Regulatory Discretion and Administrative Accountability in Nigerian Civil Aviation: Rethinking the Powers of the Nigeria Civil Aviation Authority Under the Civil Aviation Act 2022

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Abstract
The Civil Aviation Act 2022 recast the Nigeria Civil Aviation Authority ("NCAA" or "the Authority") as the sole and autonomous regulator of Nigerian civil aviation, vesting it with expansive discretionary powers over certification, licensing, emergency intervention and exemption. This enlargement of regulatory competence was designed to align Nigeria's oversight architecture with the Standards and Recommended Practices of the International Civil Aviation Organization and to insulate safety regulation from political interference. Yet the same statute that liberates the Authority from ministerial control does comparatively little to entrench the accountability mechanisms that ought to accompany so wide a discretion. This article examines the structure of discretionary power conferred on the NCAA under the 2022 Act, situates that power within general principles of Nigerian and comparative administrative law, and identifies the procedural, institutional and judicial deficits that presently constrain effective oversight of the Authority's conduct. It argues that regulatory autonomy and administrative accountability are not antithetical but complementary values, and that the credibility of Nigeria's aviation safety regime depends on reforms that make the exercise of discretion more transparent, reviewable and reasoned. The article concludes with proposals including statutory guidelines for the exercise of discretion, a dedicated aviation appeals tribunal, a stronger duty to give reasons and structured legislative oversight, drawing on English and United States regulatory experience where instructive.

Keywords: *Nigeria Civil Aviation Authority; Civil Aviation Act 2022; regulatory discretion; administrative accountability; judicial review; aviation safety regulation; Wednesbury unreasonableness; delegated legislation; regulatory autonomy; Nigerian administrative law.*

1. Introduction

Regulatory agencies occupy an uneasy space in the constitutional order. They are creatures of statute, exercising delegated power that is neither purely legislative, executive nor judicial, and yet they routinely make decisions that touch fundamental economic and safety interests.[1] The Nigeria Civil Aviation Authority is a paradigmatic example. Established originally under the Civil Aviation Act 2006 and re-founded under the Civil Aviation Act 2022 ("CAA 2022"), the NCAA is now described by its enabling statute as the sole civil aviation regulatory body in Nigeria, exercising that role "notwithstanding anything contained in any other law."[2] The 2022

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[1] Peter Cane, *Administrative Law* (5th edn, OUP 2011) 3–10.

[2] Civil Aviation Act 2022, s 8(3).

Act was enacted to repeal and replace the 2006 Act, to domesticate more recent international civil aviation instruments, and to strengthen the institutional independence of the regulator from ministerial direction, in line with the safety oversight expectations of the International Civil Aviation Organization ("ICAO").[3]

The reform impulse behind the 2022 Act was, in large part, a response to long-standing anxieties that the Authority's exercise of its powers had historically been vulnerable to political and ministerial interference, undermining both the independence of safety regulation and public confidence in the sector.[4] To that end, the Act broadened the Authority's powers of certification, inspection, exemption and emergency intervention, and it clarified and in places expanded the powers of the Director-General to act, including in circumstances of urgency, without prior notice or hearing.[5] What the Act did not do, however, was develop with equal rigour the accountability architecture that should accompany so considerable a grant of discretionary power. This asymmetry expanded discretion without a correspondingly expanded framework of accountability is the central concern of this article.

The argument proceeds in six further parts. Part 2 sets out the conceptual vocabulary of regulatory discretion and administrative accountability as understood in Nigerian and comparative administrative law. Part 3 maps the institutional and statutory framework established by the CAA 2022, including the Authority's relationship with the Minister and the Federal Government. Part 4 catalogues the principal discretionary powers conferred on the NCAA by the 2022 Act. Part 5 identifies the structural and procedural accountability deficits that persist notwithstanding the reform. Part 6 draws briefly on the comparative experience of the United Kingdom and the United States. Part 7 offers proposals for reform, and Part 8 concludes.

