



Virtual Meetings and Corporate Governance in Nigeria: Exploration of Problems, Prospects and Parties

Chibuzo Mercy Onwuzuruoha¹ and Omoniyi Bukola Akinola²

¹Lecturer, Faculty of Law, Renaissance University, Ugbawka, Enugu, Nigeria.

²Professor, School of Law, Kampala International University, Kampala, Uganda.

Email: chibuzomercy14@gmail.com, profbukkyakinola@gmail.com

ABSTRACT: *The outbreak of COVID 19 Pandemic affected every facet of human existence including corporate meetings. The period was characterized with lockdown orders and travel restrictions by the Federal government as a means to contain the virus. This prompted company regulators to look for a viable alternative from the conventional round table physical meetings to virtual meetings for business continuity purposes. The Nigerian Business Facilitation (Miscellaneous Provision) Act 2022 amended section 340(2) of CAMA to ensure that both public and private companies can hold virtual meetings provided the articles of association permits it. This paper examined Virtual Meetings and Corporate Governance in Nigeria, with the aim of identifying the problems, prospects and the parties. This paper employs a doctrinal method of legal research and finds that amendment of CAMA 2020 to incorporate provisions that ensure the protection of shareholders right will promote corporate governance where virtual platform is adopted in conducting virtual meetings. This Paper recommends amendment of CAMA 2020, amendment of Articles of Association by companies where virtual hearing is desired and investment in infrastructure as a condition for registration of companies where their Articles of Association allows virtual hearing.*

KEYWORDS: *Virtual Meetings, PPP, Corporate Governance, CAMA, Nigeria.*

INTRODUCTION

Company meetings are a veritable tool for effective communication, decision making and coordination in a company. The Companies and Allied Matters Act 2020¹ provides that except it is a small company or a company with a single shareholder, every company shall each year hold a general meeting as its annual meeting in addition to any other meeting that year. In Nigeria, both public and private companies are by this provision meant to hold meetings every year. The CAMA provides as the components of a valid meeting, the giving of Notices which contains the date, time, venue and agenda of the meeting. Also, the CAMA² states that all statutory, general and annual meetings except for small companies or a company with a single shareholder will be held in Nigeria. The implication is that the venue of this meetings is Nigeria.

¹ Companies and Allied Matters Act CAP C20 LFN 2020 s. 237(1)

² Ibid s. 24091)

The outbreak of COVID 19 Pandemic posed a significant challenge to the realization of the legislative provision as movement was restricted and general lockdown was ordered to contain the spread of the virus.

Virtual general meetings were only permitted by CAMA³ for Private companies provided that such meetings are conducted in accordance with the Articles. The Business Facilitation (Miscellaneous Provisions) Act 2020 amended section 240(2) by deleting the word ‘Private’, this means that public Companies can now hold their general meetings virtually. This paper examined Virtual Meetings and Corporate Governance in Nigeria, with the aim of identifying the problems, prospects and the parties. This paper is segmented. The first segment examined the history of virtual meetings in corporate governance in Nigeria, the second segment looked at virtual meetings and corporate governance in selected jurisdictions like South Africa, UK and Canada, the third segment considered the scope of virtual meetings under CAMA 2020, the fourth segment examined the Problems and prospects of virtual meetings in corporate governance in Nigeria, the fifth segment made a comparative deductions on the application of virtual meetings from other jurisdiction and lesson for Nigeria. This paper finds among others that with the right legislation, virtual meetings in Nigeria will promote corporate governance. This paper recommends, the incorporation of the principles that promote good corporate governance in CAMA for companies that their articles allow it.

CONCEPTUAL FRAMEWORK

Virtual Meeting

A virtual meeting is a business meeting that’s held virtually, where the meeting participants aren’t in the same physical room, but are instead meeting together at the same time from different locations through the use of technology⁴ The need of the meeting participants dictates whether the meeting will be set up with audio only or with audio and video for a more interactive experience.⁵ A virtual meeting can also be defined as a prescheduled meeting of people in diverse physical locations on an online platform to discuss issues, share information, data or ideas in real-time. The online platform may include features which provide visual and/or audio participation, casting of votes online in a secure manner etc. Examples of such online platforms include Skype, Zoom, FaceTime, Microsoft Teams, Google Hangout, etc.⁶

Virtual meetings take two forms which are the hybrid meetings and virtual- only meetings⁷ The Hybrid meetings for a corporate body could mean that the directors and secretary of the corporation are together at the company’s office or some other location and from there, initiate the meeting and control the affairs of the meeting from the physical location and host the meeting from there by calling a telephone line, or connecting to a link that allows- for two way communication of some sort, or join in some other way.⁸

Virtual-only meetings are meetings where every attendee of the meeting joins the meeting from their various individual locations.⁹ It has been argued that virtual meeting is good for corporate

³ Ibid s. 240(2)

⁴ <https://mtel.com>: What are Virtual Meetings & How Can They Help Your Company? ‘Accessed 15th March 2025.

