

Every 15th March is set aside as the day to celebrate World Consumer Rights Day. This event sheds light on global awareness of consumer rights and needs. It is also a day for consumers to demand that their rights are respected and protected as well as protest market abuses and social injustices which undermine their consumer rights. Consumer laws function to protect and safeguard the rights and interests of consumers in society from unfair, unethical and unconscionable practices.



Legal Framework for the Protection of Consumer Rights

1. The Federal Competition and Consumer Protection Act (FCCPA), 2018

The FCCPA is the principal legislation that protects the rights, interests and welfare of consumers in Nigeria. Section 114 to 133 of the FCCPA makes provision for a wide range of consumers which are essential in this era where more consumers are tilting the scale in favour of e-commerce and purchasing from online vendors. Under the act, it is expected of vendors to give the consumers relevant details about the product in a clear and concise manner, the price of the goods or services should be disclosed without hidden costs. The act also places the following obligation on vendors and grants the following rights to consumers:

- Product labelling and trade descriptions.
- Right to disclosure of reconditioned or second-hand goods.
- Consumer's right to select suppliers.
- Consumer's right to cancel advance reservation, booking or order.
- Consumer's right to return goods - this section is one that has suffered gross violation as most vendors either refuse to accept returned goods, make it impossible to return or include a non-refundable and no exchange clause as a notice or in their terms of use
- Implied warranty of quality.
- Safety monitoring and recall

Regulator: Federal Competition and Consumer Protection Commission.



2. CBN's Consumer Protection Regulation 2019

According to a circular issued by the Central Bank of Nigeria dated 7 November 2016, the purpose of the Consumer Protection Framework (CPF) is to set a high standard for customer service delivery in the banking sector while ensuring financial institutions regulated by CBN do not violate the rights of consumers thereby enhancing consumer confidence in the financial services sector. In another circular dated 20th December 2019 the purpose of the regulation was to improve compliance of the Consumer Protection Framework (CPF) by Banks and other Financial and Non- Financial Institutions and all regulated institutions were asked to implement internal policies to be approved by their Board of Directors in compliance with the regulation.

Rule 3 of the Regulation makes provision for fair treatment of consumers to be:

- Treated equally without bias at all stages of the relationship,
- Give consumers who meet the minimum legal and non – discriminatory eligibility requirements, equal access to basic services without regard to their social status, physical ability, marital status, gender, age, religion, tribe or ideology,
- Treat consumers with courtesy and respect and shall not engage in practices such as threats, intimidation, use of abusive or offensive language, humiliation, misrepresentation, deception or unfair inducements
- Promptly oblige consumers' request for account closure or to switch providers, without unreasonable closing/switching barriers.
- Respond to customers' enquiries/requests within five (5) working days of receiving the enquiries/requests
- Not seek repayment or withhold, in part or in full, customer's funds to secure repayment before the due date, except with the written authorization of the customer etc.

Rule 4 makes provision for the following responsibility from the financial institution to the consumers:

- Disclose to the consumer in writing, all Terms and Conditions of a transaction agreement
- Clearly explain technical terms used in documents to the consumer to aid understanding.
- Agree with consumers on the communication channel(s) to be used for all correspondences and include the channel(s) in all contract documents.
- Ensure that their websites and other information dissemination channels are functional and regularly updated with the current features of products and services offered.
- Comply with the rates, fees, charges, or prices published or disclosed at the engagement points
- Notify consumers of any transaction on their account immediately it is made. At a minimum, the notification shall include date, amount, payer, transaction reference, channel and the cleared account balance.

Rule 5 provides that the privacy and confidentiality of consumer information and assets must be protected against unauthorized access, and financial institutions will be held accountable for acts or omissions in respect thereof. Written consent of the consumers must be obtained in order to collect and process their personal data for specific purposes and provide them with the option to withdraw the consent at any time. Financial Institutions are not to transfer personal data of consumers to a third party without their express consent, except in compliance with a legal obligation

Regulator: Central Bank of Nigeria.

3. Standards Organization of Nigeria Act (SON) 2015

The legislation places an obligation on local manufacturers as well as importers of consumer goods to ensure that the products and goods meet the required satisfaction of consumers. The act establishes a council that has the function of approving standards in respect of metrology, materials, commodities, structures and processes for the certification of products in commerce and industry throughout Nigeria.

Regulator: Standard Organisation of Nigeria.

4. Standard Organization Nigeria E-Commerce Regulation

The regulation introduces six consumer rights in section 4 namely:

- the right to obtain a reasonable benefit for product/service purchased
- right to safety from hazardous goods
- right to be informed about alternatives and protection from false claims
- right to privacy
- right to choose
- right to redress.

It also mandates businesses in the line of e-commerce to have efficient and responsive customer service and complaints handling mechanisms to address consumer complaints, ensure privacy and protection, disclose transparency in warranty and liability.

