020 (“**CAMA 2020**”), at least two members were required to incorporate a company. However, following the enactment of CAMA 2020, a single-membership structure was introduced for private companies<sup>1</sup>. This innovation received applause from corporate sector enthusiasts and proponents of ease of doing business.

But despite the innovation, the Corporate Affairs Commission (“**CAC**”) as the body established for regulation and management of companies in Nigeria declined to accept and approve applications by companies incorporated before CAMA 2020 for transition to single membership structure. In reaction to this, an action in Suit No. FHC/ABJ/CS/665/2023 (*Primetech Designs & Engineering Nig. Ltd. et al. v. Corporate Affairs Commission*) (the “**Case**”) was commenced against CAC at the Federal High Court, Abuja (the “**Court**”). We have summarized in this article the decision of the Court in the Case with a view to guiding corporate enthusiasts.

## Facts of the Case

The Case was instituted by Primetech Designs & Engineering Nig. Limited and Julius Berger Nig. Plc (“**Primetech**” and “**Julius Berger**” respectively, and together the “**Plaintiffs**”). On April 25, 2022, the second shareholder in Primetech transferred the whole of his shares in Primetech to Julius Berger, thereby making Julius Berger the sole shareholder in Primetech. Following the execution of the transfer documents, Primetech notified CAC, requesting CAC to register the transfer and update its Company Registration Portal<sup>2</sup> (“**CRP**”) to reflect the new shareholding structure of Primetech.

However, CAC declined to register the transfer and update the CRP as requested. CAC’s reason was that Primetech, having been incorporated before the enactment of CAMA 2020, could not take benefit of the single membership structure offered to private companies under CAMA 2020. CAC maintained that only companies incorporated under CAMA 2020 could benefit from the single-membership innovation. Attempts by Primetech to convince CAC to take a view contrary to this position failed. The Plaintiffs then instituted the Case asking the Court to order CAC to grant their request.

## Arguments

The Plaintiffs’ arguments border on the construction of certain provisions of CAMA 2020 including sections 18, 22(1), 118, 571(1), and 869 thereof. The Plaintiffs argued, amongst others, that CAMA 2020 made no distinction between companies incorporated pre- or post-CAMA 2020, and companies registered pre-CAMA 2020 can exist as if registered under CAMA 2020 in line with section 869 of CAMA 2020. Therefore, CAC’s argument and creation of dichotomy between pre- and post-CAMA 2020 entities are baseless and untenable in law.

On the other hand, CAC contended that Primetech cannot reduce its membership to less than two shareholders, stating that CAMA 2020 did not make provisions for the reduction of membership of companies that were in existence before the enactment of 2020 CAMA into single-member companies. CAC argued that a reduction of Primetech’s membership to a single membership structure will constitute a ground of winding up under section 571(c) CAMA 2020. CAC also argued that CAMA 2020 does not have retrospective effect and, as such, does not apply to Primetech<sup>3</sup>.

---

<sup>1</sup> Section 18(2) CAMA 2020.

<sup>2</sup> This is an online database maintained by CAC where information about any company registered by CAC can be found and accessed for a fee.

<sup>3</sup> Section 571(c) CAMA 2020 provides that “[A] company may be wound up by the court if— (c) the number of members is reduced below two in the case of companies with more than one shareholder”.

## The Court's Decision

After reviewing and considering the arguments of the Plaintiffs and CAC, the Court resolved all the issues raised in the Case in favour of the Plaintiffs. The Court held that provisions of the repealed CAMA 1990 no longer apply to the operations of companies in Nigeria. The Court stated that the effect of the repeal of a statute is to render the repealed statute 'dead' and non-existent in law. Therefore, there is no distinction between companies incorporated before and after the enactment of CAMA 2020 and holding to the contrary does not accord with "*common sense*".

To the Court, the argument of CAC that the provision of section 18(2) of CAMA 2020 will not apply to an existing company is akin to saying that companies registered prior to the enactment of CAMA 2020 will be regulated by the provisions of the repealed CAMA 1990. The Court also held, in respect of section 571(c) of CAMA 2020, that private companies were not covered under that section as they were specifically exempted and there was no conflict between section 571(c) and the other provisions of CAMA 2020. Finally, the Court held that there was no legal basis for CAC's refusal to register the transfer of shares and update the CRP as requested by the Plaintiffs. Thus, the Court made an order directing CAC to approve the transfer of shares and update the CRP as requested by the Plaintiffs.

## Legal Implications

The decision is highly commendable and has some practical implications for private companies incorporated before CAMA 2020. For instance, after transition to single membership, a single-member company automatically becomes exempt from the legal requirement of holding annual general meeting<sup>4</sup>. Thus, there would not be any need to incur costs that would have otherwise been incurred by the company for holding an annual general meeting.

The single-membership structure also vests full control of the company in the sole shareholder. This has the tendency to expedite the decision-making process of the company as the sole shareholder gets to make valid decisions on behalf of the company which otherwise can only be made at a meeting of the shareholders in the case of companies with more than one shareholder.

## Conclusion

We have observed that section 724(a) of CAMA 2020<sup>5</sup> was neither referred to nor considered in the Case. That section provides that the provisions of CAMA 2020 shall apply to all existing companies incorporated before CAMA 2020 in the same manner as if such company had been formed and registered under CAMA 2020. This provision lends more credence to the Court's decision in the Case.

The decision in the Case is a welcome development. An appeal against the decision will provide the appellate courts the opportunity to pronounce on the issue. Until that time, the Court's decision remains the position of the law. Hence, all categories of private companies, (irrespective of when they were incorporated) willing to transition their membership to a single membership can now do so.

---

<sup>4</sup> Section 237 CAMA 2020.

<sup>5</sup> Section 724 of 2020 CAMA provides that "*In its application to existing companies, this Act shall apply in the same manner— (a) in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares.*"

## Authors



**Abubakar Anafi**

Broad Street, Lagos Island, Lagos State

[abubakar.anafi@gelias.com](mailto:abubakar.anafi@gelias.com)

Partner, G. Elias



**Abdurrahman Salis**

Abia House, 2nd Floor, Central Business District, FCT Abuja

[abdurrahman.salis@gelias.com](mailto:abdurrahman.salis@gelias.com)

Associate, G. Elias



**Ifenna Okeke**

6 Broad Street, Lagos Island, Lagos State

[okeke.ifenna@gelias.com](mailto:okeke.ifenna@gelias.com)

Associate, G. Elias

## LOCATIONS

### LAGOS OFFICE

6 Broad Street  
Lagos, Nigeria

T: +234 (1) 460 7890  
E: [gelias@gelias.com](mailto:gelias@gelias.com)

### ABUJA OFFICE

2nd Floor, Abia House,  
Plot 979, First Avenue,  
Central Business District  
F.C.T, Abuja.

T: +234 (1) 888 8881

**Practices** • Arbitration • Banking • Capital Markets • Competition • Compliance • Corporate • Data Protection • Derivatives • Employment • Fintech • Foreign Investment • Intellectual Property • Litigation • Mergers and Acquisitions • Tax • "White Collar" Sanctions •

**Sectors** • Agribusiness • Commercial Banks • Commodities • Construction • Distributors • Development Finance • Electric Power • Entertainment • External Trade • Fintech • Healthcare • Infrastructure • Insurance • Investment Banks • Manufacturing • Media • Mining • Oil and Gas • Pension Managers • Private Equity • Real Estate • Services • Technology • Telecommunications • Transport •

[www.gelias.com](http://www.gelias.com)