

A CRITICAL APPRAISAL OF THE MANDATES, CHALLENGES AND PROSPECTS OF CONSUMER PROTECTION COUNCIL OF NIGERIA

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ABSTRACT

The Consumer Protection Council of Nigeria is a parastatal of the Federal Government of Nigeria, supervised by the Federal Ministry of Trade and Investment. It is committed to protecting and enhancing consumers' interest through information, education and enforcement of appropriate standards for goods and services and to promote an environment of fair and ethical trade practices. It has the overall responsibility of protecting the Nigerian consumers from the ruthless exploitation of local and international commercial profiteers from the consumption of poor standards or adulterated goods and services not worth the monetary expenditure by the individuals and corporate bodies as well. This paper will critically appraise the establishment, mode of redress, penalties, challenges and prospects of the Consumer Protection Council of Nigeria as provided under the Act. This is to ascertain if it has met its responsibilities since its inception in 1999, or whether there are challenges to overcome and what the prospects of this agency serves in 21st century consumer law and practice. The author observed that the Council made provision for speedy redress for customers who are victims of unscrupulous manufactures and service providers. This paper concludes by commending the Council for being able to fulfil its mandate under the Act. Apart from its statutory responsibilities, it further provided opportunities to Nigerians to know their rights as consumers and the liability of manufacturers and service providers to consumers for sub-standard products and services.

INTRODUCTION

In all societies of the world, laws are enacted to protect the interest of individuals from unlawful acts by other members of the society. These acts go beyond the physical harm that results in bodily injury or for actions that

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could result in damages to one's reputation. In the case of the consumer, it is the position of the law that manufactured goods and services rendered by industries or producers are fit for human consumption and are not intended to short-change the consumers in terms of quality and quantity, neither is it meant to deceive the members of the public or cause any inconvenience that could result in harm requiring medical attention as a result of their consumption of such goods and services that are duly paid for and even provided with one form of warranty or another against harm by the producers.

Consumer protection laws is that area of law which checks the nefarious activities of producers of goods and services in order to ensure consumers get value for the goods and services paid for and consumed, protecting them against substandard and harmful products as they may not be knowledgeable as to the internationally accepted quality and standards.

The nature and extent of consumer protection regulation in a modern society says a great deal about that society, its social and economic development, its legal values, about its sense of justice, its political sophistication and maturity, its system of government, politics, policy making and priority.² This paper will subsequently examine the establishment, mandates, its modus operandi, challenges and prospects of the Consumer Protection Council of Nigeria.

ESTABLISHMENT OF THE CONSUMER PROTECTION COUNCIL OF NIGERIA

The Consumer Protection Council of Nigeria (hereinafter “the Council”) is a parastatal of the Federal Government of Nigeria. It was established by Act No. 66 of 1992 and it commenced operations in

2 N.M. Felicia, *THE CONSUMER AND CONSUMER PROTECTION IN NIGERIA: STRUGGLES, BURDENS AND HOPES*, 8 (2011).

1999³ when its institutional framework was put in place.⁴ The Consumer Protection Act (**hereinafter “the Act”**) established the apex and most direct consumer protection agency in Nigeria.⁵ The Council by law is charged with the administrative responsibility of ensuring that consumers’ interests receive due consideration at appropriate forum and providing redress in cases of unscrupulous exploitation of consumers by producers and service providers⁶ and this is provided for in the Consumer Protection Council Act, under Chapter C25, Laws of the Federation of Nigeria (LFN) 2004.⁷ The Act provided for the establishment of the Consumer Protection Council and for matters connected therewith. The Council is made up of a chairman, a representative of each state in the Federal Republic of Nigeria and persons representing the ministries of Health, Commerce, Industry, Science and Technology and Petroleum Resources.⁸ The Council as established is committed to protecting and enhancing consumers’ interest through information, education and enforcement of appropriate standards for goods and services and to promote an environment of fair and ethical trade practices.

THE MANDATES OF THE CONSUMER PROTECTION COUNCIL OF NIGERIA

The functions of the Consumer Protection Council of Nigeria are provided for under Section 2 (a) to (k) of Cap C25 LFN, 2004. The Council’s main functions include the following: To provide speedy redress to consumers’ complaints through negotiation, mediation and conciliation; seek ways and means of removing from the markets hazardous products

3 This Act was promulgated in Nigeria by Decree No. 66 of 1992, and signed into law on 23 November, now the Consumer Protection Council Act, Cap C25 LFN 2004.