⁵ ibid

⁶ <https://www.mondaq.com> “Guidelines For Holding Virtual Corporate Meetings “Accessed on n15th March 2025

⁷ <https://saudijournals.com> ‘Virtual Corporate Meeting sin Nigeria A Fall Out of the Covid 19 Pandemic ‘Accessed on 16th of March 2025

⁸ ibid

⁹ ibis

democracy as it affords more members of the company the opportunity to participate in the meeting.¹⁰ On the other hand, it has also been argued that Virtual meeting can promote shareholders disenfranchisement because of lack of accessibility in some instances.¹¹ The law provides remedy for every act of disenfranchisement of a shareholder. Such a shareholder has the right to petition the court against the Company.¹²

Corporate Governance

Corporate governance has been variously defined and described. The Organization for Economic Development (OECD), defined corporate governance as:

“The system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as the Board, managers, shareholders, and other stakeholders and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structures through which the company objectives are set and the means of attaining those objectives and monitoring performance.”¹³

Corporate governance provides the structure through which the company objectives are set as well as the means of attaining and monitoring the performance of those objectives.¹⁴

The characteristics of good corporate governance are as follows:

Participation: This means the freedom of expression by the participants. Everyone has the freedom to express themselves as it relates to the affairs of the Company.

Rule of Law: This entails that the legal framework are enforced impartially. It means absence of bias or favoritism as regards the laid down rules and procedure of the corporate entity.

Consensus Oriented: This envisages proper management of the various competing interests in such a way that balance is achieved.

Effectiveness and Efficiency: this means that the processes, procedures, and structures within the company produce result with minimal cost.

Accountability: This entails availability of proof or empirical evidence in support of its activities to stakeholders.

Transparency: This entails those decisions follows the rules. It also means accessibility of information on the company's objectives, policies and operational framework.

Responsiveness: This suggests a degree of acceptability of the company's decision by stakeholders.

The Nigerian corporate governance regime on virtual meetings is made of two laws which are the provisions of Companies and Allied Matters Act 2020 and the Business Facilitation Act, (Miscellaneous Provisions) Act 2022. Regulators like the Nigerian Stock Exchange (NSE) in acknowledgement of the challenges posed by the Pandemic on corporate meetings and the need to embrace the new reality, released its “Guidance on Companies Virtual Meetings” on the 15th

¹⁰ ibid

¹¹ <https://www.thestructurehq.com>. ‘Analysing the Concept of Virtual General Meetings and its Legal Implication in Nigeria’ Accessed on 16th March 2025

¹² Section 354 of CAMA 2020

¹³ <https://corpgovnigeria.org>. ‘Corporate Governance in the Age of Digital Transformation’ Accessed on 16th March 2025

¹⁴ Ibid.

of April 2020. In like manner, the Corporate Affairs Commission (CAC) also issued its guidelines to guide companies on the modalities for holding Annual General Meetings (AGM) by proxies, on the condition that the approval of the CAC must first be obtained.

TYPES OF MEETINGS UNDER THE COMPANIES AND ALLIED MATTERS ACT 2020

The three major types of Company meetings under the Act.¹⁵ There are however other Company meetings like the Board Meetings, Management Meetings or Committee Meetings.