It also introduces duties of financial service providers acting as a payment processor, such as the duty to ensure data protection; duty to ensure privacy; duty to provide real-time information on transactions; duty to provide prompt notification on activity on customer account; and duty to provide prompt action on customer request based on feedback.

The regulation also provides for manufacturer/seller duties such as offering product or service, agreeing to produce the relevant product or component part of a product for consideration, and providing product or service in the condition agreed upon between self and consumer.

Introduces transactional stage rights were also introduced to ensure customers have access to information about delivery options, payment policies and procedures, withdrawal and cancellation policies, return and exchange policy, and applicable taxes and charges related to product/transaction.

Regulator: Standard Organisation of Nigeria.

5. Patients' Bill of Rights

According to a publication by the Consumer Protection Council and the Ministry of Health the PBoR is an aggregation of patients' rights that exist in other instruments including, The Constitution, Consumer Protection Act, Child Rights Act, Freedom of Information Act, Code of Medical Ethics, National Health Act, the Hippocratic Oath, other professional ethical codes and sundry regulations. The bill of rights lists out the following as the rights of patients. These rights include:

- Rights to have access to all relevant information in clear and simple words that the patient can easily understand, such as information about a diagnosis, treatment, prognosis, other procedures and possible outcomes.
- Right to full disclosure of cost or estimation of recommended treatment plan services.
- To be treated with respect & dignity, without prejudice to gender, religion, race, ethnicity, the allegation of crimes, geographic location, disability and socio-economic circumstances
- Right to receive urgent, immediate and sufficient intervention and care in the event of an emergency, prioritizing such needed attention over other factors including cost and payment, as well as law enforcement requirements.

Regulators: Federal Competition and Consumer Protection Commission, Federal Ministry of Health, Medical and Dental Council of Nigeria

6. Nigeria Data Protection Regulation 2019 (NDPR)

Although the FCCPA is the foremost legislation on consumer rights, the law fails to address consumer privacy or personal data, leaving the provisions of the NDPR as the only law that addresses the concerns of consumers with regards to their personal data. With commercial transactions increasingly involving the data of consumers, the need for the protection of consumers cannot be overstated.

The NDPR covers the processing of all personal data whether for personal, business or commercial purposes. By the provisions of Article 2.3(1) of the NDPR, the specific purpose of data collection must be made known to a data subject before obtaining his data. Section 2.2 also provides the acceptable basis for data collection while section 3 provides the rights of the data subject to be the following:

- Right to Access
- Right to Rectification
- Right to Portability
- Right to Restriction of processing
- Right to Erasure
- Restriction of Objection
- Right to lodge complaints with regulators

Regulator: National Information Technology Development Agency.

7. National Agency for Food and Drug Administration and Control (NAFDAC) Act 2004

The agency responsible for the regulation and control of importation, exportation, manufacturing, advertisement, distribution, sale and use of food, drugs, cosmetics, medical devices, bottled water and chemicals and in line with section 5 of the act they are charged with the responsibility to :

- Set out standard specifications and guidelines for the production, importation, exportation, sale and distribution of food, drug, cosmetics, medical devices, bottled water and chemicals;
- Undertake appropriate investigations into the production premises and raw materials for food, drugs, cosmetics, medical devices, bottled water and chemicals and establish relevant quality assurance systems, including certificates of the production sites and of the regulated products;
- collaborate with the National Drug Law Enforcement Agency in measures to eradicate drug abuse in Nigeria; advise Federal, State and local governments, the private sector and other interested bodies regarding the quality, safety, and regulatory provisions on food, drugs, cosmetics, medical devices, bottled water and chemicals; undertake and co-ordinate research programmes on the storage, adulteration, distribution and rational use of food, drugs, cosmetics, medical devices, bottled water and chemicals;
- issue guidelines on, approve and monitor the advertisement of food, drugs, cosmetics, medical devices, bottled water and chemicals etc

All of these are done to protect consumers from buying and using counterfeits and pirated products. Section 24(3) of the act provides that “Any article seized under this Act shall be kept or stored in such a place as the officer of the Agency may direct and shall be returned to the owner or the person from whom it was seized if the article upon analysis or examination is found to conform with the requirements of this Act and regulations”.

Section 25 (2) makes provision for what will be done to a person caught committing an offence listed in the Act and is guilty of an offence and liable on conviction to the penalties specified in the regulations. In the event that the offender is “a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officers of the body corporate or any person purporting to act in any of those capacities, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable on conviction to a fine of N 100,000. Subsection (5) grants the Federal High Court exclusive jurisdiction to try offences under this Act.”

Regulator: National Agency for Food and Drug Administration and Control.