4 Consumer Protection Council, http://cpc.gov.ng/?page_id=944 (last visited 23 March 2016).

5 See E.E. Ekanem, *Institution Framework for Consumer Protection in Nigeria*, 2(1) INTERNATIONAL JOURNAL OF ADVANCED LEGAL STUDIES AND GOVERNANCE 35 (April 2011).

6 *Id.*

7 Consumer Protection Council Act, Cap C25 LFN 2004, Section 1.

8 The Act, *supra* note 6, at Section 1(2)(a)-(c).

and causing offenders to replace such products with safer and more appropriate alternatives; publishing from time to time list of products whose consumption and sale have been banned, withdrawn, severally restricted or not approved by the Federal Government of Nigeria or foreign governments; causing an offending company, firm, trade association or individual to protect, compensate, provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, injurious, violent or highly hazardous. The Council will organise and undertake campaigns and other forms of activities that will lead to increased public consumer awareness; encouraging trade, industry and professional associations to develop and enforce in their various fields, quality standards designed to safeguard the interest of consumers. It will also issue guidelines to manufacturers, importers, dealers and wholesalers in relation to their obligation under the Act. Other mandates include encouraging the formation of voluntary consumer groups or associations for consumers' well being; ensuring that consumers' interests receive due consideration at appropriate fora and providing redress to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals; encourage the adoption of appropriate measures to ensure that products are safe for their intended or normal safe use and perform such functions as may be imposed on the council pursuant to the Act.⁹

The above responsibilities imposed on the Council by the enabling law, are achieved through mass media campaigns, workshops and seminars; mounting displays at events like trade fairs, exhibitions, etc., putting up public notices by erecting billboards, producing journals, pamphlets, leaflets, etc., on the viability of products in the market places and what quality is expected of services rendered by the service providers.¹⁰

⁹ The Act, *supra* note 6, Section 2(a)-(k).

¹⁰ Consumer Protection Council, *available at* http://cpc.gov.ng/?page_id=944 (last visited 25 March 2016).

Apart from the initial powers given to the Council under Section 2, additional powers were granted to the Council under Section 3(a) to (f) of the Act and these could be provided as follows: the Council can apply to the Court to prevent the circulation of any product which constitutes imminent public hazard, compel a manufacture to certify that all safety standards are met in their products, cause as it deems necessary, quality test to be conducted on a consumer product; demand production of label showing date and place of manufacture of a commodity as well as certification of compliance; compel manufacturers, dealers and service companies, where appropriate to give public notice of any public hazards inherent in their products; and ban the sale, distribution, advertisement of products which do not comply with safety or health regulations.¹¹

Under that Act, Part II established State Committees to assist the Council in discharging its responsibility under the Act at the State levels. The State Committee shall, subject to the control of the Council, receive complaints and enquiries into the causes and circumstances of the injury, loss or damage suffered or caused by a company, firm, trade, association or individual. It shall negotiate with the parties concerned and endeavour to bring about a settlement and where possible recommend to the Council the payment of compensation by the offending party to the injured consumer.¹² However, the State Committees do not seem to be effective as they are either not constituted by the Council or are not functional.

WHO IS A CONSUMER AND COMPLAINTS BY CONSUMERS UNDER THE ACT

Socio-economic and legal concepts like “consumer” defy universally acceptable definitions. According to Howells and Weatherill, defining a “consumer,” is an endemic problem. It involves shaping the operation and nature of the law.¹³ For both scholars, consumer protection law has

11 The Act, *supra* note 6, at Section 3 (a)-(f).

12 The Act, *supra* note 6, at Sections 4 and 5.

13 G. Howells and S. Weatherill, *CONSUMER PROTECTION LAW (MARKETS AND THE LAW)* 5 (2005).

fuzzy edges and includes paths to other areas of law and the bridges to other academic disciplines such as economics, politics, sociology and psychology.¹⁴ The Molony Committee on Consumer Protection adopted a rather restrictive definition, when it defined “consumer” as one who purchases (or hire purchases) goods for private use or consumption.¹⁵ O’Grady defines “consumer” as the final or end user of all goods and services produced in an economy.¹⁶ Tarr defines “consumer” as any person, natural or legal, to whom goods, services or credit are supplied or sought to be supplied by another in the course of a business carried on by him.¹⁷

It is believed, that from a literary point of view, a consumer is any individual or corporate body that has a pecuniary relationship with a manufacturer, for goods manufactured, supplied upon order either through hire purchase or direct purchase from the open market. Such goods must be consumable in their tangible form or services rendered by service providers that are consumable in their intangible form.

