

Time for Technology to Blow the Whistle on Corruption

Since President Muhammadu Buhari came to power pervasive corruption has been top of the list of vices he seeks to tackle and he has made it the mantra of his administration, to the point where newspapers are agog with corruption stories day in day out with some groups declaring to join the President's crusade and others analysing the corruption war to the point that talking about corruption has become a fashionable industry in its own right. The Buhari administration is no doubt typified by its dogged approach to fighting corruption but while the war of words and the sound of the drums of war and the repeatedly declared stance of zero tolerance of graft abound, corruption is still thriving and in a manner that one wonders if anyone is really listening.

The President has declared his position and it is therefore time for this song and dance to end and for the rest of the nation to join this war with sincerity of purpose, exploring further and better ways of curbing / ending this menace. There are far too many bodies and institutions in Nigeria that have opportunities to and indeed should be at the forefront of combatting graft and removing it from both public and private life. The question is with all the talk about fighting corruption, what is actually being done about it? Who is actually taking steps to prevent, reduce or penalise corruption in ways that are tangible and making a difference?

I was recently at the International Bar Association (IBA) Conference in Vienna and was impressed by the 'eyeWitness eliminating doubt, aiding justice app'. In 2010, the IBA executive director Mark Ellis was approached by the UK broadcaster, Channel 4 to verify what news producers there believed to be videos of war crimes committed at the end of the Sri Lankan civil war. After watching the footage, Ellis was left in no doubt that the video depicted war crimes. But he also recognised that the problems faced by the journalists in authenticating the video would pose the same challenges if lawyers ever wanted to use the video to hold these criminals responsible. Mark Ellis said 'I wanted [to create] something that wouldn't just shine a light on atrocities, but could really bring about justice.' The IBA among other efforts to secure and increase the credibility of traditional justice systems in the home nations of its member branches has created a mobile app called 'eyeWitness to Atrocities' (*eyeWitness*). *eyeWitness* is capable of being used to catch and record atrocities of war and most importantly of providing tangible evidence that is admissible in court. The *eyeWitness* app showcases the way technology can be used easily and simply to tackle the hidden atrocities of war that before now have been incredibly difficult to prosecute because of an inability to verify collected data that surfaced

from regions engulfed in war.

This solution is also inexpensive because it is downloadable on mobile phones and mobile devices for free, and so every person with a mobile device becomes a potential source of evidence that is immediately admissible before a court because the *eyeWitness* app was designed specifically to tackle the problem of foundation and admissibility in court. The IBA's report on *eyeWitness* states "Determining when, where and by whom a video was shot are the most important factors for journalists trying to authenticate a video or photo they have not taken themselves. For lawyers the bar is set slightly higher because of the need to establish chain of custody, to prove the video has not been tampered with." They solved these four problems- questions of when, where, by whom and that of the chain of custody of the recordings by using technology to embed the information at the time the recording is created. Therefore once the *eyeWitness* app is recording any evidence, immediately being recorded is the geographic location of the recording (using Global Positioning System (GPS) location technology), the time, date and metadata that will indicate whether the information has been modified or if any attempt to modify the information has been made. The result is evidence that is virtually incontrovertible in court and that will lead to successful prosecutions.

Taking a leaf from the IBA's *eyeWitness* app of using technology in a simple and easy to use manner, it is only logical and expedient to look at developing for Nigeria a similar concept such as a *Whistleblower* app that will become an invaluable weapon in our arsenal for fighting corruption and importantly, go beyond mere rhetoric. The app should be designed for mobile phones which today are found on virtually every person in Nigeria with our current subscription rate of some 148 million people accounts and with 95% of internet users in Nigeria doing so on their mobile phones. This *Whistleblower* app, should also be downloadable free to all mobile phone software platforms.