Statutory Meetings

This is the first meeting of the shareholders of a public company and its held once in the lifetime of any public company¹⁶ At least 21 days before the statutory meeting, the Directors are required to send out a copy of the statutory report to every member.¹⁷ The Statutory report certified by not less than 2 Directors should state the details listed in subsection 3(a) – (g).¹⁸ in a statutory meeting, the members of the company that are present shall have the opportunity to discuss any matter relating to the formation of the company and its commencement of business or arising out of statutory report.¹⁹ The statutory report shall, as far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors of the company.²⁰ A copy of the report must be delivered to the Commission for registration by the Directors.²¹ The directors shall also cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting and to remain open and accessible to any member of the company during the continuance of the statutory meeting.²² However, any member who wishes a resolution a resolution to be passed on any matter arising out of the statutory report shall give further twenty – one (21 days) notice from the date on which the statutory report was received to the company of his intention to propose such a resolution.²³

The statutory meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting may be passed, and the adjourned meeting shall have the same powers as an original meeting.²⁴

Annual General Meeting

Every company whether public or private must hold an annual general meeting within eighteen months of its incorporation and thereafter in each year, with the additional requirement that not more than fifteen months must lapse between the annual meeting and the next.²⁵ The period of holding such a meeting may be extended by the Corporate Affairs Commission where there is

¹⁵ The Companies and Allied Matters Act CAP C20 LFN

¹⁶ Ibid. s.235

¹⁷ Ibid. S.235(2)

¹⁸ Ibid. s 235(3) (a) –(g)

¹⁹ Ibid s.235 (8)

²⁰ Ibid.s.235 (5)

²¹ Ibid. 236(6)

²² Ibid. s. 253(7)

²³ Ibid.s.235 (9)

²⁴ Ibid. S.235(10)

²⁵ The Companies and Allied Matters Act 2020.s.237(1)

delay or any specific reason for not complying with the Act. An application for extension can be made to the Commission²⁶ such extension shall not exceed three months.

Where there is default in holding a meeting of a company in accordance with the provisions of (1) of the Act, the Commission may on its own or on the application of any member of the company call or direct the calling of a general meeting of the company and give such ancillary or consequential directions as the Commission thinks expedient, including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the company's articles, and that the directions that may be given under this subsection shall include a direction that one member of the company present in person or by proxy may apply to the court for an order to take a decision which binds all the members.²⁷

A general meeting held as above is, subject to any direction by the commission, deemed to be an annual general meeting of the company. However, where this kind of meeting is not held in the year in which the default in holding the company's annual general meeting occurred, the meeting so held shall not be treated as the annual general meeting for the year in which it is held unless, at the meeting the company resolves that it shall be so treated.²⁸ Where it is so resolved, a copy of the resolution shall within 15days after the passing, be filed with the Commission.²⁹

Note that where there is default in holding general meeting as required by the Act or in complying with the direction of the commission as stated in (2) and (3) or in complying with the requirements of the Act in holding the meeting, the company and every officer of the company are liable to a penalty in such amount as the commission may specify in its regulation.³⁰

There are two kinds of businesses conducted at the general meetings. They are special business and Ordinary business. All businesses transacted at annual general meetings are deemed special business, except declaring a dividend, presentation of the financial statements and the reports of the directors and auditor, election of directors in the place of those retiring, the appointment, fixing of the remuneration of the auditors, appointment of members of the audit committee and disclosure of remuneration of managers of a company, which are ordinary business.³¹

Extraordinary General Meeting

Extraordinary meeting is called to discuss some urgent special business which cannot be postponed till the next annual general meeting. The Board of Directors may or any Director, if there are no other Directors in Nigeria to form a quorum, whenever they or he deems fit to convene an Extra-ordinary General Meeting.³² All businesses transacted at an extra-ordinary meeting is deemed to be special business.³³

Extra-ordinary General Meeting may also be requisitioned by members holding not less than one tenth of the paid-up capital or less than one tenth of the total voting rights of members

²⁶ Ibid. s.237(1)

²⁷ Ibid. S. 237(2)

²⁸ Ibid. s. 237(3)

²⁹ Ibid. s.237 (4)

³⁰ Ibid. section 237 (5)

³¹ Section 238 of CAMA 2020

³² Ibid. s.239

³³ Ibid. s. 239(8)

where the company has no share capital.³⁴ If after 21 days of the deposit of the notice of requisition the directors fail to call a meeting, the requisitioners may themselves call the meeting.

