

BUILDING THE BRIDGE FOR CONSUMER PROTECTION IN NIGERIA: CHALLENGES AND PROSPECTS*

Abstract

Consumer protection is one of the key areas that is relatively underdeveloped in the Nigerian market economy. Consumers are exposed to unsafe, defective and substandard goods and services with little or no care and liability against such manufacturers/producers and service providers. This is not however to say that Nigeria does not have adequate legal and institutional framework for consumer protection as these are adequately in place. The issue is that there are challenges militating against consumer protection in Nigeria. The study examined the challenges militating against consumer protection in Nigeria. It examined both the legal and institutional framework put in place for consumer protection in Nigeria. The study revealed that many consumer are ignorant or not well informed about their rights under the extant laws especially the Federal Competitive and Consumers Act, 2018. It further found that even those who are aware or informed about their rights, are less enthusiastic and unwilling to seek redress where their rights are violated for lack of confidence in the courts, due to attitude of court in some cases. More so, corruption of the relevant personnel in the authorized agencies does not help matters. To address these challenges, the study recommends among other things, aggressive mass education; re-orientation of Nigerians about enforcement of the consumer rights; sanctioning of violators and corrupt officials of the institutions, and adequate funding and monitoring of the Institutions. This, it is hoped will make way for a better and sustainable consumer protection in Nigeria.

Keywords: Consumer, Protection, Rights, Federal Competitive and Consumer Protection Act, Nigeria.

1. Introduction

Every consumer is entitled to have utmost satisfaction from the goods and services purchased by him/her. This notwithstanding, obnoxious and fraudulent market practices are common scenes in the Nigerian market economy culminating in the production and sale of defective, unhealthy and substandard goods/services.¹ Thus, Ogbé² asserts that: ‘Today, millions of Nigerians suffer from the consumption of adulterated goods, defective products and expired drugs and foods items and drugs.’ The idea of consumer protection developed in response to these fraudulent and unhealthy business practices of manufacturers/ producers and service providers to safe guard innocent consumers.³ Consumer protection is the mechanism put in place to protect buyers of goods and services from unsavory market practices. The main objective of consumer protection is to ensure the promotion and protection of the welfare and interests of the consumers against restrictive and unfair business practices.⁴ Consumer protection exists by way of laws, administrative policies and institutional works.⁵ In Nigeria, there are many regulatory frameworks in place to ensure consumer protection. However, the principal or primary legal regime is the Federal Competition and Consumer Act, 2019 (FCCPA)⁶ which repealed the Consumer Protection Act (CPA).⁷ The objectives of the FCCPA are among other things the promotion and maintenance of competitive markets in Nigeria;⁸ promotion of economic efficiency;⁹ promotion and protection of consumers’ interests and welfare;¹⁰ prohibition of restrictive and unfair business practices;¹¹ and contribution to sustainable development of the Nigerian economy.¹² Hence, under the FCCPA, consumers are entitled to a number of rights, including but not limited to the right to have information in plain and understandable language;¹³ the right to disclosure of price of goods and services;¹⁴ right to cancel advance reservation, booking or order;¹⁵ right to choose or examine goods;¹⁶ right to return goods;¹⁷ right to fair dealings;¹⁸ and right to safe, good quality goods¹⁹ among other things. Also complementing the Federal Competition and Consumer Act are the National Agency for Food and Drug Administration and Control Act (NAFDAC) 2004;²⁰ Standard Organization of Nigeria Act, 2015; Nigerian Civil Aviation Authority Act (NCAA) 2006; Security and Exchange commission²¹ Central Bank of Nigeria and Banks and Other Financial Institutions (Amendment) Act, 2020; Nigerian Broadcasting Act, 2004; Electric Power Sector Reform Act, 2005; Counterfeit and Fake Drugs Unwholesome Processed Foods (Miscellaneous Provisions) Act, 1999;²² Qualification of Service Regulations, 2013; the Utility Charges Commission (Amendment Act), 2016, among other laws.

*By Anita NWOTITE, PhD, Lecturer, Faculty of Law, Nnamdi Azikiwe University, Awka, Nigeria. Email: am.nwotite@unizik.edu.ng, Tel: +2348039574167; and

*Chinazor Queen UMEOBICA, PhD, Senior Lecturer, Faculty of Law, Nnamdi Azikiwe University, Awka, Nigeria. Email: cq.umeobika@unizik.edu.ng, Tel: +2348035018582

¹ EE Ekanem, ‘Institutional Framework for Consumers Protection in Nigeria’, 2011 vol 2 No. 1 *International Journal of Advanced Legal Studies and Governance*, 33.

² Ogbé, p 2 cited in E Ebitu, ‘Consumer Rights, Consumer Protection and Public Policy in Nigeria: A Critical Review’, 2014, vol. 7 NO. 12 *International Business Research*, 120, 121.

³ N W, Wilson and A A J Uyo, 2021 1(3): 9-33, ‘Consumerism and the Administration of Consumer Protection Law: Nigeria in Perspectives’, *Journal of International Relations Security and Economic Studies*, 10.

⁴ Federal Competition and Consumer Protection Act, 2018, section 1.

⁵ EE Ekanem, above note 1, 33.

⁶ 2019.

⁷ Cap. C25, Laws of the Federation of Nigeria, 2004.

⁸ FCCPA, section 1(a).

⁹ FCCPA, section 1(b).

¹⁰ FCCPA, section 1(c).

¹¹ FCCPA, section 1(d).

¹² FCCPA, section 1(e).

¹³ FCCPA, section 115.

¹⁴ FCCPA, section 116.

¹⁵ FCCPA, section 120.

¹⁶ FCCPA, section 121.

¹⁷ FCCPA, section 122.

¹⁸ FCCPA, section 124.

¹⁹ FCCPA, section 131.

²⁰ Cap N1 Laws of the Federation of Nigeria, 2004.

²¹ 2007

²² Cap C34, Laws of the Federation of Nigeria 2004.