REDRESS UNDER THE ACT

The Act provides that where an investigation is made upon a complaint by a consumer and it is found that the consumer’s right has been violated by way of trade, provision of services, supply of information or advertisement, which resulted in injury or loss to the complainant, the consumer shall, in addition to redress imposed as a result of the complaint channelled through the State Committee, subject to that approval of the Council, have a right

14 *Id.*

15 Excerpts from the Final Report of the Committee on Consumer Protection, Presented to Parliament by the President of the Board of Trade by Command of Her Majesty, London: Her Majesty’s Stationery Office, p.1 (July 1962); *See*, E.E. Akhigbe *et al*, *Hopelessness of the King of Production in Nigeria: The Consumer Protection Council A Saviour or a Mirage?*, 12 US-CHINA LAW REVIEW 722 (2015).

16 O. Grady, *Consumer Remedies*, 60(4) CANADIAN BAR REVIEW 549 (1982).

17 O. Tarr, *Consumer Protection and the Market Place*, 5 OTAGO LAW REVIEW 397 (1995). *See also*, A.G. Eze, *Consumer Rights as Constitutional Rights - A Comparative Analysis of Some Selected Jurisdiction*, 2 NNAMDI AZIKIWE UNIVERSITY JOURNAL OF INTERNATIONAL LAW AND JURISPRUDENCE 185 (2011), available at <http://www.ajol.info/index.php/naujilj/issue/view/9555> (last visited 26 March 2016).

to civil action for compensation or restitution in any competent court.¹⁸ According to Felicia Monye, a foremost Consumer Law expert in Nigeria, this provision appears to broaden the chances of the consumer in seeking redress where his/her rights have been breached by producers of service providers. This section leaves no doubt as to whether civil action can be taken by any injured consumer. But it is not clear whether such action can be based on the breach of any of the provisions of the Act. In other words, it can be argued that the Act establishing the Council has revolutionized this branch of law by conferring civil rights for the breach of its provisions and if this is the effect, then the consumers' burden will be lightened, because he will not have to prove privity of contract or negligence on the part of the offender. This will constitute a positive departure from the position under other existing statutes which are all criminal-law based. It is suggested that, it should be interpreted as having this effect.¹⁹ In this instance, the hopes of an aggrieved consumer, who has no contractual relationship with the alleged offender, are not completely displaced.²⁰ Accordingly, in the event of product liability,²¹ an aggrieved consumer can maintain a civil action for the tort of negligence against anyone in the chain of production. To succeed in his action however, he needs to prove satisfactorily the ingredients of negligence established by the English House of Lords in *Donoghue v.*

18 The Act, *supra* note 6, at Section 8.

19 Felicia N. Monye, *LAW OF CONSUMER PROTECTION* 63 (2003).

20 *See*, E.E. Akhigbe *supra* note 14, at 719.

21 Product and services liability are concerned with the damage which products or services cause to persons or property (other than the defective product itself). Product and service liability are traditionally seen as being concerned with tort liability, where the duty of care has imposed obligations on businesses to protect consumers from physical damage to their person or property. By contrast, the purpose of contract law is to protect the economic interests of the consumer; as such, it is more concerned with defects in the quality of the product or service itself. *See*, Howells and Weatherill, *supra* note 12, at 213; *See also*, A. Clark, *The Consumer Protection Act*, 50(5) *THE MODERN LAW REVIEW* 614-622 (September 1987); *See also*, K. Cardwell, *The Consumer Protection Act 1987: Enforcement of Provisions Governing the Safety of Consumer Goods*, 50(5) *THE MODERN LAW REVIEW* 622-638 (September 1987); *See also*, J.O. Odion, *Privity of Contract and Consumer Protection in Nigeria: Matters Arising*, 1(1) *AMBROSE ALLI UNIVERSITY LAW JOURNAL* 28-37 (2009); E.E. Akhigbe *supra* note 14, at 726.