HISTORY OF VIRTUAL MEETINGS IN CORPORATE GOVERNANCE

It may be necessary to trace the history of virtual meetings in Nigeria by considering the position before the COVID 19 Pandemic and after the Pandemic. Corporate governance in Nigeria before the advent of COVID 19 was principally regulated by Companies and Allied Matters Act 1990. CAMA 1990 did not provide for electronic or virtual meetings or virtual voting or even virtual notice of meeting. Company meetings at the time was by physical gathering of the members and usually the venue is Nigeria.³⁵ Services of processes for the meeting were also physically done and this was emphasized in *Longe v FBN Plc.*³⁶ Voting at the meeting was also done with a show of hands.³⁷

The COVID 19 Pandemic characterized by lockdown orders by the government and restriction of movements for the containment of the virus, coincided with the enactment of the CAMA 2020. Under CAMA 2020³⁸, Private Companies are allowed to conduct electronic or virtual meetings provided such meetings are conducted in accordance with the company's articles of Association.³⁹

The implication of the above as regards the period under consideration is that private companies whose article of Association did not provide for electronic meetings and public companies were left in the lurch.

Some Company Regulators like the CAC (Corporate Affairs Commission) sought to remedy the situation by issuing some guidance. CAC gave directive that companies could hold the AGM by proxy and that a comprehensive report of the meeting should be forwarded to the commission afterwards.⁴⁰ The Nigerian Stock Exchange, in recognition of the challenge, on the 15th of April 2020, released its "Guidelines on Companies Virtual Meetings. These were some of the measures put in place to ensure continuity of company business in line with the prevailing legislations.⁴¹

After the Pandemic, in an effort to promote growth and development, the Federal Government of Nigeria signed the Business Facilitation (Miscellaneous Provision) Bill 2022 into law of February 8, 2023. One of the major components of the law was that Public Companies could hold general meetings electronically provided it is in line with the Articles of Association.⁴² Additionally, resolutions that were put to vote at any General Meeting could now be decided through electronic voting⁴³. This also removes the provision for physical voting by a show of hands and replaces it with virtual voting.

³⁴ Ibid. s. (2)

³⁵ Companies and Allied Matters Act 1990, CAP C20, LFN 2002. S. 216

³⁶ (2010) 6 NWLR Pt. 1197

³⁷ Ibid s.224(1), which provides that "at any general meeting, a resolution put to vote shall be decided by a show of hands unless a poll is demanded by the Chairman"

³⁸ CAMA 2020.s. 240 (2)

³⁹ <https://www.the structurehq.com>. 'Analyzing the Concept of Virtual General Meetings and its Legal Implication in Nigeria' Accessed on 16th March 2025

⁴⁰ Ibid

⁴¹ Ibid

⁴² S. 11 (Part 1, Schedule of the Act

⁴³ . s.13 (Part 1, Schedule of the Act

VIRTUAL MEETINGS AND CORPORATE GOVERNANCE IN SELECTED JURISDICTIONS

South Africa

The provisions of Company Act 71 of 2008 is the principal legal regime for electronic or virtual meetings in South Africa. The Act⁴⁴ provides that unless prohibited by its memorandum of Incorporation, a company may provide (a) a shareholder's meeting to be conducted entirely electronic communication or (b) one or more shareholders, or proxies for shareholders, to participate by electronic communication in all or part of a shareholders meeting that is being held in person, as long as the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting.⁴⁵

The proviso as highlighted above seeks to curtail the infringement of shareholders right during virtual meeting as the risk of such infringement is quite high in such virtual platform.⁴⁶ The Act further provides that if a company provides for participation in a meeting by electronic communication as contemplated above, (a) the notice of that meeting must inform shareholders of the availability of that form of participation , and provide any necessary information to enable shareholders or their proxies to access the available medium or means of electronic communication and (b) access to the medium or means of electronic communication is at the expense of the shareholder or proxy except to the extent that the company determines otherwise.⁴⁷

To further promote corporate governance, the Act⁴⁸ lists the items of business that must be transacted at a minimum at an Annual General Meeting and this business includes any matter raised by shareholders with or without advance notice to the company.⁴⁹ Participants are allowed to submit questions in real time, without moderation and to choose whether to do so in writing or verbally.⁵⁰

United Kingdom

In the United Kingdom, the Companies Act 2006 does not explicitly prohibit virtual meetings. The Act also does not clearly permit virtual meetings on the other hand. This therefore leaves some uncertainty about their validity in the United Kingdom. It appears however that a hybrid meeting, where participants can attend virtually or in person are generally permissible if the Articles allow it.⁵¹

In the UK, there was a pre-pandemic example of a company holding virtual meeting. In 2016, Jimmy Choo Plc held a virtual Annual General Meeting of shareholders in accordance with enabling provisions in its article. It was never used to draw a general conclusion as acceptance of the platform was not significant primarily because of the silence of the Companies Act 2006 on it and also shareholders marginalization considerations.⁵²