Aside the above regulatory frameworks, there are also institutional frameworks established by the relevant enabling laws and charged with the power of making rules and regulations facilitating consumer protection. The most important of these institutions is the Federal Competition and Consumer Protection Commission (FCCPC)²³ established by the FCCPA and charged with the power of making rules and regulations geared towards enhancing consumer protection in Nigeria.²⁴ In addition too, the FCCPA established the Federal Competition and Consumer Protection Tribunal as the judicial body charged with the jurisdiction to entertain consumer protection matters.²⁵ However, despite the lofty provisions of the FCCPA, other consumer protection laws and institutional frameworks, consumer protection is faced with myriads of challenges in Nigeria. The aim of this study is to examine the challenges to consumer protection in Nigeria with a view to charting a way out. The study found that many consumers in Nigeria are ignorant of their rights under the FCCPA.²⁶ However, those who do, are not aware about the procedure for seeking redress. More so, many more consumers are reluctant to seek redress in the event of the breach of their rights for lack of confidence in the courts.²⁷ Important also is the fact that the personnel of the relevant agencies charged with the facilitating and investigating consumer protection matters are corrupt. Again, the judicial attitude (as evidenced by many judicial decisions) is not encouraging. To address these challenges, the study recommends among other things, aggressive mass education of the populace; re-orientation of the populace about consumer protection; and effective sanctions against corrupt officials.

2. Conceptual Clarification

A consumer has been extensively defined to mean ‘a person who buys or uses goods and services,’²⁸ The FCCPA defines a consumer as ‘any person who purchases or offers to purchase goods other than for the purpose of resale, but does not include a person who purchases any goods for the purpose of using them in the production or manufacture of any other goods or articles for sale; or to whom a service is rendered.’²⁹ It has also been defined as ‘a person who purchases or uses any product or service or is adversely affected by a product or service.’³⁰ In study, the term consumer means a buyer and final user of goods and services. Consumers are entitled to certain rights. Just in like every other sphere of life, consumers are open to abuses in the market economy. As such, a mechanism is in place to safeguard them against obnoxious market practices. This informs the idea of consumer protection. Consumer protection constitutes an important part of the general protection accorded the citizens of every country.³¹ Consumer protection has been defined as ‘the provision of appropriate and effective mechanisms to protect the pecuniary, health environmental, safety and security interest of all persons against misleading, fraudulent and harmful business practices including manufacturing, trading, packaging, advertising, distribution, and selling of goods and services to the ultimate consumer.’³² It is a mechanism by way of laws, policies and institutional frame works put in place with the aim of removing unhealthy, obnoxious and fraudulent market practices and promoting fair play in the market economy. Over the years, consumers have been victims of obnoxious market practices. In fact, the expression: *Caveat emptor* (‘buyer beware’) had applied to buyers of goods and services in the market economy thereby leaving them at the mercy of producers/suppliers/sellers without protection against these practices. The idea of consumer protection developed to safeguard the unsuspecting and helpless consumers against these unhealthy and fraudulent practices in the market. In Nigeria, consumer protection has been asserted by way of laws, policies, MOUs and so on. These have been visible in consumer protection laws such as the Federal Competition and Consumer Protection Act, 2019 which repealed the Consumer Protection Act. Consumer protection covers such important areas as product liability, privacy rights, unfair business practices, fraud, misrepresentation and other consumer/business practices. In other words, consumer protection ensures the checking of frauds and scams from services and sales contracts. In Nigeria, consumer protection covers such rights as the right to have information in plain and understandable language;³³ the right to disclosure of price of goods and services;³⁴ right to cancel advance reservation, booking or order;³⁵ right to choose or examine goods;³⁶ right to return goods;³⁷ right to fair dealings;³⁸ and right to safe, good quality goods³⁹ among other things.

3. Brief History and Development of Consumer Protection in Nigeria

The development of consumer protection is relatively new in Nigeria.⁴⁰ Before now, consumers who were aggrieved or dissatisfied with the quality of goods and services are left without protection. However, with time, consumers started making efforts to organize themselves for the purposes of protecting themselves against obnoxious market practices such as false measurements, adulterated goods, expired foods and drugs, defective products and so on.

To that effect, a movement known as the Consumer Protection Association of Nigeria was formed in the year 1980 with the objective of:

- i. Promoting and stimulating consumers’ interest and awareness in the goods and services they buy;
- ii. Ensuring that the goods and services consumers buy are merchantable and of the right quality;

²³ FCCPA, section 3.

²⁴ FCCPA, section 163.

²⁵ FCCPA, section 39.

²⁶ Open Society Initiative for Africa, ‘Research Report on the State of Consumer Protection in Nigeria: A Review of Consumer Protection in the Telecommunication Sector in Nigeria’, January 2014, 6. Available at www.consumerawareness-ng.org/ accessed 1 August 2022.

²⁷ Open Society Initiative for Africa, above note 24, 6.

²⁸ CK, Agomo, ‘Liability for Defective Products’, 2005 (1) 1 *Consumer Journal*, 68.

²⁹ Federal Competition and Consumer Protection Act, 2018, section 167(1).

³⁰ Nwosu, Uchechukwu Wilson and Ata-Agboni, Joy Uyo, 2021 1(3): 9-33, ‘Consumerism and the Administration of Consumer Protection Law: Nigeria in Perspective’, *Journal of International Relations Security and Economic Studies*, 13.

³¹ Constitution of the Federal Republic of Nigeria, 1999 (as Amended), section 36.

³² E Ndubuisi, A Anyanwu, and C A, Nwankwo, ‘Protecting the Nigerian Consumer: An Expository Examination of the Role of Consumer Protection Council’ *Arabian Journal of Business and Management Review*, 2016.

³³ FCCPA, section 115.

³⁴ FCCPA, section 116.

³⁵ FCCPA, section 120.

³⁶ FCCPA, section 121.

³⁷ FCCPA, section 122.

³⁸ FCCPA, section 124.

³⁹ FCCPA, section 131.

⁴⁰ E Ebitu, above note 22, p 121.