Stevenson,²² that is, the existence of a duty of care, breach of that duty by the alleged offender and consequential damage arising there from. From decided cases in Nigeria, the burden of proving the alleged duty of care and negligence of manufacturers, particularly given the fool-proof defence usually put forward by manufacturers with respect to breweries cases, has really been an onerous one.

PENALTIES UNDER THE ACT

It is the intendment of the drafters of the Act that where the manufacturer or distributor of a product is becoming aware of, after such a product has been distributed in the market, an unforeseen hazard resulting from the use of the product, such manufacturer/ distributor immediately notify the members of the public of such a risk or danger and cause to be withdrawn from the market of such a product. A violation of this provision is punishable to a fine of N50,000.00 or imprisonment for a term of five years or both fine and imprisonment.²³ Anyone who issues or aids in issuing any wrong advertisement about a consumer item,²⁴ sell or offer for sale any unsafe or hazardous goods or provide services or proffers an information or advertisement which causes injury or loss to the consumer, is guilty of an offence and is liable on conviction to a fine of N50,000.00 or imprisonment for a term of five years or both fine and imprisonment.²⁵ Under the Act, anyone who neglects or refuses to testify before the Council, State Committee, or to answer any lawful inquiry or to produce necessary documents as may be required of him, will be liable on conviction to a fine not less than N10,000.00 or imprisonment for a term of five years or both such fine and imprisonment.²⁶ The Act prohibits the making of false entry or statement in any report required to be made under the Act or false entry in any account, record or memorandum kept by any person, partnership,

22 Donoghue v. Stevenson, (1932) AC 562.

23 The Act, *supra* note 6, at Section 9(1)(2).

24 The Act, *supra* note 6, at Section 11.

25 The Act, *supra* note 6, at Section 12.

26 The Act, *supra* note 6, at Section 18.

company or trade association. Any person guilty of such an offence will be liable on conviction to a fine not less than N10,000.00 or imprisonment for a term of three years or both fine and imprisonment. This same penalty applies to anyone who violates any order of the Council or the State Committee.²⁷ In terms of penalty imposed, the Act provides a watertight provision against anyone who violates the provision of the Act in a bid to ensure that consumer rights in Nigeria are effectively protected, promoted and not violated at will by unscrupulous manufacturers, service providers and their accomplices.

The Act provides that a consumer or community that has suffered a loss, injury or damage as a result of the use or impact of any good, product or services may complain in writing to or seek redress through a State Committee and where such a complainant or person is an illiterate, the Committee shall cause such consumer or person's statement to be written at no fee or payment of any kind.²⁸ Again, the Committee may require the members of the executive or officials of the company, firm, trade, business, association or professional body in which a person complained against, to inquire into the complaint and report back to the State Committee within a specific period, for necessary action.²⁹

EXECUTING THE MANDATES OF THE COUNCIL UNDER THE ACT

Here, this paper examines cases involving the intervention of the Council on matters relating to its mandates under the Act with respect to customers who are victims of manufacturers' substandard products or poor services of service providers and the outcome of such interventions for the consumers on one side and producers or service providers on the other side:

27 The Act, *supra* note 6, at Sections 19 and 21.

28 The Act, *supra* note 6, at Section 6(1)(2).

29 The Act, *supra* note 6, at Section 7.

(a) Case of Negligence of Abuja Electricity Distribution Company (AEDC) resulting in the death of Samuel Ayodele