2. Regulatory Discretion and Administrative Accountability: A Conceptual Framework

2.1 The Nature of Discretionary Power

Discretion, in the administrative law sense, denotes the latitude conferred on a decision-maker to choose between courses of action within the boundaries fixed by an enabling statute.[6] It is not, and cannot be, unlimited. As Lord Reid observed in the leading English case of *Padfield v Minister of Agriculture, Fisheries and Food*, a minister's discretion, however broadly worded, must be exercised so as to promote the policy and objects of the enabling Act; a discretion exercised for reasons unconnected with that policy, or in a manner that frustrates it, is unlawful notwithstanding the breadth of the statutory language.[7] This principle that all statutory discretion is bounded discretion has been received into Nigerian administrative law through the general doctrine of ultra vires, under which an administrative body that exceeds the scope of its delegated authority, or exercises that authority for an improper purpose, acts unlawfully and is liable to have its decision quashed.[8] Nigerian courts have applied the doctrine across a range of contexts, from the deportation power considered in *Shugaba v Minister of Internal Affairs*,[9] to the disciplinary powers of professional tribunals in *Medical and Dental*

[3] International Civil Aviation Organization, *Safety Oversight Manual* (Doc 9734, Part A, 3rd edn 2020) ch 1; 'Comparative Analysis of the Civil Aviation Act of 2006 and 2022' (*Mondaq*, 12 February 2025).
[4] 'Advancing Nigerian Aviation: A Comprehensive Analysis of the Transformative Changes in the Civil Aviation Act 2022' (*Mondaq*, 20 October 2023).
[5] Civil Aviation Act 2022, ss 41(1), 49(1); see also (n 4).
[6] HWR Wade and CF Forsyth, *Administrative Law* (11th edn, OUP 2014) 275–78.
[7] *Padfield v Minister of Agriculture, Fisheries and Food* [1968] AC 997 (HL) 1030 (Lord Reid).
[8] 'Ultra Vires as a Ground for Judicial Review of Administrative Action' (*Legal Emperors*, December 2016).
[9] *Shugaba v Minister of Internal Affairs* (1981) 2 NCLR 459.

Practitioners Disciplinary Tribunal v Okonkwo,[10] to the removal of elective officers considered in *Inakoju v Adeleke*.[11] The common thread is that discretion, however wide in appearance, is always susceptible to being tested against the statute that created it.

Discretion is, at the same time, an operational necessity for a technical regulator such as the NCAA. Aviation safety regulation requires rapid, fact-sensitive judgment whether an aircraft is airworthy, whether an operator's safety management system is adequate, whether an emergency justifies grounding a fleet that cannot sensibly be reduced to rigid, self-executing rules in advance.[12] The regulator must therefore be trusted with genuine evaluative latitude. The central difficulty of regulatory design is thus not whether to grant discretion, but how to constrain its exercise so that latitude does not collapse into arbitrariness.

2.2 Administrative Accountability: Dimensions and Mechanisms

Administrative accountability may usefully be disaggregated into at least four dimensions: legal accountability (answerability to courts and tribunals for the legality of decisions); political accountability (answerability to the legislature and, through it, to the electorate); administrative or internal accountability (answerability within the hierarchy of the agency itself, including through internal review, audit and performance mechanisms); and social accountability (answerability to the regulated industry and the wider public through transparency, consultation and reasoned decision-making).[13] Each dimension operates through distinct mechanisms — judicial review and statutory appeal for legal accountability; parliamentary questioning, committee oversight and ministerial answerability for political accountability; internal complaints and audit processes for administrative accountability; and publication of reasons, consultation requirements and freedom-of-information obligations for social accountability.