The *Whistleblower* app, can use the same technology to catch corrupt acts and record information that will become evidence for the prosecution of corruption and acts of graft in Nigeria. Not only would it be possible for this app to broadcast illicit acts of corruption to the nation, naming and shaming those involved in it and winning the much needed victories against graft in the headlines, it could also begin to provide the incontrovertible evidence to win the fight against corruption in the place that it matters most, in our nations' court rooms.

This simple and creative solution to the problem of verifying evidence that the *eyeWitness* app has provided should remind us of a very similar problem we have in Nigeria. At the NBA's 55th Confer-

ence in August during the session on *Anti-Corruption: Fresh Strategies, New Initiatives*. O.C.J Okocha SAN commented that "my own thinking is that the reason why these cases [corruption prosecutions] are not succeeding is because they don't have the capacity to investigate and present those cases."

Sections 83 and 84 of the Evidence Act 2011 deal specifically with the Admissibility of Documentary Evidence and Admissibility of Statements in Documents Produced by Computers and these two pertinent issues are the bane of many prosecutions because the anti-corruption agencies are often unable to obtain evidence of graft and in the limited cases that they do so obtain such evidence, they frequently do not meet the high standards of sections 83, 84 and 85 -Proof of Document by Primary Evidence.

Section 83 stipulates:

(1) In the proceeding where direct oral evidence of a fact would be admissible, any statement made by a person in a document which seems to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied-

a. If the maker of the statement either

i. Had personal knowledge of the matters dealt with by the statement, or

ii. Where the document in question is or forms part of a record purporting to be a continuous record...

Section 84 stipulates:

(1) In any proceeding a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible, if it is shown that the conditions in subsection (2) of this section are satisfied in relation to the statement and computer in question.

Subsection (2) goes on to specify conditions for the storage, usage and functional performance of the computer being relied on.

The beauty of technology never fails to amaze me as the GPS location technology and mobile phone triangulations ascertain with precision the geographic position from where any recording is made and there recordings will form the basis for the legal foundation for admissibility in court, even where the recorder of the evidence does not want to be identified or refuses to testify in court for fear of being threatened by the people caught in the act. All that is remaining is a strictly confidential and clinical procedure that exhibits a clear and untampered chain of custody, by storing the original recordings on a secure encrypted server, until the Court requests it. The technology can then simply speak for itself, telling the court what it is seeing or hearing is true and authentic footage.

It is even possible to further protect those who risk their safety to obtain this information by using



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the *Whistleblower* app to catch corrupt acts because the technology available allows the information recorded on the phone to be hidden and deleted in such a way that it will not appear on the mobile device used to record it even if people attempting to prevent its use obtain the device.

I expect the first question to be "is this not just another idea copied and pasted from abroad that will meet its demise in the same manner and place as so many previously imported equally lofty ideas have?" and truly the question would be a valid one but however the success or failure of the scheme is not in the mere fact that it is imported from a foreign jurisdiction, but rather in its being a good solution to a prevalent problem and this remains the case irrespective of where the solution is from. Furthermore in this globalised world we live in we can scarcely afford to ignore what the rest of the world is doing to overcome the same problems that we face. What is more corruption is constantly adapting, being modified, always attempting to evade the conventional tools of detection and so stay one step ahead of those who would stamp it out, therefore those who would must also adopt new, better, more versatile and resourceful means to meet the evolving menace.

What will affect the success or failure of the scheme is a concerted and collaborative effort between relevant bodies like the Nigerian Bar Association (NBA), the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Police, and the Code of Conduct Bureau (CCB) to develop and use this new weapon effectively. The NBA's role as 'watchdog' and 'moderator' is important for any real and workable collaboration but it is hoped that all the agencies can work together to create a structure that is effective and define a process that maximises the full capabilities involved from receipt of relevant information through to completed prosecutions.

The NBA holds a strategic position and would be ideal for managing the app and it would necessarily be accountable for the information Nigerians will be entrusting to it through this *Whistleblower* app and it is therefore important that it would be able to give periodical feedback on an accompanying *Whistleblower* website about how it is using the information sent in, which matters have progressed to prosecution and which matters have led to successful convictions.