The Consumer Protection Council of Nigeria ordered the Abuja Electricity Distribution Company (AEDC) to pay the family of an electrocuted boy in Abuja the sum of N10 million because of its technical lapses and gross negligence. The Council stated that the order was as a result of a complaint from Tade Ayodele that a live electric cable fell from a pole at the Old Panteker Area of Kabusa, Abuja, in November 2015, causing the electrocution of his son, Samuel Ayodele. However, AEDC dissociated itself and denied responsibility from the incident.³⁰ Acting on the expert opinion of Nigerian Electricity Management Services Agency (NEMSA), the Council ordered AEDC to pay the family of the victim, the said compensation before the end of April 2016.³¹ The Council visited the site, conducted on-the-spot interviews with residents of the community and sought the technical opinion of the NEMSA.³² The Council stated that “technical opinion of NEMSA concluded that the accident occurred as a result of weak or bad low tension network and technical lapses on the part of AEDC.”³³ In reaching this conclusion, the Council agreed with and relied on the expert’s opinion of NEMSA, the sector regulator on quality and electricity materials. It consequently ordered the AEDC to pay the sum of N10 million to the complainant as compensation for the death of his son, Samuel Ayodele, ordering that, “AEDC has been served with the order, and must comply and revert to the Council on or before the 30 April

30 In its letter dated 7 December 2015.

31 F.A. Iloani, *Electrocution: CPC orders Abuja Disco to pay N10m for Negligence*, THE DAILY TRUST (29 February 2016) available at <http://www.dailytrust.com.ng/news/business/electrocution-cpc-orders-abuja-disco-to-pay-n10m-for-negligence/135798.html> (last visited 26 March 2016).

32 NEMSA was set up by the Federal Government to carry out testing and certification of electrical installations, electricity meters, instruments and commercial services on key critical areas of Nigerian electricity supply industry.

33 E. Ogenyi, *CPC orders AEDC to pay N10m compensation to family of boy electrocuted in Abuja*, THE DAILY POST (28 February 2016) available at <http://dailypost.ng/2016/02/28/cpc-orders-aedc-to-pay-n10m-compensation-to-family-of-boy-electrocuted-in-abuja/> (last visited 24 March 2016).

2016. The order has also been communicated to the Nigerian Electricity Regulatory Commission (NERC).”³⁴

(b) Case of MultiChoice Nigeria Limited, Provider of Digital Satellite Broadcast Television (DStv) Service

The Consumer Protection Council after an extensive investigation on alleged violation of the rights of consumers’ who subscribe to the services of MultiChoice, ordered MultiChoice Nigeria Limited, the provider of Digital Satellite Broadcast Television (DStv) service, to compensate its subscribers³⁵ by installing a billing system that would ensure that billing starts with the provision of service. It also ordered the company to, within 90 days, provide across-board compensation to subscribers, considering the fact that many of them have over time lost legitimate and paid viewing time by its conduct. Such compensation, was for, inter alia, not restoring service contemporaneously after payment as well as other instances of disruptions. The Council directed the company to, within 180 days, adopt a technology that supports suspension of service when subscribers are unable to enjoy their service on account of being away for a limited period of time.³⁶ It explained that such request for suspension of service could be done between 7 to 14 days and not more than twice in a year with a 72-hour notice to MultiChoice. On non-availability of popular channels in certain bouquets, the Council ordered the firm to, within 90 days, ensure reasonably equitable spread of popular sports and other channels. MultiChoice should also keep local and free-to-air channels open so that subscribers would have the opportunity of watching these channels, even when their subscriptions had expired. As a part of the deal, the company was required to present written assurances in line with Section 10 of the Council’s enabling law that it would not engage in any conduct detrimental to the interest of consumers. It was added that in the same vein, the company shall for 18 months from

³⁴ *Id.*

³⁵ E. Ogenyi, *CPC orders DStv to compensate consumers*, THE DAILY POST (28 February 2016) available at <http://dailypost.ng/2016/02/21/cpc-orders-dstv-to-compensate-consumers/> (last visited March 24 2016).

³⁶ *Id.*

the date of the orders, subject its processes to the Council's inspection to ensure compliance with the directives contained in the orders.³⁷

(c) Poor Services by Ethiopian Airlines Ground Staff to Check-in Passengers

In consonance with its mandate under the Act, the Consumer Protection Council kicked against the ill-treatment meted out to passengers of Ethiopian Airlines on 18 May 2013 at the Nnamdi Azikwe International Airport, Abuja, describing it as a violation of international best practices. The Council cautioned the airline based on several complaints received from passengers of the said flight, particularly those of the Business Class, who felt their rights were wantonly abused. The Council, noted that Ethiopian Airlines exhibited international best practices while in other routes, but displayed poor service delivery, while on Nigerian route.³⁸ The Council complained that the passengers were not only shabbily treated by the airline's ground staff members, but they were made to go through harrowing check-in process, faulty weighing scale and indiscriminate boarding. The Council pointed out that the process of checking in at the Business Class line was unnecessarily long, arduous and that "the complaints of passengers were met with an unapologetic wave of hand by the supervisor on duty, passing off the fault to system failure." The Council stressed that when the said male supervisor was accosted about his insolent attitude by one of the passengers on the queue, he became confrontational, recalcitrant and impenitent.³⁹