No single mechanism is sufficient on its own. Judicial review, while indispensable, is reactive, expensive, slow, and in Nigeria frequently constrained by restrictive rules on locus standi, limitation periods and the deferential standard the courts apply to technical or "polycentric" regulatory judgments.[14] Political accountability through legislative oversight is similarly limited where the enabling statute as the CAA 2022 does deliberately curtails ministerial direction in order to protect regulatory independence, since independence from the Minister, without a substitute mechanism, can leave a gap in political answerability rather than transferring it elsewhere.[15] It is precisely because no single accountability mechanism can bear the whole weight that a well-designed regulatory statute typically layers several mechanisms together: statutory criteria that structure discretion; a duty to give reasons; an internal or external appeal process; and a residual judicial review jurisdiction. The remainder of this article tests the CAA 2022 against that composite standard.

3. The Institutional and Statutory Framework of The NCAA under the CAA 2022

The CAA 2022 was assented to on 16 August 2022, repealing the Civil Aviation Act 2006 and restructuring the Authority's governing framework.[16] Section 8(3) of the Act declares the

[10] *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo* (2001) 7 NWLR (Pt 711) 206.
[11] *Inakoju v Adeleke* (2007) 4 NWLR (Pt 1025) 423.
[12] Supra (n 1) 195–201.
[13] Mark Bovens, 'Analysing and Assessing Accountability: A Conceptual Framework' (2007) 13 European Law Journal 447, 450–56.
[14] C Okongwu, N Ugbo and A Nwaobi, 'The Legal Framework for Judicial Review in Nigeria' (2021) Journal of Law, Policy and Globalization 17.
[15] Cane (n 1) 15–20.
[16] Civil Aviation Act 2022, long title; 'Civil Aviation Acts' (NCAA, 2022) https://ncaa.gov.ng/documents/civil-aviation-acts/ accessed 25 August 2026.

NCAA to be the sole civil aviation regulatory body in Nigeria "notwithstanding anything contained in any other law," a formulation intended to insulate its regulatory competence from erosion by other statutes or executive directives and to entrench the autonomy the industry had long sought.[17] The Authority's functions span safety regulation, security oversight, economic regulation of the industry, and oversight of airports, airspace and meteorological services.[18]

The Act preserves a role for the Minister of Aviation, but that role is structured rather than plenary. Where the Minister considers it appropriate, he may, by notice in writing, require the Authority to publish a statement of the policy it intends to adopt on a particular matter in exercising its statutory powers; before publishing such a statement, the Authority is obliged to consult persons it considers representative of interests likely to be substantially affected.[19] This is a meaningful accountability device in principle it creates a documented, publicly available statement of policy against which subsequent exercises of discretion can be measured but its operation is itself discretionary on the Minister's part, and the Act does not appear to oblige the Minister to invoke it, nor does it prescribe consequences for a failure by the Authority to adhere to a published policy statement once made.

The Board of the Authority is required to be composed of persons of recognised expertise, qualification, and not less than ten years' experience in specified aviation-related fields, which is a sound governance safeguard against politically expedient but technically unqualified appointments.[20] Day-to-day regulatory power, however, is substantially concentrated in the Director-General, who is empowered to perform the functions of the Authority under the Act,[21] including, notably, the power to issue orders, rules, regulations or directives considered necessary to address an emergency and to ensure safety and security in civil aviation, with or without notice or a formal hearing.[22] The Act thus establishes a structure in which board-level governance sits above a Director-General wielding considerable unilateral emergency power which is a structure that, as Part 5 argues, invites the specific accountability question of how such unilateral power is checked once exercised, rather than merely who exercises it.

4. Mapping the Discretionary Powers of the NCAA

The CAA 2022 confers on the Authority, and on the Director-General acting on its behalf, a cluster of discretionary powers considerably broader than those available under the 2006 Act. Four categories are of particular importance to this analysis.