⁴⁴ The Company Act 71 of 2008. S. 63(2)

⁴⁵ <https://justshare.org.za> 'Best Practices for South African Annual General Meetings' Accessed on 19th March, 2025

⁴⁶ *ibid*

⁴⁷ *Ibid.* s. 63(3)

⁴⁸ *Ibid.* s. 61(8)

⁴⁹ <https://justshare.org.za> 'Best Practices for South African Annual General Meetings' Accessed on 19th March, 2025

⁵⁰ *Ibid.* s.63(2)

⁵¹ <https://www.twobirds.com> 'UK: Hybrid and Virtual General Meetings-Bird & Bird' Accessed on 19th March, 2025

⁵² *ibid*

Generally, in the UK, there is uncertainty as to whether a wholly virtual meeting constitutes a valid meeting, including whether the Companies Act 2006 requires a ‘Place’ of meeting.⁵³ Similarly, investors in UK are disenchanted with purely virtual meetings and have recommended a vote against it but would prefer a physical place of meeting where shareholders can raise questions to the board.⁵⁴ Companies are however introducing new provisions in their Articles to permit hybrid meetings as recommended by ICSA⁵⁵ (The Institute of Chartered Secretaries and Administrators) now known as (Chartered Governance Institute) guidelines to at least provide certainty over procedural issues.⁵⁶ The ICSA guidelines concluded that companies can legally hold hybrid meetings, even if their articles do not expressly enable this, provided that their articles do not require that being present at an AGM or other general meeting means physical presence at a single location or prohibit electronic participation.⁵⁷

Canada

In Canada, OBCA refers to Ontario Business Corporation Act. It is the primary legislation governing corporations in the province of Ontario, Canada.⁵⁸ The CBCA, or Canada Business Corporations Act, is a federal law that governs the incorporation, operation and dissolution of companies in Canada. It provides a framework for corporate governance, shareholder rights and other aspects of business operation.⁵⁹

Both the Canada Business Corporations Act (CBCA) and the Ontario Business Corporations Act (OBCA) permit shareholders meetings, with some difference in requirements and regulations. Following the COVID-19 Pandemic, these situations have been amended to expressly permit virtual hearing unless not permitted by the Company’s by-laws.⁶⁰

By the provisions of the CBCA⁶¹ unless the Company’s by-laws otherwise provide, any person entitled to attend a meeting of shareholders may participate in the meeting or by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately.

Similarly, the OBCA⁶² provides that subject to the company’s articles or by –laws a meeting may be held virtually or in hybrid format and held in such manner must enable all person entitled to attend the meeting to reasonably participate. The Act⁶³ equally provides that Ontario Companies may limit by their articles or by-laws the manner in which such virtual meetings of shareholders or its hybrid format may be held and may also specify the requirements that apply with respect to holding of the meeting in a virtual or hybrid format.

⁵³ *ibid*

⁵⁴ *ibid*

⁵⁵ It is the international qualifying and membership body for chartered secretary profession and the world’s leading authority on corporate governance and compliance.

⁵⁶ <https://www.twobirds.com> ‘UK: Hybrid and Virtual General Meetings-Bird & Bird’ Accessed on 19th March

⁵⁷ *ibid*

⁵⁸ <https://content.next.westlaw.com>. ‘Incorporation and Organization (OBCA) Practical law-Westlaw. Accessed on 20th of March, 2025

⁵⁹ <https://laws-lois.justice.gc.ca>. ‘Canada Business Corporations Act (RSC,1985, c, C-44)’ Accessed 20th of March, 2025

⁶⁰ <https://specialsituationslaw.com>. “Shareholders Meeting Format: Consideration for going Virtual in 2024” Accessed on 29th March, 2025.

⁶¹ Section 132(4) of CBCA

⁶² *Ibid*. s. 94 (2) & (4)

⁶³ *Ibid*.s.94 (3)

THE SCOPE OF VIRTUAL MEETINGS UNDER THE COMPANIES AND ALLIED MATTERS ACT 2020

By the provisions of CAMA 2020,⁶⁴ except in the case of a small company or any company having a single shareholder, every company shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year. The implication of this provision is that both Public and Private Companies are required by CAMA 2020 to its Annual General Meeting. The Act⁶⁵ however, stated that such Annual General Meetings shall be held in Nigeria. The venue of the meeting under the Act is Nigeria.