- iii. Provision of a better platform for dialogue among consumers, the government, manufacturers and middlemen;
- iv. Co-operation between the government and the Association so as to better protect the interest and welfare of consumers; and
- v. Serving as a platform for consumer complaints and as a mechanism to aid them in seeking remedies in the event of grievances regarding the goods and services they bought.⁴¹

Other consumers' association include: Tenant Association; the Consumer Association in Lagos; the Enugu Consumer Movement; and the Consumers' Club of Agwu.⁴² However, the activities of these consumer associations are restricted to their various localities and did not receive the required publicity.⁴³ The low level of lack of awareness, poverty, literacy and lack of interest all add up to limit the extent of the development of consumerism in Nigeria.⁴⁴ Consumer awareness has nevertheless improved significantly as a result of education.

4. Regulatory and Institutional Frameworks for Consumers Protection in Nigeria

Regulatory Framework for Consumer Protection in Nigeria

Constitution of the Federal Republic of Nigeria 1999 (as Amended)

The Constitution of the Federal Republic of Nigeria is the starting point of any law in Nigeria since it is supreme⁴⁵ and determines the validity of any law and any law inconsistent with it shall be null and void and of no effect.⁴⁶ Chapter four of the said Constitution provides for fundamental rights. Some of the rights have direct bearing with consumer rights. These rights are: rights to fair hearing⁴⁷ which provides thus: 'In the determination of his rights and obligations, including in any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality'.

Federal Competition and Consumer Protection Act (FCCPA) 2018

The Federal Competition and Consumer Protection Act (hereinafter referred to as FCCPA) is the primary legislation for consumer protection in Nigeria. However, before the enactment of the FCCPA, the Consumer Protection Act⁴⁸ was in place to protect consumers in Nigeria. The Consumer Protection Act also established the Consumer Protection Commission with the function of facilitating consumer protection. Nonetheless, the FCCA was enacted in 2018 thereby repealing the Consumer Protection Act. The FCCPA has the object of promoting and maintaining competitive markets in Nigeria;⁴⁹ promotion of economic efficiency;⁵⁰ promotion and protection of consumers' interests and welfare;⁵¹ prohibition of restrictive and unfair business practices;⁵² and contribution to sustainable development of the Nigerian economy.⁵³ The FCCPA applies to all commercial activities within or having effect in Nigeria;⁵⁴ all government departments and state-owned corporations;⁵⁵ and all commercial activities with the aim of making profit and targeted at satisfying demand from the public.⁵⁶ The scope of application of the FCCPA also extends to cover conducts outside Nigeria by a citizen of Nigeria or a person ordinarily resident in Nigeria;⁵⁷ a body corporate incorporated in Nigeria or carrying on business within Nigeria;⁵⁸ any person in relation to the supply or acquisition of goods or services by that person into or within Nigeria;⁵⁹ or any person in relation to the acquisition of shares or other assets outside Nigeria resulting in the change of control of a business, part of a business or any asset of a business, in Nigeria.⁶⁰ The FCCPA also assumes all the rights, powers, and functions of the Consumer Protection Commission (the Commission established under the repealed CPA). In furtherance of its functions, the FCCPA also established the Federal Competition and Consumer Protection Commission ('the Commission')⁶¹ and empowers it to make rules and regulations geared towards consumer protection in Nigeria.⁶² Important also is the establishment of the Competition and Consumer Protection Tribunal conferred with the jurisdiction to entertain consumer protection matters.⁶³ The FCCPA also recognized certain rights in respect of consumers in Nigeria. These rights include: the right to have information in plain and understandable language;⁶⁴ the right to disclosure of price of goods and services;⁶⁵ right to cancel advance reservation, booking or order;⁶⁶ right to choose or examine goods;⁶⁷ right to return goods;⁶⁸ right to fair

⁴¹ E Ebitu, above note 2, 122.

⁴² *Ibid.*

⁴³ BA Agbonifoh, OE Ogwo and DA Nnolim, *Marketing in Nigeria: Concepts, Principles and Decisions* (Aba: Afrtowers Publishers Ltd, 2007).

⁴⁴ E Ebitu, above note 2, 122.

⁴⁵ Constitution of the Federal Republic of Nigeria 1999 (as Amended) (CFRN), section 1(1).

⁴⁶ *Ibid.*, section 1(3).

⁴⁷ *Ibid.*, section 36(1).

⁴⁸ Cap. C25, Laws of the Federation of Nigeria, 2004.

⁴⁹ FCCPA, section 1(a).

⁵⁰ FCCPA, section 1(b).

⁵¹ FCCPA, section 1(c).

⁵² FCCPA, section 1(d).

⁵³ FCCPA, section 1(e).

⁵⁴ FCCPA, section 2(2)(a).

⁵⁵ FCCPA, section 2(2)(b).

⁵⁶ FCCPA, section 2(2)(c).

⁵⁷ FCCPA, section 2(3)(a).

⁵⁸ FCCPA, section 2(3)(b).

⁵⁹ FCCPA, section 2(3)(c).

⁶⁰ FCCPA, section 2(3)(d).

⁶¹ FCCPA, section 3(1).

⁶² FCCPA, section 163.

⁶³ FCCPA, section 39.

⁶⁴ FCCPA, section 115.

⁶⁵ FCCPA, section 116.

⁶⁶ FCCPA, section 120.

⁶⁷ FCCPA, section 121.

⁶⁸ FCCPA, section 122

dealings;⁶⁹ and right to safe, good quality goods⁷⁰ among other things. Aside the FCCPA, there are also other specific laws that regulate consumer protection in Nigeria. These include:

Standard Organization of Nigeria Act 2015

The Act regulates the quality of products produced in Nigeria and imported goods by ensuring that locally manufactured products in Nigeria give consumer the required degree of satisfaction; and that goods imported into Nigeria are safe and meets the stipulated standard for imported goods. The Act also established the Standard Organization of Nigeria as its agency to ensure implementation of the Act.

***National Agency for Food and Drug Administration and Control Act (NAFDAC) 2004*⁷¹**

The National Agency for Food and Drugs Administration and Control Act (NAFDAC) 2004, regulates and controls the manufacture, importation, advertisement, distribution, sale and use of food, drugs, cosmetics, medical devices, chemicals and packaged water and beverages in Nigeria. The Act established the NAFDAC as its agency to ensure compliance with the provisions of Act and the protection consumers in that regard.