4.1 Certification and Licensing Powers

The Authority holds a general power to issue, amend, modify, suspend or revoke certificates issued under the Act.[23] This power is the operational core of aviation safety regulation: certificates govern the airworthiness of aircraft, the competence of airmen, and the operational fitness of air carriers, and the power to suspend or revoke them can, in practical effect, ground an aircraft or shut down an operator's business. Section 99 of the Act introduces a novel requirement that foreign commercial air transport operators secure a licence from the Director-General, and the Authority is vested with power to modify such licences at its discretion, with

[17] Civil Aviation Act 2022, s 8(3); 'About NCAA' (NCAA, 2024) https://ncaa.gov.ng/about/ accessed 25 August 2026.
[18] ibid.
[19] Ibid, (n16), s 6 (Emergency powers of the Minister; policy publication provisions).
[20] Ibid, (n16), s 9(5).
[21] Ibid, (n16), provisions empowering the Director-General to perform the functions of the Authority.
[22] Ibid, (n16), s 100(1); (n 4).
[23] Civil Aviation Act 2022, provisions on power to issue, amend, modify, suspend or revoke certificates.

an affected party having a right to be heard, though the precise contours and timing of that hearing right are left to be worked out through subsidiary regulation.[24]

4.2 Emergency and Pre-emptive Powers

Section 49(1) of the CAA 2022 significantly expands the Authority's power to prevent a flight proactively, empowering it to direct an operator or airman not to conduct a flight where an aircraft is unfit for operation, an airman is unqualified or unfit, or there is a risk of imminent danger to persons or property on the ground.[25] This is a marked departure from the 2006 Act, which contained no equivalent express power of proactive flight prevention, and it reflects an evident and defensible safety-first design choice. The corollary of an expanded pre-emptive power, however, is an expanded need for after-the-fact review, since a decision to ground an aircraft or operator can be commercially devastating and is, by its nature, exercised without the deliberative process that would ordinarily precede a certificate suspension.

4.3 Exemption Powers

Section 41(1) of the Act empowers the NCAA to grant exemptions from its regulatory requirements, subject to ensuring that safety, security and public interest are not compromised.[26] This represents a textual improvement on the equivalent 2006 provision, under which the Authority's power to make exemption regulations was not expressly conditioned on any public safety or public interest consideration.[27] The improvement is real but incomplete: the Act specifies the value the exemption power must not undermine (safety, security, public interest) without specifying the criteria, procedure, or evidentiary threshold by which the Authority is to determine when those values are, or are not, compromised. The discretion is qualitatively bounded but procedurally unstructured.

4.4 Inspection, Enforcement and Access Powers

The 2022 Act broadens and clarifies the Authority's rights of access for inspection purposes, extending oversight and enforcement capacity across aircraft, operators, aerodromes and aeronautical products.[28] The Act also empowers the Authority to establish a training facility, academy or similar establishment for training in safety, security and economic oversight, an institution-building power that, while not itself coercive, expands the Authority's long-term influence over the professional formation of the personnel it regulates.[29]

Taken together, these powers describe a regulator with the capacity to make, and unmake, the commercial viability of an aviation business through certification, exemption, emergency grounding and inspection often unilaterally, and in the case of emergency powers, expressly without the ordinary requirements of notice or hearing. It is worth pausing on the cumulative rather than isolated character of this power. Individually, each of the four categories mirrors a power that most modern aviation regulators possess in some form; internationally, safety regulators are routinely trusted with certification, exemption, emergency and inspection authority, because the alternative, a regulator constrained to slow, rule-bound process in the face of a live safety risk would itself be a public danger.[30] What distinguishes the Nigerian position is not the existence of these powers but their concentration, largely unaccompanied by

[24] Ibid, (n23), s 99; 'Comparative Analysis of the Civil Aviation Act of 2006 and 2022' (n 3).
[25] Ibid, (n23), s 49(1).
[26] Ibid, (n23), s 41(1).
[27] Civil Aviation Act 2006, s 30(2)(r) (repealed).
[28] Supra, (n 4).
[29] Civil Aviation Act 2022, s 100(1).
[30] ICAO, *Safety Oversight Manual* (n 3) ch 3.

procedural counterweights, in a single office. The Director-General who issues an emergency directive under section 100(1) is, in substance, the same office empowered to determine exemptions under section 41(1) and to modify licences under section 99; there is no statutory separation between the officer who investigates, the officer who decides, and the officer who reviews. That concentration is administratively efficient, but it is precisely the kind of structural feature that comparative administrative law identifies as heightening, rather than diminishing, the case for external accountability mechanisms.[31] The question that follows, and to which the article now turns, is what stands between the exercise of that capacity and the possibility of arbitrariness.