Also, by the provisions of the Act,⁶⁶ a private company may hold its general meetings electronically provided that such meetings are conducted in accordance with the articles of the company. This provision allows private companies to hold their Annual general meetings virtually. This position has since changed. The Business Facilitation (Miscellaneous Provisions) Act 2022, in carrying out its purpose to promote the ease of doing business in Nigeria and to remove hindrances to seamless business operations amended a specific section of CAMA,⁶⁷ The Act provides for an amendment to section 240(2) of the CAMA 2020 by deleting the word "Private." This means that under BFA 2022, by deleting the word "Private" in section 249(2) all companies including public companies can now hold their general meetings virtually or electronically so far as those meetings are in accordance with the articles of the company. The articles would have permitted such virtual meetings.⁶⁸

PARTIES TO CORPORATE GOVERNANCE IN NIGERIA

In Nigeria corporate governance, the key parties include shareholders in general meeting, the board of directors, the managing director, the company secretary and the Auditor.⁶⁹ By the provision of the Act,⁷⁰ a company shall act through its members in general meetings of its board of directors or through officers or agents appointed by, or under authority derived from, the members in general meeting or the board of directors. The Board of directors may from time to time appoint one or more of its members to the office of managing director and may delegate all or any of its powers to such managing director. A brief discussion on the activities of each of the parties is necessary.

Shareholders

Shareholders in general meeting have so wide powers to ensure the protection of their investment against the management of the company. The general meeting can appoint and remove directors.⁷¹

In *Gramophone & Typewrite Co v Stanley*,⁷² it was stated that the only way shareholders can dispossess directors of their control of the company is through the statutory majority which can alter the articles.

⁶⁴ CAMA 2020 s.237 (1)

⁶⁵ Ibid s.240(1)

⁶⁶ Ibid s.(240 (2)

⁶⁷ <https://tonbofa.com> "Virtual Meetings for Public and Private Companies in Nigeria "Accessed on 21th March, 2025.

⁶⁸ *ibid*

⁶⁹ <https://cuab.edu.ng> "The Use of Law for the Coordination of Corporate Governance and Corporate Social Responsibility "Accessed on 21st March, 2025.

⁷⁰ CAMA 2020.s.87

⁷¹ ICAMA 2020 s.273

⁷² (1909) 2 KB 89

In *Wilson v Miers*⁷³ it was stated that the property of the company will not be sold unless the consent of the shareholders in general meetings is sought and obtained. Under the Act,⁷⁴ shareholders in general meeting may approve a director's contract of employment with the company for more than five years.

Directors

The board of directors under the Act,⁷⁵ can exercise all powers of the company, except those which the articles require to be exercised by the members in general meeting. In *John Shaw & Sons (Salford) Ltd v Shaw*,⁷⁶ Greer L. J. Sais:

A company is an entity distinct alike from its shareholders and directors. Some of its powers may, according to the articles, be exercised by directors, certain other power may be reserved for the shareholders in general meeting. If powers of management are vested in the directors, they and they alone can exercise those powers. The only way in which the general body of shareholders can control the exercise of powers in the directors is by altering the articles or if the opportunity arises under the articles, by refusing to re-elect the directors of whose actions they disapprove. They cannot themselves usurp the powers which by the articles are vested in the directors any more than the directors can usurp the powers vested by the articles in the general body of shareholders.

The management of the Company is the primary duties of the directors. The chairman of the board of directors presides as chairman at every general meeting of the company and if there is no such chairman or if he is not present within one hour after the time appointed for the holding of the meeting or is unwilling to act, the directors present shall elect one among themselves to be chairman of the meeting.⁷⁷ The duties of and powers of the chairman during the meeting includes a duty to: a. preserve order and power to take such measures as are reasonably necessary to do so, b. see that proceedings are conducted in a regular manner, c. ensure that the true intention of the meeting is carried out in resolving any issue that arises before it, d. ensure that all questions that arise are promptly decided; and e. act in the interest of the company.