The Council also stated that "the weighing scale (used) by the check-in counter was faulty with the consequence that both Business and Economy passengers had to painfully queue on the same long line. At the end of a

37 Consumer Protection Council, available at <http://cpc.gov.ng/?p=1616> (last visited 24 March 2016).

38 *CPC Calls Ethiopian Airlines to order over passengers' ill-treatment*, THISDAY NEWSPAPER (13 June 2013) available at <http://www.thisdaylive.com/articles/cpc-calls-ethiopian-airlines-to-order-over-passengers-ill-treatment/150131/> (last visited 25 March 2016).

39 *Id.*

cumbersome check-in process, passengers were boarded without regard to their class of tickets, contrary to international best practices thus generating a rowdy process.”⁴⁰ The Council stated, in line with its mandate, that it “will carry out monitoring visits to assess the implementation of these recommendations and calls on Ethiopian Airlines to ensure proper service delivery to all passengers in line with their obligation under the International Air Transport Association (IATA).”⁴¹

(d) MTN Payment of N1.85mn to Short Changed Promo Winner

The Consumer Protection Council directed Mobile Telecommunication Network (MTN) Limited to pay N1,850,000 to one Omeje Chukwuma Fidelis who is one of the winners of its “Ultimate Wonder Promotion” show for lack of due diligence. The Council’s order came on the heels of a complaint brought by Omeje against the telecommunications giant that he had been underpaid after he was declared winner of N2 million in their sales promotion, held in 2012.

Omeje, who participated in the promo and was called through MTN Customer service line 180 on 10 October 2012 informing him that he had won N2 million in the Ultimate Wonder Promo and that on 12 October of the same year he got a text message informing him of the presentation ceremony fixed for 19 October 2012 at the Nikon Luxury Hotel in Abuja, the capital city of Nigeria. The complainant asserted that during the said ceremony, he was presented with a dummy cheque of N2 million with his name on it, interviewed and covered before the media and the entire world as a winner of the said amount.

40 *Id.*

41 *Id.* The International Air Transport Association (IATA) is an international trade association that supports airline activity and helps formulate industry policy and standards. It is headquartered in Montreal, Canada with Executive Offices in Geneva, Switzerland. *See*, CAPA Center for Aviation, International Air Transport Association, available at <http://centreforaviation.com/profiles/industry-associations/iata> (last visited 30 March 2016).

The Petitioner asserted that he was stunned to receive another call from same MTN line 180 on 2 November 2012 that he won N150,000 and was thereafter given a Verve ATM card for that amount. This prompted the Petitioner to approach the Council. When the Council intervened, MTN, responded by denying the claim of Omeje, that he was right from the on-set informed that he had won N150,000 and that the complainant fraudulently or deceitfully presented himself when winners in the N2 million category were called forward on the day of the prize presentation.

The company stated further that Omeje's antics were discovered on the verification of winners, which was done after the ceremony and he was thereafter contacted through its 180 line on his misrepresentation pursuant to which he apologised. The Council demanded for the call data of the communications of 10 October 2012 when Omeje was informed of his winnings of N150,000 but MTN failed, refused and neglected to comply with the request made both in 2012 and 2016. The Council in its Orders, frowned at the consistent refusal of MTN to provide "the call data records evidencing details of communication with the complainant," declaring that "in the absence of this material evidence which is solely in the possession of the respondent, the Council must resolve the issue in favour of the complainant."