5. Accountability Deficits under the CAA 2022

5.1 The absence of published criteria for the exercise of discretion

Perhaps the most consequential gap in the CAA 2022's accountability architecture is the near-total absence, on the face of the Act, of published criteria structuring how core discretions are to be exercised. The exemption power in section 41(1) tells the Authority what value must not be compromised but not how compromise is to be assessed; the certificate suspension and revocation power in section 41 (as broadly numbered across the Act's certification provisions) specifies no threshold of risk or non-compliance that must be crossed before suspension, as distinct from a lesser sanction, becomes appropriate.[32] Where a statute confers a broad discretion without articulating the criteria for its exercise, subsidiary regulations and internal guidance become the operative source of constraint yet Nigerian regulatory practice has historically been uneven in publishing such guidance in a form accessible to regulated parties, leaving operators to discern the Authority's decisional criteria largely through the accumulated experience of prior enforcement rather than through any codified standard.[33] This is precisely the condition against which Lord Reid warned in *Padfield*: a discretion whose exercise cannot be measured against an articulated standard is a discretion that is, in practice, difficult for a court to test for propriety, because the reviewing court has no yardstick beyond the bare words of the statute itself.[34]

5.2 The dispensation from notice and hearing in emergency powers

The Act's emergency powers provision permitting orders, rules or directives "with or without notice or a formal hearing"[35] is defensible as a matter of safety policy: aviation emergencies do not wait for administrative process. But the provision as drafted contains no textual counterweight requiring, for instance, a prompt post-decision hearing, a mandatory statement of reasons issued within a fixed period, or a sunset clause obliging the Authority to convert an emergency directive into an ordinary, procedurally complete decision within a defined time. Comparative regulatory practice in safety-critical sectors commonly pairs emergency powers exercisable without prior hearing with an entitlement to an expedited hearing after the fact, precisely so that the derogation from natural justice is temporally limited rather than open-ended.[36] The CAA 2022's emergency power, as presently framed, dispenses with prior process without expressly guaranteeing subsequent process.

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[31] Bovens (n 13) 456–60.
[32] Supra, (n 23); (n 26).
[33] Wade and Forsyth (n 6) 291–95.
[34] *Padfield* (n 7) 1030.
[35] Civil Aviation Act 2022, s 100(1).
[36] Administrative Procedure Act 1946 (US) 5 USC § 558(c); see also Part 6 below.

5.3 The attenuation of ministerial accountability without a substitute

The Act's insulation of the Authority from ministerial direction reinforced by the "notwithstanding any other law" language of section 8(3) was a deliberate and, in institutional design terms, largely justifiable response to a history of politically compromised safety oversight.[37] Regulatory independence of this kind is a recognised value in aviation safety governance internationally, precisely because it reduces the risk that safety-critical certification decisions are distorted by short-term political or commercial pressure.[38] But independence from the Minister removes one accountability channel without the Act supplying an equally robust substitute. The Minister's residual power to require publication of a policy statement is discretionary, not mandatory, and the Act attaches no clear sanction to the Authority's departure from a policy statement once published.[39] Legislative oversight through the National Assembly's aviation committees exists in principle but is not structured by the Act itself and there is, for instance, no statutory requirement that the Authority table an annual report of its exercise of exemption, suspension or emergency powers before the National Assembly, of the kind that would allow systematic legislative scrutiny of how discretion has actually been used over time.