Electric Power Sector Reform Act 2005

The Electric Power Sector Reform Act, 2005 regulates electricity supply/distribution in Nigeria by among other things ensuring fair prices by electricity supply/distribution licensees; safety, security, reliability and quality of services in the production and delivery of electricity to consumers. The Act established the Nigerian Electricity Regulatory Commission (NERN) and empowered it to make rules and regulations to enhance electricity supply/distribution in Nigeria. Pursuant to this power, the Nigerian Electricity Regulatory Commission (NERC) issued the Nigerian Electricity Regulatory Commission (NERC) Customer Service Standards of Performance for Distribution Companies, 2007 and the Customer Complaints Handling: Standards and Procedure, 2006 all in the bid to ensure the protection of the rights, interests and welfare of electric consumers

Nigerian Broadcasting Act 2004

The Nigerian Broadcasting Commission (NBC) Act 2004 regulates practices in the broadcasting space in Nigeria. The Act established the Nigerian Broadcasting Commission and charged it with the power to receive, consider and investigate complaints of consumers in broadcasting services in Nigeria. Sequel to this responsibility, the NCC issued the General Consumer Code of Practice, 2018.

***Central Bank of Nigeria and Banks and Other Financial Institutions (Amendment) Act*⁷²**

The Central Bank of Nigeria Act (as amended) and the Bank and Other Financial Institutions Act, 2020 regulates the banking sector and other financial transactions in Nigeria.⁷³ The Act established the Central Bank of Nigeria. Pursuant to the power conferred on the Central Bank of Nigeria under the Central Bank of Nigeria Act (as amended) and the Banks and Other Financial Institutions Act, 2020, the Central Bank of Nigeria issued the Consumer Protection Regulation, 2019 to protect and promote consumers' rights in Nigeria.

***Investment and Security Act*⁷⁴**

The Securities and Exchange Act is the primary legislation for the regulation of the Stock Exchange. The Act established the Securities and Exchange Commission as its agency to ensure fair market practices at the Stock market.

Nigerian Communications Commission (NCC)

The Nigerian Communication Commission is an important body charged with the responsibility of regulating of practices in the communication and protecting and promoting the rights, welfare and interests of communication services consumers against obnoxious, unconscionable and unhealthy communication services practices in Nigeria. Sequel to this responsibility, the NCC issued the General Consumer Code of Practice, 2018.

***Qualification of Service Regulations 2013*⁷⁵**

The Qualification of service Regulation, 2013 made by the Nigerian Communication Commission pursuant to the section 70 of the Nigerian Communications Act, 2003 is aimed at ensuring the protection and promotion of the interest of consumers against unfair practices including matters relating to tariffs and charges; the availability and quality of communication services, equipment and facilities. It is also regulating Improvement in service quality by identifying service deficiencies and by encouraging, enforcing, effecting or requiring appropriate changes and solutions; and maintaining service quality, while recognizing environmental and operating conditions; as well as making available information that will help customers make an informed choice of services and service provider. The regulations shall improve the operation and performance of interconnected networks and assist the development of related telecommunications markets.

***Utility Charges Commission (Amendment) Act*⁷⁶**

The Act amends the utilities charges Commission Act to review the fines stipulated for offences under the Act.

Nigerian Civil Aviation Authority Act (NCAA) 2006

The Nigerian Civil Aviation Authority Act, 2006 regulates the aviation industry in Nigeria. Pursuant to this Act, the Nigerian Aviation Authority was established as an agency to implement the Act and with power to make rules and regulations to that effect. In accordance

⁶⁹ FCCPA, section 124.

⁷⁰ FCCPA, section 131.

⁷¹ Cap N1 Laws of the Federation of Nigeria, 2004.

⁷² 2020.

⁷³ Central Bank of Nigeria Act, 2007, section 2(d).

⁷⁴ 2007

⁷⁵ 2013.

⁷⁶ 2016.

with this power, the Nigerian Aviation Authority established a Consumer Protection Department to this power, to address consumer complaints and ensure the best of aviation services to them. Besides, the NCA also issued the Nigeria Customer Aviation Regulations, 2015 to further promote consumer protection in the aviation sector by particularly providing for compensation for denied boarding, delays, and cancellation of flights.

Counterfeit and Fake Drugs Unwholesome Processed Foods (Miscellaneous Provisions) Act⁷⁷

The FCCPA recognizes these other legislations, rules and regulation relating to consumer protection in Nigeria. However, the provisions of these legislations, the provisions are to be read with such modifications as to bring them into conformity with the provisions of the FCCPA. Aside the above laws, the FCCPC has also entered into a number of Memoranda of Understanding ('MOU'). Examples of such are that entered into with Nigerian Shippers Council in January 2020 to ensure fair competition among operators in the shipping industry. Again, in October 2020 signed a tripartite MOU with the Nigerian Economic and Financial Crimes Commission and the United States Federal Trade Commission ((USFTC), for the purpose of strengthening cooperation and collaboration in addressing mutual cross-border consumer protection/fraud concerns and problems. The updated version of the MOU seeks to reaffirm the parties' intention to work together and establish a Joint Implementation Committee to develop joint training programs and provide assistance on specific investigations. Over and above all, the FCCPA provides that that its provisions shall override the provisions of any other legislation in all matters respecting competition and consumer protection subject to the provisions of the Constitution.⁷⁸

Institutional Framework, Regulatory Agencies and Adjudicatory Bodies

There are numerous institutions/regulatory agencies and adjudicatory bodies in place to promote consumer protection in Nigeria. However, the Federal Competition and Consumer Protection Commission and the Competition and the Consumer Protection Commission Tribunal are the primary institution and adjudicatory body established by the Federal Competition and Consumer Protection Act and directly concerned with consumer protection in Nigeria.