(e) Arresting Hawkers Selling Controlled Medicines in Abuja

The Consumer Protection Council of Nigeria raided and apprehended medicine hawkers for selling controlled medicines in Abuja markets, motor parks and make-shift shops in uncompleted buildings, even after it had alerted relevant regulatory and security agencies of the implications of such sales to the welfare of Nigerian consumers. The Council, after investigation observed that controlled medicine such as Tramadol are freely being hawked in the markets and motor parks across the country, contrary to relevant regulations on the sale of such drugs. Tramadol, like drugs of its kind, can influence the mood and behaviour of people and are restricted to be sold strictly on doctor's prescriptions, a situation that the Council

observed was grossly violated. Again, the Pharmacy Laws in Nigeria do not permit the sale of such ethical drugs without doctor's prescription.⁴²

The Council communicated its discovery to other regulatory agencies like, the National Agency for Food and Drug Administration and Control (NAFDAC)⁴³ and the Pharmacists Council of Nigeria (PCN) with a list of pharmacy stores, which it discovered to be selling Tramadol without doctor's prescription to the PCN for possible disciplinary action, as well as Patent Medicines Stores operating illegally and selling drugs not covered by their schedule.⁴⁴

The Council advised consumers not to patronize pharmacies for such controlled drugs without doctors' prescription and to shun medicine-hawkers because they are possible sources of fake and substandard medicines.

(f) Probes of FCMB over alleged N1.86bn Excess Charges

The Consumer Protection Council of Nigeria summoned the management of First City Monument Bank (FCMB) for an investigation into an allegation by the Bauchi State Government of Nigeria, accusing the lender bank of charging N1.86 billion of excess interest on its account which amounts to gross exploitation. The Council stated the Bauchi State Government sent the petition to the agency after the Central Bank of Nigeria (CBN) declined further adjudication on the case through a letter dated 15 July 2015 to the petitioner, asking it to "seek alternative means of redress as the case is hereby deemed closed."⁴⁵

The Council waded into the lingering disagreement between the bank and its consumer with a letter dated 20 August 2015 requesting the lender

42 Consumer Protection Council, available at <http://cpc.gov.ng/?p=1163> (last visited 23 March 2016).

43 See, the National Agency for Food and Drug Administration and Control Act, Cap. N1 LFN 2004.

44 See, Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act 1999, now Cap. C34, Laws of the Federation of Nigeria, 2004.

45 Consumer Protection Council, available at <http://cpc.gov.ng/?p=1557> (last visited 23 March 2016).

to respond to the allegations contained in the complaint within seven days. The Council in a letter to the bank stated that “the Bauchi State government had alleged that the bank, without any prior information, charged 21 per cent interest rate per annum on two loans of N10 billion and N3 billion, which the bank granted on 22 January 2009 and 15 June 2011 respectively, both at the rate of 13 per cent interest per annum, and that this has resulted in excess interest charges on its account, amounting to the sum of N1,864,188,594.78 as in February 2014.”

The Council’s letter also stated that the state government further alleged that a review of its account with the bank showed inconsistencies in the application of interest rate with the rate going up as high as 54.46 per cent in some cases. It stated, in its letter to FCMB, “[T]hese allegations are very weighty because they suggest unscrupulous exploitation of the customer contrary to the Consumer Protection Council Act Cap. C25 Laws of the Federation 2004 and other enactments for the protection of consumers.”⁴⁶

(g) Case of Volkswagen-Nigeria over Emission Cheating Software

In trying to protect the consumers of Volkswagen products and the Nigerian populace, the Consumer Protection Council of Nigeria issued a seven-day ultimatum to Volkswagen Nigeria to provide information on the status of its vehicles in relation to the emissions cheating software, which has reportedly affected 11 million cars worldwide.⁴⁷

The Council on 26 October 2015 wrote to the Volkswagen Company that its “attention has been drawn to some publications in local and international media wherein Volkswagen automobile company has admitted

46 Meanwhile, in a notice of investigation, dated 3 September 2015, the Council had required officers or representatives of the bank “with sufficient knowledge of the facts surrounding the alleged violations to attend and testify before the Council on the 17 September 2015.” According to the Council the bank’s representatives are required to bring along print-out of the customer’s statement of account, loan agreement and/or any relevant documents, invoices, contracts, agreements, records or information that will assist in responding to the aforementioned concerns.