8. Nigeria Communication Commission Consumer Code of Practice Regulations 2007

The purpose of the regulation is to provide a further definition of the procedures and substantive requirements for developing consumer codes that govern the provision of services by licensed telecommunications operators in Nigeria and related consumer practices.

According to the regulation a licensee is expected to prepare an individual unique consumer code based on the service, platforms used or types of services provided by individual licensees, such as wireless versus fixed line or telephone versus data services which shall include at least the terms and conditions of the General Code, or equivalent terms and conditions that are no less favourable to consumers than the General Code in line with Regulation 4 & 5.

This consumer code must be submitted within 30 days for approval by the commission and the licensee will be required to make a publication about it in two national newspapers or as otherwise directed by the Commission, and the approved individual consumer code shall govern the provision of services and related consumer practices applicable to that licensee beginning on the publication date.

Furthermore, the General Consumer Code Of Practice sections 6, 8, 9 and 11 found in the Nigeria Communication Commission Consumer Code of Practice Regulations Schedule makes the following provisions:

- Licensees shall provide Consumers with information on their services that is complete, accurate, up-to-date and in simple, clear language
- Before entering into a contract for any service, Consumers shall be provided a complete description of the service in clear and plain language, avoiding unnecessary technical terms. Where other services are required in order to effectively utilize the service, the Consumer shall be sufficiently informed of such requirements or service dependencies
- Before entering into a contract to provide services, the Licensee shall inform the Consumer as to whether there is any contractual warranty relating to products (if any) supplied for use in connection with the service, including how to obtain warranty service if needed and where a copy of the warranty is not provided with the products, the Licensee shall inform the Consumer how and where it is available.

Sections 34, 35 and 36 sets out the responsibility of a licensee in the protection of individual Consumer information such as:

- Any licensee that collects information on individual consumers shall adopt and implement a policy regarding the proper collection, use and protection of that information. Licensees shall ensure that any other licensees or other persons with whom they exchange or otherwise disclose such information have adopted and implemented appropriate protection of Consumer information policy.
- Licensees shall meet generally accepted fair information principles including (a) providing notice as to that individual Consumer information they collect, and its use or disclosure etc

Licensees must also make available to consumers the process for lodging a complaint in Section 39. Licensees may also not impose any disconnection or credit management action regarding any service to which a complaint or billing dispute relates while the complaint or dispute is being investigated under section 44.

Regulator: Nigeria Communication Commission.

9. Nigeria Communication Commission Quality of Service Regulations 2013

The scope of the regulation in section 2 covers the protection and promotion of the interests of consumers against unfair practices including matters relating to tariffs and charges, the availability and quality of communications services, equipment and facilities as well as improved service quality by identifying service deficiencies and by encouraging, enforcing, effecting or requiring appropriate changes and solutions.

Section 8 of the regulation mandates all telecommunications licensee to resolve any consumer complaint within the resolution-time stated in the regulation or as may be approved by the Commission from time to time and where there is a failure on the part of the licensee to do so, the licensee shall compensate the consumer in addition to paying any fines that may be imposed by the Commission.

Regulator: Nigeria Communication Commission.

10. Nigeria Communication Commission Competition Practices Regulation 2007

The regulation provides a regulatory framework for the promotion of fair competition in the communications sector and protection against the misuse of market power or other anti-competitive practices. Section 11 of the regulation makes reference to section 91(3) of the Nigerians Communications Act which prohibits licensees from entering into agreements or arrangements which provide for rate fixing, market sharing, or any boycotting of a competitor, supplier or licensee. It also prohibits licensees from requiring any person that acquires communications products or services, to acquire any other product or service, either from the licensee or another person, or directing them not to acquire any other product or service either from the licensee or another person.

Regulator: Nigeria Communication Commission.

11. The Nigerian Communications Commission Dispute Resolution Guidelines 2004

The Guideline is principally intended for small claims consumer disputes involving amounts in dispute not exceeding N1,000,000 (One million Naira). Its guideline states such cases are handled and resolved through arbitration s to obtain the fair resolution of disputes by an impartial arbitration without unnecessary delay and expense.

Regulator: Nigeria Communication Commission.

12. Part 19 of the Nigerian Civil Aviation Regulations

Part 19 provides for consumer protection regulations popularly known as the passengers' bill of rights. It deals with passengers' rights and responsibilities and airlines' obligations to passengers.

The law makes provision for the following: the right to the full value for your money, the right to compensation for flight cancellation, delays, damaged/loss baggage and denied boarding for reasons other than technical, weather conditions, air traffic control restrictions, security risks and industrial disputes that affect the operation of the flight, the right to book and confirm tickets with an airline of your choice, the right to the provision of a conducive airport environment before, during, and after flights, the right to seek redress for all irregularities during your flight, the right to timely feedback in respect of matters/complaints lodged with service providers and the right to be fully informed about flight status and the right to be treated with respect and dignity irrespective of race or physical condition.