Managing Director

The Board of directors may from time to time, appoint one or more of its members to the office of managing director and may delegate all or any of its powers to such managing director unless otherwise is provided under the Act.⁷⁸

Company Secretary

By the provision of CAMA 2020,⁷⁹ except in the case of a small company, every company shall have a secretary. It is the duty of a director of a company to take all reasonable steps to ensure that the secretary of the company is a person who appears to have the requisite knowledge and experience to discharge the functions of a secretary of a company.⁸⁰ The duties of a secretary include:

⁷³ (1914) 1 Ch. 895

⁷⁴ CAMA 2020 s.317 (3)

⁷⁵ Ibid. s.87 (3)

⁷⁶ (1935) 2 KB 113, 134

⁷⁷ CAMA 2020 s. 265

⁷⁸ Ibid s. 88 (b)

⁷⁹ Ibid s. 330

⁸⁰ Ibid s. 332

- a. Attending the meeting of the company, the board of directors and its committees, rendering all necessary secretarial services in respect of the meeting and advising on compliance, by the meetings, with the applicable rules and regulations
- b. Maintaining the registers and other records required to be maintained by the company under the Act
- c. Rendering proper returns and giving notification to the commission required under the Act, and
- d. Carrying out such administrative and other secretarial duties as directed by the director or the company.

Auditor

Every company shall at each annual general meeting appoint an auditor or auditors to audit the financial statements of the company and to hold office from the conclusion of that, until the conclusion of the next annual general meeting.⁸¹ The company's auditors shall in preparing their report to carry out such investigations as may enable them to form an opinion whether:

- a. Proper accounting records have been kept by the company and proper returns adequate for their audit have been received from branches not visited by them; or
- b. The company's balance sheet and (if not consolidated) its profit and loss account are in agreement with the accounting records and returns.⁸²

PROBLEMS WITH VIRTUAL MEETINGS IN CORPORATE GOVERNANCE IN NIGERIA

Technical Challenges

The life blood to virtual meetings is internet connectivity and communication tools. Connectivity presently can be unreliable and the audio or video connection could be disrupted and the meeting consequently will be disrupted. The gadgets itself is not error proof as it can malfunction at any moment in the middle of the meeting and the participant could be cut off from the meeting. Additionally, participants may not be computer savvy and may not know how to operate their devices. This will affect participation and the meeting outcome.

Lack of non-verbal cues

Where participants meet face to face, the likelihood of understanding body language, facial expression and eye to eye contact that could be interpreted to the advantage of the meeting is completely lost in virtual meeting. These non-verbal cues could help to build support and enhance the general positive outcome of the meeting. Virtual meeting isolates individuals and lack the ability to provide one on support necessary to achieve the intent of the meeting.

Distractions and Fatigue

Participants could face the problems of distractions and fatigue since they are not at the venue of the meeting which would have been a source of stimulant that generally will lead to better outcome in the meeting. Attention and engagement may be compromised which ultimately may affect the outcome of the meeting.

⁸¹ Ibid s.401

⁸² Ibid s.407

Potential Security Risks

Virtual meetings come with inherent security risks, especially when conducted through third-party platforms or when sensitive information is shared. There could be unauthorized access to meetings and other forms of intrusion. Companies need to implement robust security measures, such as using secure meeting links and encrypted communication to mitigate the risks.⁸³

PROSPECTS OF VIRTUAL MEETINGS IN CORPORATE GOVERNANCE IN NIGERIA

Cost-Efficiency

Virtual meetings can significantly cut costs. This includes both accommodation and travel costs. The cost of renting venue for the meeting is also saved and the money channeled better to other areas needing the attention of the company for maximum benefit.

Time Saving

Virtual meeting can save time for both the company and participants. Logistics of organizing the meeting is done away with and the meeting can be conducted at the convenience of the participants.

Inclusivity

Participants wherever they are, whatever their condition can seamlessly connect and be part of the meeting. Virtual meeting breaks down barriers to physical accessibility.

Flexibility and Convenience

Participants can join the meeting from the convenience of their homes or wherever they are. Information can be exchanged among the participants and ideas shared through message sharing devices and this will aid the outcome of the meeting.

COMPARATIVE DEDUCTIONS ON THE APPLICATION OF VIRTUAL MEETINGS FROM OTHER JURISDICTIONS AND LESSON FOR NIGERIA

Application of virtual meetings in some jurisdictions like South Africa is robust and encompassing. South Africa has incorporated in its legislation⁸⁴ provisions that ensure the protection of shareholders right and good corporate governance. A central risk in conducting meetings through virtual platform is the infringement of shareholders rights. The shareholders are entitled to ask questions during the meeting and get responses from the directors. To protect this fundamental right of shareholders, the Act⁸⁵ provided that if a company holds a virtual – only AGM and does not allow shareholders to ask questions in real time without moderation or requires all questions to be submitted in advance, that meeting will not constitute an AGM for the purposes of the Act. This provision will increase participation thereby ensuring effective corporate governance.