Federal Competition and Consumer Protection Commission (FCCPC)

The Federal Competition and Consumer Protection Commission (FCCPC) is an important and key commission established under the FCCPA.⁷⁹ It is an independent⁸⁰body corporate with perpetual succession and a common seal.⁸¹ It has power to sue and be sued in its corporate name;⁸² and has power to acquire and dispose of property- movable or immovable.⁸³ The FCCPC is charged with the functions of the Commission are provided under sections 17(a)-(z)⁸⁴ and among other things include: the responsibility to administer and enforce the provisions of the Act and any other law relating to competition and consumer protection;⁸⁵ to initiate and review economic policies in Nigeria and make rules and regulations for the promotion of economic interests of consumers;⁸⁶ to advise the Federal Government in that regard;⁸⁷ to make annually report on market practices and the implication of same for consumer choice;⁸⁸ to carry out investigations on the matters within the scope of the Act (FCCPA);⁸⁹ to advise the Federal Government on matters pertaining to the Act and also make recommendations for the review of policies, legislations and subsidiary legislations for the promotion of competition and consumer protection;⁹⁰ to eliminate anti- competitive agreement, unfair, misleading, deceptive and unconscionable market practices;⁹¹ resolve disputes arising from the above matters and apply sanctions;⁹² give and receive advise to regulatory agencies;⁹³ create public awareness to the public through seminars, workshops and the like;⁹⁴ to authorize, with or without conditions, prohibit or approve mergers;⁹⁵ to protect and promote consumer interest;⁹⁶ to regulate or seek means of eliminating hazardous goods and services from the market;⁹⁷ among other functions.⁹⁸

The Commission has the power to establish Departments and Units as are appropriate for the effective discharge of its functions under section 17;⁹⁹ to prevent the circulation of goods or services which constitutes a public hazard or imminent public hazard;¹⁰⁰ to compel relevant stakeholders like producers, manufacturers, suppliers, wholesalers, retailers and services providers to comply with the provisions of the Act (FCCPA);¹⁰¹ to cause quality test to be conducted on consumer goods as it is appropriate;¹⁰² compel relevant stakeholders like producers, manufacturers, suppliers, wholesalers, retailers or other undertakings where necessary to certify that all standards are met in

⁷⁷ Cap C34, Laws of the Federation of Nigeria 2004.

⁷⁸ FCCPA, section 104.

⁷⁹ FCCPA, section 3(1).

⁸⁰ FCCPA, section 3(2).

⁸¹ FCCPA, section 3(3)(a).

⁸² FCCPA, section 3(3)(b).

⁸³ FCCPA, section 3(3)(c).

⁸⁴ FCCPA.

⁸⁵ FCCPA, section 17(a).

⁸⁶ FCCPA, section 17(b).

⁸⁷ FCCPA, section 17(c).

⁸⁸ FCCPA, section 17(d).

⁸⁹ FCCPA, section 17(e).

⁹⁰ FCCPA, section 17(f).

⁹¹ FCCPA, section 17(g).

⁹² FCCPA, section 17(h).

⁹³ FCCPA, section 17(i).

⁹⁴ FCCPA, section 17(j).

⁹⁵ FCCPA, section 17(k).

⁹⁶ FCCPA, section 17(l).

⁹⁷ FCCPA, section 17(m).

⁹⁸ FCCPA, section 17(n)-(z).

⁹⁹ FCCPA, section 18(1)(a).

¹⁰⁰ FCCPA, section 18(1)(b).

¹⁰¹ FCCPA, section 18(1)(c).

¹⁰² FCCPA, section 18(1)(d).

their goods and services; and give public notice of any hazards associated with their or goods or services;¹⁰³ to seal up any premises on reasonable suspicion that such premises contain, harbour or are being used to produce or disseminate goods or services that are fake, substandard, hazardous goods;¹⁰⁴ undertake studies and public reports or provider information on matters that affect the interest of consumers and to assist or bodies or persons for the purpose of ensuring compliance with the provisions of the Act;¹⁰⁵ and to make regulations relating to the charging and collection of fees, levies, fines and the imposition of administrative penalties.¹⁰⁶ The FCCPA also empowers the Commission to make rules and regulations regarding consumer protection in Nigeria. It is pertinent to note here that in pursuance of this provision, the Commission the FCCPC (Sales Promotion) Registration Regulations, 2005; the FCCPC Guidelines for Sales Promotion Registration; the FCCPC Business Guidance Relating to COVID-19 on Business Co-Operation/Collaboration and Certain Consumer Rights under the FCCPA, 2020 (Business Guidance), the FCCPC (Administrative Penalties) Regulations, 2020, and FCCPC Investigative Cooperation/Assistance Rules & Procedure, 2021. Important too is the adoption of the Guiding Principles for Sustainable Consumption proposed on the annual World Consumer Rights Day of 2020 (also known as Sustainable Consumption Principle)

Competition and Consumer Protection Tribunal

The Federal Competition and Consumption Act established the Competition and Consumer Protection Tribunal (CCPT)¹⁰⁷ with the power to adjudicate conducts prohibited under the Act and exercise jurisdiction, powers and authority conferred on it under the Act or any other enactment.¹⁰⁸ The Tribunal shall have jurisdiction throughout the federation.¹⁰⁹ In accordance with section 47(1),¹¹⁰ the Tribunal shall among other things have the power: to hear appeal from or review any decision of the Commission in furtherance of the implementation of the provisions of the Act as may be referred to it;¹¹¹ to hear appeals from or review any decision from the exercise of the powers of any sector of specific regulatory authority in a regulated industry in respect of competition and consumer protection matters;¹¹² to issue such orders as may be required of it under this Act;¹¹³ and to make any ruling or such others as may be necessary or incidental to the performance of its functions under the Act.¹¹⁴ However, section 47(2) of the FCCPA is to the effect that notwithstanding the provisions of section 47(1)(b), all requests for review of the exercise of the power of any sector of specific authority shall first be heard and determined by the Commission (FCCPC) before such appeals can lie before or determined by the Tribunal. In order to discharge its functions under the Act establishing it, the Tribunal shall have the power to:

