



When Can You Fire Your Arbitrator? Airtel v. First Bank Tests the Limits of the AMA 2023

Introduction:

The ongoing proceedings between Airtel Networks Limited and First Bank of Nigeria Plc have brought renewed focus to one of the defining features of modern arbitration: the balance between arbitral autonomy and judicial oversight.

The proceedings, which arise from foreign exchange and financial swap transactions valued at approximately \$572 million, involve a challenge to the appointment of an arbitrator. In this case, a party approached the Federal High Court to challenge an arbitrator's appointment after the arbitral institution itself had already reviewed and dismissed the same objection. While the Federal High Court's determination is awaited, the proceedings provide an opportunity to revisit the statutory framework governing arbitrator challenges and judicial

intervention under the Arbitration and Mediation Act 2023 (AMA 2023).

Key Highlights

- **Challenge grounds are limited/narrow:**
Under Section 8 of the AMA 2023, an arbitrator may generally be challenged only where circumstances give rise to justifiable doubts as to the arbitrator's independence or impartiality, or where the arbitrator does not possess the qualifications agreed by the parties.
- **The arbitration agreement remains central:**
Unless the parties expressly require particular technical expertise, nationality, or jurisdiction-specific experience, those factors will not ordinarily constitute independent grounds for challenge.



- **Institutional procedures come first:**

The AMA establishes a structured process for challenging arbitrators, requiring parties to follow applicable institutional procedures before seeking court intervention.

- **Judicial intervention is intended to be limited:**

The AMA adopts a pro-arbitration approach by confining court intervention to circumstances expressly provided for under the Act.

What the AMA 2023 Provides

- **Party autonomy comes first:**

The qualifications expected of an arbitrator are primarily determined by the arbitration agreement. Where parties require specialist expertise, industry knowledge, or jurisdiction-specific experience, these requirements should be expressly included in the arbitration clause.

- **Arbitral institutions have an important supervisory role:**

Institutions such as the Regional Centre for International Commercial Arbitration, Lagos (RCICAL) are empowered under their rules to administer challenges to arbitrators before court intervention is sought.

- **Court intervention is the exception, not the norm:**

The AMA is designed to preserve the efficiency and independence of arbitration by limiting unnecessary judicial interference while preserving the courts' supervisory jurisdiction where appropriate.

What This Means for Stakeholders

- **For commercial parties:**

Arbitration clauses should go beyond identifying the arbitral institution. Where particular qualifications or expertise are expected of arbitrators, they should be clearly stated at the contracting stage to minimise procedural disputes.

- **For businesses involved in arbitration:**

Challenges to arbitrators should be carefully assessed against the statutory grounds under the AMA rather than tactical considerations. The Act establishes a structured process that parties are generally expected to follow before seeking court intervention.

- **For legal advisers:**

Arbitrator appointments, institutional rules, and dispute resolution strategy should be considered together when drafting arbitration clauses, particularly for high-value or cross-border transactions.

- **For Nigeria's arbitration framework:**

The proceedings highlight the continuing balance between preserving arbitral autonomy and maintaining appropriate judicial oversight under the AMA 2023.

The Road Forward

The Federal High Court's decision is still pending, but the proceedings already make one thing clear: the real work of avoiding an arbitrator dispute happens long before any dispute exists. Carefully drafted arbitration agreements, and a proper understanding of the statutory framework governing the appointment and rejection of arbitrator is key.

Clearly defining arbitrator qualifications, selecting appropriate arbitral institutions, and understanding the limits of judicial intervention can significantly reduce procedural disputes and preserve the efficiency of arbitration.

For guidance on arbitration agreements, tribunal appointments, institutional arbitration, and commercial dispute resolution, contact info@scp-law.com or visit www.scp-law.com.