47 Consumer Protection Council, available at <http://cpc.gov.ng/?p=1595> (last visited 23 March 2016).

the allegation that certain illegal “defeat device” software was installed in Volkswagen vehicles to cheat emission test. The resultant effect of this on the environment and quality of these cars is of great importance. The Council further stated that, “the publications also indicated that Volkswagen had admitted that vehicles with 1.2, 1.6, and 2.0 litre EA 189 engines are all affected, (i.e. Golf, Beatle, Jetta and Passat models).” The Council took this step because it noted that Volkswagen has a huge market in Nigeria, with many customers who may currently be in possession of the affected models. The Council requested Volkswagen Nigeria to, within seven days of the receipt of its letter, make available to it the number of affected vehicles in Nigeria (if any), steps taken to inform and sensitise consumers and efforts being made to facilitate quick recall of such vehicles in the country. The Council’s directive was pursuant to the powers of the Council to compel manufacturers to give public notice of any hazard inherent in their products. The action was taken as result of the scandal that the Volkswagen diesel car engines were found to contain a software that can cheat pollution tests, making them seem cleaner than they actually are. Around 11 million vehicles worldwide manufactured between 2009 and 2015, including five million VW cars, 2.1 million Audi, 1.2 million Skoda, 700,000 Seat and 1.8 million vans, are confirmed to have been built with these so-called “defeat devices.” It should be noted that Section 9 of the Act imposes a duty on manufacturers and/or distributors of products who have become aware of any unforeseen hazard in their product to notify the public and cause such product to be withdrawn from the market. A breach of the provisions of the section attracts a fine of N50,000.00 or imprisonment for a term of five years or both.⁴⁸

CHALLENGES AND PROSPECTS OF CONSUMER PROTECTION COUNCIL OF NIGERIA

Despite the well-crafted legislation establishing the Consumer Protection Council of Nigeria which empowered it to carry out its objectives of

⁴⁸ The Act, *supra* note 6, at Section 9; *See*, E.E. Ekanem, 2 *Criminal Law: What Remedy for the Consumers of Hospitality Service*, THE NIGERIAN JUDICIAL REVIEW 7 (2013).

protecting the rights of the Nigerian consumers, the Council still suffers some socio-political challenges that hamper its ability to deliver its mandate under the Act. Some of the challenges faced by the Council in the course of fulfilling its mandate include: high level of ignorance among Nigerian consumers, bureaucratic bottlenecks; poor constitutional framework and corruption as well as ineptitude of law enforcement agents.⁴⁹ In terms of its prospects, the provision of the Act relating to “compensation order” has the potential of saving the consumer the rigors of litigation. Again, some scholars have argued that, with the growing level of consumerism among the public, stakeholders, government and non-government bodies in Nigeria,⁵⁰ there is a great prospect for the Council as expressed in the large number of cases it successfully intervened in, regarding violation of customers rights and rescuing the same from the vagaries of unscrupulous exploiters of the consumer’s ignorance or rather innocence is a testimony to the success of the Council in meeting its mandate as prescribed by the Act.

CONCLUSION

This paper concludes by stating that the Consumer Protection Council of Nigeria has fulfilled its mandate under the Act. It has been able to protect the Nigerian citizens from unlawful exploitation by manufactures of fake products and unreliable service providers and afford them the opportunity of addressing their claims through available dispute resolution mechanisms provided under the Act. The challenges faced by the Council are no doubt insurmountable considering the success rate recorded by the Council in the discharge of its services under the Act as enunciated in the course of the paper. The Council and its Officials in its seventeen years of active operation has assured the Nigerian consumers of their rights to: safety and protection from hazardous goods, services, and against fraudulent, deceitful or misleading practices. The right of access to accurate information and facts needed to make informed choices and decisions and the right to consumer

49 *How Protected are Nigerian Consumers?*, available at <http://nigeriaconsumers.com/blog/how-protected-are-nigerian-consumers/> (last visited 27 March 2016).

50 E.E. Akhigbe *supra* note 14, at 731.

education and to become a skilled and informed consumer capable of functioning effectively in the marketplace in the 21st century is promoted. As a result of the Council's operation, the rights of Nigerians to redress and to be compensated for misrepresentation, shoddy goods or unsatisfactory services through a Civil or Criminal Procedure were guaranteed.⁵¹

51 H. Mukhtar, *The Development of Consumerism in Nigeria: Prospects and Challenges*, 1(4) INTERNATIONAL JOURNAL OF ARTS AND COMMERCE 278 (2012).