- (a) summon and enforce the attendance of any person, including the power to examine a person under oath;¹¹⁵
- (b) require the discovery and production of documents;¹¹⁶
- (c) call for and examine witnesses under oath;¹¹⁷
- (d) receive evidence on affidavits;¹¹⁸ and
- (e) do anything which, in the opinion of the Tribunal, is deemed necessary to issue a final and reasoned decision on the merit of the matter before it.¹¹⁹

The Tribunal may also have the power to impose administrative penalties only for the

- a. prohibited practice under the Act;¹²⁰ or
- b. the contravention of, or failure to comply with, an interim order of the Tribunal.¹²¹

However, such penalty shall not exceed 10% of the undertaking's annual turnover in Nigeria and its exports from Nigeria during the preceding financial year.¹²² To facilitate its functions, the Tribunal may make rules regulating its procedures.¹²³ Apart from the FCCPC, there are other specific institutions (sector regulators) responsible for consumer protection. Besides, the FCCPA provides that other sector regulators with consumer protection oversight shall be deemed to have a concurrent jurisdiction with the FCCPC, and in the event of conflict between other sector regulator and FCCOC, the FCCPC will have precedence over such sector regulator. These include:

Central Bank of Nigeria (CBN)

The Central Bank of Nigeria has as one of its core functions, the promotion of a sound financial system in Nigeria¹²⁴ so as to among other things promote the safety and stability of the financial system for the purposes of promoting public confidence. This function is discharged through the Financial System Stability Directorate. Consumer protection exists in the form of customer complaint management. Although limited as a result of financial literacy of the customer of banking products and services in Nigeria. This serves to protect the right of consumers of financial products and services. Pursuant to the power conferred on the Central Bank of Nigeria

¹⁰³ FCCPA, section 18(1)(e).

¹⁰⁴ FCCPA, section 18(1)(f).

¹⁰⁵ FCCPA, section 18(1)(g).

¹⁰⁶ FCCPA, section 18(1)(h).

¹⁰⁷ FCCPA, section 39(1).

¹⁰⁸ FCCPA, section 39(2).

¹⁰⁹ FCCPA, section 39(3).

¹¹⁰ FCCPA.

¹¹¹ FCCPA, section 47(1)(a).

¹¹² FCCPA, section 47(1)(b).

¹¹³ FCCPA, section 47(1)(c).

¹¹⁴ FCCPA, section 47(d).

¹¹⁵ FCCPA, section 50(2) (a).

¹¹⁶ FCCPA, section 50(2) (b).

¹¹⁷ FCCPA, section 50(2) (c).

¹¹⁸ FCCPA, section 50(2) (d).

¹¹⁹ FCCPA, section 50(2) (e).

¹²⁰ FCCPA, section 51(1) (a).

¹²¹ FCCPA, section 51(2) (b).

¹²² FCCPA, section 51(2).

¹²³ FCCPA, section 50(1).

¹²⁴ Central Bank of Nigeria Act, 2007, section 2(d).

under the Central Bank of Nigeria Act (as amended) and the Banks and Other Financial Institutions Act, 2020, issued the Consumer Protection Regulation, 2019 to regulate consumer protection practices in the financial sector under the watch of the Central Bank of Nigeria.

Standard Organization of Nigeria (SON)

The Standard Organization of Nigeria established by the Standard Organization of Nigeria Act, 2015 is also charged with the power to ensure that locally manufactured products in Nigeria give consumer the required degree of satisfaction; and that goods imported into Nigeria are safe and that they meet the required import conditions.

National Agency for Food and Drug Administration and Control (NAFDAC)

National Agency for Food and Drug Administration and Control (NAFDAC) was established by the National Agency for Food and Drug Administration and Control (NAFDAC) Act as an agency of the Federal Ministry of Health to ensure consumer protection by regulating and controlling the manufacture, importation, advertisement, distribution, sale and use of food, drugs, cosmetics, medical devices, chemicals and packaged water and beverages in Nigeria.

Nigerian Communications Commission (NCC)

The Nigerian Communication Commission is an important body charged with the responsibility of regulating of practices in the communication and protecting and promoting the rights, welfare and interests of communication services consumers against obnoxious, unconscionable and unhealthy communication services practices in Nigeria. Sequel to this responsibility, the NCC issued the General Consumer Code of Practice, 2018.

Nigerian Electricity Regulatory Commission (NERC)

Nigerian Electricity Regulatory Commission (NERC) is a sector regulator for electricity supply. It was established by the Electric Power Sector Reform Act, 2005 and empowered by the Act establishing it to among other things: ensure that the prices by electricity supply/distribution licensees are fair to consumers; safety, security, reliability and quality of services in the production and delivery of electricity to consumers. Pursuant to this power, the Nigerian Electricity Regulatory Commission (NERC) issued the Nigerian Electricity Regulatory Commission (NERC) Customer Service Standards of Performance for Distribution Companies, 2007 and the Customer Complaints Handling: Standards and Procedure, 2006 for the protection of the rights, interests and welfare of electric consumers.

Nigerian Broadcasting Commission (NBC)

The Nigerian Broadcasting Commission (NBC) Act 2004 established the Nigerian Broadcasting Commission (NBC) as a sector regulator for the consumers and stakeholders in the broadcasting and communication industry.

Other sector regulators include: the Nigerian Civil Aviation Authority (NCAA) established pursuant to the Nigerian Civil Aviation Authority (NCAA) Act to promote and protect consumers in the aviation sector; and the Securities and Exchange Commission (SEC) Act.

5. Efforts at Consumer Protection in Nigeria

Nigeria has been making a number of efforts to ensure consumer protection in Nigeria. This effort is basically aimed at protection of consumers against unhealthy, harmful and unsafe market practices. To that effect, the Consumer Protection Act was enacted. The said Act also established an agency known as the Consumer Protection Commission with the power to make rules and regulations aimed at promoting consumer protection. However, with the intention to further protect consumers, the CPA was repealed by the Federal Competition and Consumer Protection Act to better protect consumers. Federal Competition and Consumer Act, 2019 which is the primary legislation for consumer protection in Nigeria, generally protect consumers in Nigeria. This is evident in the numerous rights available to them under the Act, These rights include:

Right to have Information in Plain and Understandable Language

Under the FCCPA, as part of the mechanisms put in place for consumer protection, a consumer is entitled to have information in plain and understandable language.¹²⁵ This is particularly necessary where the nature of the products and services requires such information. The test of whether the requirement of the right is satisfied is based on the reasonable man's test of the standard of the person to whom the information is given. A customer is also entitled to adequate information of every transaction, including the tax payable.