To further promote corporate governance, the Act⁸⁶ lists the items of business that must be transacted at a minimum at an Annual General Meeting and this business includes any matter

⁸³ <https://www.azeusconvene.com>. “The Advantages and Disadvantages of Virtual Meetings” Accessed on 23rd of March, 2025

⁸⁴ Companies Act, 71 of 2008

⁸⁵ *ibid* S. 63(3)

⁸⁶ *Ibid.* s. 61(8)

raised by shareholders with or without advance notice to the company.⁸⁷ The Act⁸⁸ allows virtual meeting where the articles of incorporation does not allow disallow it “*as long as the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting.*”⁸⁹

The proviso promotes healthy corporate governance and has the capacity to protect shareholders right to protect their investment from being neglected.⁹⁰

The Act made provision for notice of meeting and its content and who bears the expense of the access through that medium when virtual meeting is envisaged. (a) the notice of that meeting must inform shareholders of the availability of that form of participation, and provide any necessary information to enable shareholders or their proxies to access the available medium or means of electronic communication and (b) access to the medium or means of electronic communication is at the expense of the shareholder or proxy except to the extent that the company determines otherwise.⁹¹

These provisions are robust and will definitely promote corporate governance where virtual meeting is adopted. The validity of virtual meeting in the UK is very unclear as Companies Act 2006 did not expressly prohibit it nor did it expressly allow it. It appears however that a hybrid meeting, where participants can attend virtually or in person are generally permissible if the Articles allow it.⁹²

In Canada, both the Canada Business Corporations Act (CBCA) and the Ontario Business Corporations Act (OBCA) permit shareholders meetings. The Articles or by- law may limit the manner in which such virtual meetings of shareholders or its hybrid format may be held and may also specify the requirements that apply with respect to holding of the meeting in a virtual or hybrid format.

Lesson for Nigeria

South Africa has a comprehensive legislation that ensures shareholders protection during virtual meeting which ultimately promotes corporate governance. Nigeria should incorporate the principles as highlighted in the South African Companies Act, 71 of 2008 for robust virtual meetings when allowed by the articles.

Summary of Findings

This paper finds that with the right legislation and commitment, a company can seamlessly hold a virtual meeting where the interests of all the stakeholders are protected. The fear of infringement of shareholders rights can adequately be resolved through proper legislation as exemplified in the South African Companies Act, 71 of 2008.

⁸⁷ <https://justshare.org.za> ‘Best Practices for South African Annual General Meetings’ Accessed on 19th March, 2025

⁸⁸ *ibid* S. 63(2)

⁸⁹ <https://justshare.org.za> ‘Best Practices for South African Annual General Meetings’ Accessed on 19th March, 2025

⁹⁰ *ibid*

⁹¹ *Ibid.* s. 63(3)

⁹² <https://www.twobirds.com> ‘UK: Hybrid and Virtual General Meetings-Bird & Bird’ Accessed on 19th March, 2025

CONCLUSION

This paper recommends the amendment of Companies and Allied Matters Act 2020 to include provisions that will protect shareholders right during virtual meetings and promote corporate governance. The following provisions are recommended:

- i. Provision that if a company holds a virtual –only AGM and does not allow shareholders to ask questions in real time without moderation or requires all questions to be submitted in advance, that meeting will not constitute an AGM for the purposes of the Act.
- ii. Provision that includes ant matter raised by shareholders with or without advance notice to the Company as the list of business to be transacted.
- iii. Provision that shows that virtual hearing is allowed where the Articles of Association does not allow it as long as the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting.
- iv. Provision that where virtual meeting is adopted the notice of that meeting must inform shareholders of the availability of that form of participation, and provide any necessary information to enable shareholders or their proxies to access the available medium or means of electronic communication, and
- v. Provision that access to the medium or means of electronic communication is at the expense of the shareholder or proxy except to the extent that the company determines otherwise.

These provision if incorporated into CAMA 2020, will promote corporate governance in a virtual company meeting.

Secondly, companies should amend their Articles of Association to allow for virtual meetings so that in cases where physical meetings were impossible like it was during the COVID-19 period, virtual platform could seamlessly be adopted.

Finally, Companies should invest heavily in technological infrastructure. We recommend that where the Articles of Association allows virtual meetings, infrastructure investment should be made a condition for registration of the company.



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