5.4 Constraints on Judicial Review as a Residual Check

Judicial review remains available, in principle, against NCAA decisions under the general administrative law jurisdiction of the Federal High Court, and Nigerian courts have not hesitated, in other regulatory contexts, to quash administrative decisions found to be ultra vires, procedurally unfair, or made in disregard of a statutory purpose.[40] In practice, however, several features of Nigerian judicial review limit its effectiveness as a check on NCAA discretion specifically. First, the technical and safety-sensitive character of aviation regulation invites judicial deference: courts are, appropriately, reluctant to substitute their own assessment of airworthiness or operational risk for that of a specialist regulator, and the line between legitimate deference to technical expertise and undue abdication of the court's supervisory function is not always easy to draw.[41] Second, the absence of published decisional criteria (Part 5.1 above) makes it correspondingly harder for an aggrieved operator to demonstrate that a decision was irrational or improperly motivated, since irrationality review requires some articulated standard against which "unreasonableness" can be measured.[42] Third, the practical realities of litigation cost, delay in the Nigerian court system, and the commercial vulnerability of an operator whose certificate has already been suspended pending the outcome of any challenge, mean that judicial review, however doctrinally available, is frequently an imperfect and belated remedy for a business whose immediate need is continued operation, not eventual vindication.[43] Fourth, the absence of an interlocutory or stay mechanism tailored to aviation regulatory disputes compounds the problem: an operator seeking to challenge a suspension must generally pursue the ordinary interlocutory injunction route available in Nigerian civil procedure, which requires satisfying a court, often on short notice and against a well-resourced regulator, that there is a serious question to be tried and that the balance of convenience favours a stay, a threshold that is not designed with the particular time-sensitivity of aviation operations in mind, and that leaves many operators effectively grounded for the duration of litigation

[37] Ibid, (n34), s 8(3).
[38] ICAO, *Safety Oversight Manual* (n 3) ch 2.
[39] Civil Aviation Act 2022, s 6.
[40] Okongwu, Ugbo and Nwaobi (n 14) 18–20.
[41] Paul Daly, 'Wednesbury's Reason and Structure' [2011] PL 238, 245–49.
[42] *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223 (CA).
[43] Ibid, (n 1) 402–10.

regardless of the ultimate merits of their challenge.[44] The cumulative effect of these four constraints is that judicial review functions, in the Nigerian aviation context, considerably below its theoretical potential as a check on discretionary power.

6. Comparative Reflections

A brief comparative glance illustrates that the accountability gap identified above is not an inevitable feature of a strong, independent aviation regulator. The United Kingdom Civil Aviation Authority operates under a statutory framework that pairs its considerable licensing and enforcement discretion with a structured route of statutory appeal to the Competition Appeal Tribunal in respect of certain licensing decisions, and with published enforcement guidance setting out the criteria and escalation stages the regulator will ordinarily follow before suspending or revoking an operating licence.[45] In the United States, the Federal Aviation Administration's exercise of its certificate suspension and revocation powers is subject to a structured internal and external appeal process before the National Transportation Safety Board, together with long-established administrative law requirements under the Administrative Procedure Act that emergency or summary action be followed, save in the most extreme cases, by an expedited opportunity to be heard.[46] Neither jurisdiction treats regulatory independence as inconsistent with structured accountability; rather, both treat a codified appeal route and a documented decisional standard as necessary complements to an independent regulator's discretion, precisely because independence from ministerial control increases, rather than diminishes, the importance of alternative accountability channels. The lesson for the Nigerian framework is not that the NCAA's independence or its expanded emergency powers were wrongly conferred, but that the CAA 2022 stopped one step short of the accountability infrastructure that ordinarily accompanies powers of that kind elsewhere.