Right to Disclosure of Price of Goods and Services

A consumer is also entitled to have the prices of goods and services clearly displayed;¹²⁶ and must not be made a price higher than what is displayed.

Right to Cancel Advance Reservation, Booking or Order

A customer is further entitled to cancel advance reservation, booking or order for goods and services.¹²⁷ However, this may be subject to penalty of an amount not be unfair or excessive in relation to the nature of the transaction. Further to this is the right to reject goods before completing the transaction.

Right to Choose or Examine Goods

A consumer reserves the right to choose and examine the goods he intends to purchase¹²⁸ so as to ensure that they are in good conditions. A customer shall not also be given any condition before the purchase of any goods.

¹²⁵ FCCPA, section 115.

¹²⁶ FCCPA, section 116.

¹²⁷ FCCPA, section 120.

¹²⁸ FCCPA, section 121.

Right to Adequate Trade Description and Product Labeling

A producer, supplier etc is bound to supply adequate, true, and clear description of products and where applicable label them appropriately. A customer is bound to be informed where goods are second-hand, repackaged or refurbished.

Right to Reject and Return Goods

Goods must correspond with samples and descriptions and must serve or satisfy the purpose for which the consumer is buying them. However, where a customer is unable to examine such goods as a result of the nature of the goods and packaging or where such goods does not satisfy the purpose of which the consumer is buying them (earlier communicated to the supplier/producer), a consumer is entitled to reject and return such goods if there is a mismatch between the samples/descriptions and what the customer intends to buy.¹²⁹

Right to Fair Dealings

The overall purpose objective of the FCCPA is the protection of the welfare and interest of the consumer. Hence, a consumer is protected against misleading, false, fraudulent and deceptive information.¹³⁰ A consumer must not also be coerced, unduly influenced or taken advantage of, harassed or threatened in the bid to make purchase goods or services. Prices of goods and terms of transactions must not also be unfair, unjust, unreasonable or unconscionable.

Right to Safe and Quality Goods

A consumer is entitled to safe and quality goods¹³¹ delivered in good condition. They must be 'usable and durable for a reasonable period of time and comply with any applicable standards set by industry sector regulation'.¹³² Again, where a consumer has earlier communicated to a supplier/producer/retailer the purpose the goods are expected to serve, such goods must meet such purpose.

Right to Quality Service

Just like the right to safe and quality goods, a consumer is also entitled to quality services. This entails performance of quality, timely and completion of service free from defect. A consumer must therefore be duly and timely notified in case of delay otherwise, the consumer will be entitled to the defect being remedied and refund of a reasonable part the price paid for the service.¹³³

The overall aim of this Act is to therefore promote and ensure a competitive market in Nigeria devoid of obnoxious and restrictive practices thereby protecting the welfare and interest of consumers in Nigeria. In addition to these rights, the FCCPA also established the FCCPC – the Commission of the FCCPA thereby repealing the Nigerian Consumer Protection Council. The FCCPC is charged with the responsibility of the 'promotion of competition in the Nigerian market at all levels by eliminating monopolies, prohibiting abuse of dominant market position and penalizing other restrictive trade and business practices.' The FCCPA also empowered the Commission to make rules and regulations respecting consumer protection in Nigeria. The Commission is particularly charged it with the power to summon and enforce the attendance of any person, including the power to examine a person under oath;¹³⁴ require the discovery and production of documents;¹³⁵ call for and examine witnesses under oath;¹³⁶ receive evidence on affidavits;¹³⁷ and do anything which, in the opinion of the Tribunal, is deemed necessary to issue a final and reasoned decision on the merit of the matter before it.¹³⁸ The Commission has been up and doing with regards its functions under the said Act. The Commission has been responsible for the protection of consumer interests through information, education, and enforcement of the rights of consumers. For instance, following the covi-19 pandemic in 2020, the social media was flooded with report by a consumer by about 300% hike in the price of hand sanitizers thereby worsening the flight of Nigerians who are seeking solution to the corona virus pandemic. The Commission swung into action by first condemning the act through a press release; and putting a stop to the arbitrary hike. It also educated the public on its rights under the FCCPA and the remedies available to them in the event of breach.

Important to the protection is the establishment of the Tribunal (CCPCT) with the power to hear all matters respecting competition and consumer protection in Nigeria. Hence, the Tribunal shall hear appeal from or review any decision of the Commission in furtherance of the implementation of the provisions of the Act as may be referred to it;¹³⁹ to hear appeals from or review any decision from the exercise of the powers of any sector of specific regulatory authority in a regulated industry in respect of competition and consumer protection matters;¹⁴⁰ to issue such orders as may be required of it under this Act;¹⁴¹ and to make any ruling or such others as may be necessary or incidental to the performance of its functions under the Act.¹⁴² In the event of any breach of the above rights, consumers are entitled to seek redress by launching a complaint before the FCCPC ('the Commission'). A consumer has also to seek redress in a court of competent jurisdiction. The Commission has the power to investigate and issue orders which shall be registered in the Court as consent order of the Court.¹⁴³ However, despite these lofty provisions and effective institutions, consumer protection remained at the lowest ebb in Nigeria as a result of numerous challenges.

¹²⁹ FCCPA, section 122

¹³⁰ FCCPA, section 124.

¹³¹ FCCPA, section 131.

¹³² F Saiki, 'Nigeria: The Rights of a Consumer under the Federal Competition and Consumer Act of Nigeria', December, 2019. Available at <https://www.mondaq.com/nigeria/dodd-frank-consumer-protection-act/877838/the-rights-of-...> Accessed 27 July 2022.

¹³³ *Ibid.*

¹³⁴ FCCPA, section 50(2) (a).

¹³⁵ FCCPA, section 50(2) (b).

¹³⁶ FCCPA, section 50(2) (c).

¹³⁷ FCCPA, section 50(2) (d).

¹³⁸ FCCPA, section 50(2) (e).

¹³⁹ FCCPA, section 47(1) (a).

¹⁴⁰ FCCPA, section 47(1) (b).

¹⁴¹ FCCPA, section 47(1) (c).

¹⁴² FCCPA, section 47(d).

¹⁴³ F. Saiki above note 105.

6. Challenges to the Protection of Consumers in Nigeria

Ignorance- Consumers in Nigeria are ignorant of their rights under the FCCPA¹⁴⁴. However, those who do, are not aware about the procedure for seeking redress. Lack of appropriate information; awareness and the prevalence of illiteracy in Nigeria is a grave challenge to the protection of consumers in Nigeria. This is so, in view of the fact that fraudulent and negligent acts of the manufacturers/ producers and service providers against consumers is the target of the consumer protection Laws, policies and measures, and ignorance of these provisions of the law poses a great challenge in achieving this aim. In other words, effective enforcement would be a mirage in the face of ignorance, hence the need for proper education and creation of awareness.

Corruption and Lack of Interest – Corruption and other factors in the system has affected consumer’s interest and willingness to seek remedy or redress to incidences of violations of consumer protection laws in Nigeria. In a system filled with delays and inefficiency, the willingness and enthusiasm to approach the authorized agencies and the courts for protection and promotion of rights is hardly there. In a society, effective implementation of laws and policies is done through very effective authorized government agencies, and in the event, officials are corrupt, there will be weak or no implementation at all. A study found many more consumers are reluctant to seek redress in the event of the breach of their rights for lack of confidence in the courts¹⁴⁵. Important also is the fact that the personnel of the relevant agencies charged with the facilitating and investigating consumer protection matters are corrupt¹⁴⁶. It is advocated that effective implementation of the consumer protection laws by adequate funding, equipping, training and monitoring of the regulatory and authorized agencies will help curb the issue of corruption and restore confidence and interest in the system

Attitude of Courts- Again, the judicial attitude (as evidenced by some judicial decisions) is not encouraging. In *Nigeria Bottling Company v Olarewaju*¹⁴⁷ Olarewaju, on case of product liability of a manufacturer, the Court of Appeal held there was liability as follows: ‘Thus there must be proven direct link between the food /drink ingested and the subsequent ailment of the complainant. I have no reason to disagree with this stand. To make the standard of proof less, might open a floodgate of litigation based on spurious and untrue assertions against manufacturers. This would have the reverse effect of defeating the very mischief sought to be cured by placing a burden of care on manufactures of consumables. As opined earlier, there is high standard of advancement in technology in Nigeria to enable a genuine person aggrieved by then negligence of multinational companies to affix liability on them by linking their products directly with the ailment complained of- PER Ogunwumiju JCA. A See also *Nathaniel Ebelamu v Guinness Nigeria Ltd.*¹⁴⁸ However, contrary decisions were held to the effect that manufacturers of products owe a duty of care to the ultimate consumer or user in *Okwejiminor v Gbakeji & Anor*¹⁴⁹, where, the Supreme court unanimously allowed the appeal and held ‘that manufacturers of products owe a duty of care to the ultimate consumer or user’. Per Muhammed JSC (pp. 58 para A-A). See also the case of *Seven Bottling Company Plc v Emmanuel*¹⁵⁰ Where the court also stated: ‘That duty of care in my opinion, he owes to those whom he intends to consume his products. He manufactures his commodities for human consumption. He intends and contemplates that they shall be consumed. By reason of that very fact, he places himself in a relationship which he assumes, and desire for his own ends imposes upon him a duty to take care to avoid injuring them. per Jombo -Ofo , JCA (pp 37-38 para E).

7. Prospects

The importance of according legal protection to consumers in Nigeria cannot be overemphasized. This is because an effective and efficient implementation of the Consumer protection laws and policies will guarantee protection and promotion of consumer’s rights with manufacturers/producers, and service providers in the Nigerian economy to a very large extent. The protection of consumers from unfair market practices, and from its devastating effects is paramount and can be achieved in an efficient and effective implementation of the extant Consumer protection laws and policies in Nigeria. Liability for violations of the laws and payment of fines and compensation to victims and other punishment would deter prospective violators of the law and ensure healthy market competition, increased productivity and diligence in manufacturing and selling of goods and rendering of services by manufacturers /producers and service providers to the benefit of the consumers.

Adequate funding, monitoring, supervision, training of personnel, and punishment of corrupt officials of authorized institutions saddled with regulation and protection of consumer rights will produce effective and efficient personnel/ officials and effective enforcement of laws and policies that will ensure protection of consumers rights in Nigeria as well as a strong system for seeking redress.

8. Conclusion

The work found that consumers are exposed to unsafe, defective and substandard goods and services with little or no liability against such manufacturers/producers and service providers, despite adequate provisions of the law for the protection of consumers in Nigeria. Ignorance; corruption of officials of authorized agencies; lack of interest and attitude of courts in some cases were challenges found to be confronting consumer protection in Nigeria This worrisome situation can only be addressed by the commitment of all stakeholders towards effective and efficient promotion and protection of consumers rights in Nigeria. To address these challenges, the study advocates for aggressive mass education; re-orientation of Nigerians about enforcement of the consumer rights; effective sanctioning of corrupt personnel of institutions saddled with the responsibility of consumer protection and violators of the extant Law.

¹⁴⁴ Open Society Initiative for Africa, ‘Research Report on the State of Consumer Protection in Nigeria: A Review of Consumer Protection in the Telecommunication Sector in Nigeria’, January 2014, 6. Available at www.consumerawareness-ng.org/ accessed 1 August 2022, note 24, 6.

¹⁴⁵ Open Society Initiative for Africa, above.

¹⁴⁶ Open Society Initiative for Africa, above.

¹⁴⁷ (2007) ALL FWLR (Pt. 364 360)

¹⁴⁸ (1980) IPLR, 538.

¹⁴⁹ (2008) LPELR- 2537 (SC)

¹⁵⁰ (2013) LPELR -20110(CA)