7. Rethinking the Framework: Proposals for Reform

Four reforms, none of which requires abandoning the CAA 2022's core commitment to a strong, independent regulator, would meaningfully close the accountability gap identified in this article. First, the NCAA should be required, whether by amendment to the Act or through subsidiary regulation made under it to publish decisional criteria and guidance structuring the exercise of its principal discretions: the threshold considerations for certificate suspension as opposed to revocation, the criteria for granting or refusing an exemption under section 41(1), and the circumstances in which the section 49(1) power to prevent a flight will ordinarily be exercised. Published criteria of this kind do not eliminate discretion; they structure it, in the sense contemplated by *Padfield*, so that both the regulated industry and a reviewing court have an articulated standard against which the propriety of a given exercise of discretion can be tested.[47] Second, the Act should be amended to attach a mandatory, time-limited duty to give reasons to every certificate suspension, revocation, emergency grounding and exemption refusal, with reasons to be furnished in writing within a fixed short period. A duty to give reasons is among the most cost-effective accountability mechanisms available to a legislature, since it disciplines the decision-maker's own reasoning process, supplies the material an aggrieved party needs to mount an effective challenge, and creates a body of precedent from which future decisional consistency can be assessed.[48]

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[44] Ibid, (n 1) 405–08.
[45] Civil Aviation Act 2012 (UK), s 40; Enterprise Act 2002 (UK), s 179 (Competition Appeal Tribunal jurisdiction).
[46] 49 USC § 44709; 5 USC § 558(c).
[47] *Padfield* (n 7); (n 44 text).
[48] Wade and Forsyth (n 6) 437–41.

Third, Nigeria's aviation regulatory framework would benefit from a dedicated appeals mechanism whether a specialist aviation appeals tribunal or an expanded jurisdiction for an existing body capable of hearing expedited appeals against certificate suspension, licence modification and emergency directives, on the model of the National Transportation Safety Board's appellate function in the United States or the Competition Appeal Tribunal's role in the United Kingdom.[49] Such a body, sitting with both legal and technical aviation expertise, would be better placed than a generalist court to test the substance of a safety-based decision expeditiously, while preserving an ultimate residual judicial review jurisdiction for questions of legality and fair process. Fourth, the Act should be amended to require the NCAA to lay before the National Assembly's relevant aviation committees an annual report detailing the number and general character of exemptions granted, certificates suspended or revoked, and emergency directives issued in the preceding year, restoring a structured channel of political accountability to compensate for the Act's deliberate curtailment of ministerial direction. This would not compromise the Authority's day-to-day independence, since it is retrospective and aggregate in character, but it would furnish the legislature with the information needed to exercise meaningful oversight of the pattern, rather than the individual instance, of discretionary decision-making.

8. Conclusion

The Civil Aviation Act 2022 achieved a genuine and overdue modernisation of Nigeria's aviation regulatory framework, consolidating the NCAA's status as an autonomous, technically competent safety regulator with the tools necessary to act decisively, including in emergencies. That achievement should not be understated, nor should the case for reform advanced in this article be read as an argument against regulatory independence or against the breadth of discretion a modern safety regulator legitimately requires. The argument is narrower and, this article suggests, more urgent: an expansion of discretionary power that is not accompanied by a commensurate expansion of the mechanisms that structure, explain and review that power's exercise leaves the regulatory system more capable but no more accountable than before. Administrative law has long recognised that discretion and accountability are not opposing values to be traded off against one another but complementary features of a well-functioning regulatory state discretion supplies the flexibility a technical regulator needs, while accountability supplies the assurance, to the regulated industry, to the flying public and to the courts, that flexibility has not become arbitrariness. Rethinking the powers of the NCAA under the CAA 2022 along the lines proposed here published decisional criteria, a duty to give reasons, a specialist appeals mechanism and structured legislative reporting would complete rather than compromise the reform the 2022 Act began, and would bring Nigeria's civil aviation regulatory architecture into closer alignment with the accountability standards its international peers already observe.

[49] Supra, (n 42); (n 43).