- In instances of delayed flights within 30 minutes after the scheduled departure time, passengers are entitled to refreshments (water, soft drinks, confectioneries/snacks, a meal); where the delay is beyond three hours, the passenger is entitled to immediate reimbursements in cash for domestic flights and reimbursements within fourteen days for international flights; for delays beyond 10 pm till 4 am, or at a time when the airport is closed at the point of departure or final destination hotel accommodation the passenger is entitled to hotel accommodations.
- In instances of cancellation of domestic flights, passengers have the right to compensation by the operating air carrier unless they are informed of the cancellation at least twenty-four hours before the scheduled time of departure and for international flights, passengers are entitled to compensation unless they are informed of the cancellation at least seven days before the scheduled time of departure.
- The operating airline has the obligation to inform passengers of their rights by displaying a clearly legible notice displaying the following text: "If you are denied boarding or if your flight is cancelled or delayed for at least one hour, ask the airline officials for a written statement of your rights, particularly with regard to compensation and assistance.
- In cases where checked-in baggage has been off-loaded for operational, safety, or security reasons, the air carrier shall inform the passenger at the soonest practicable time and offer compensation of 5000 naira for local flights and 150 USD for international flights

Regulator: Nigerian Civil Aviation Authority.

13. Nigerian Electricity Regulatory Commission

The Nigerian Electricity Regulatory Commission (NERC) is empowered by the Electric Power Sector Reform (EPSR) Act, 2005 to ensure that electricity Operators recover costs on prudent investment and provide quality service to customers.

To ensure quality service delivery, it is pertinent that electricity customers know their rights as follows:

- All new electricity connections must be done strictly based on metering before connection. That is, no new customer should be connected by a DisCo without a meter first being installed at the premises.
- All customers have a right to electricity supply in a safe and reliable manner.
- All customers have a right to a properly installed and functional meter.
- All customers have a right to be properly informed and educated on the electricity service.
- All customers have a right to transparent electricity billing.
- All Un-metered customers should be issued electricity bills strictly based on NERC's estimated billing methodology.
- It is the customer's right to be notified in writing ahead of disconnection of electricity service by the DisCo serving the customer in line with NERC's guidelines.
- All customers have a right to a refund when over billed.
- All customers have a right to file complaints and to the prompt investigation of complaints.
- All complaints on electricity supply and other billing issues are to be sent to the nearest business unit of the DisCo serving the customer.
- If a complaint is not satisfactorily addressed, customers have a right to escalate the issue to the NERC Forum Office within the coverage area of the DisCo.
- Customers have the right to appeal the decision of the NERC Forum Office by writing a petition to the Commission.
- It is the customer's right to contest any electricity bill.
- Any unmetered customer who is disputing his or her estimated bill has the right not to pay the disputed bill, but pay only the last undisputed bill as the contested bill goes through the dispute resolution process of NERC.
- It is not the responsibility of electricity customers or the community to buy, replace or repair electricity transformers, poles and related equipment used in the supply of electricity.

Regulator: Nigerian Electricity Regulatory Commission

14. Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act 2004

The Act functions to provide for the prohibition of sale and distribution of counterfeit, adulterated, banned or fake, substandard or expired drug or unwholesome processed food; and of sale, etc., of drugs or poisons in certain premises or places. This protects consumers from goods that may expose them to harm or injurious to their wellbeing. Section 3 of the act provides penalties for any person who violates the provisions of the act.

Regulator: Federal task force

15. The Price Control Act 1977

The Act functions to impose a mechanism for price control on educational materials, electronic equipment, pharmaceutical products, roofing sheets, soft drinks and malt products and soaps and detergents amongst other goods listed in schedule 1 of the act.

The act under section 6 makes it unlawful for any person to sell, agree to sell or offer to sell any commodity at a price that exceeds the controlled price. Section 7 of the act also penalizes the hoarding of goods listed in Schedule 1 of the same act.

Regulator: Price control board and Price control committee

PROPOSED BILLS, POLICIES AND REGULATIONS

Nigerian Electronic Transactions Bill

The law targets issues in Nigerian electronic transactions such as non-disclosure of full product and service information, deceptive advertising, incorrect product description, delivery of defective products, bad informal dispute resolution systems, double payments, and poor customer support.

National Electronic Health Record Bill

The Bill establishes a National Electronic Health Record System to store and access electronic health records in Nigeria and for related matters. It would function to establish an indexing service for the purpose of creating a unified health record system for all citizens. The bill also sets standards for the handling of data of consumers of healthcare and sector products.

Central Bank of Nigeria's Data Protection Regulation

The law will function to protect the financial data of consumers and set standards for financial services with regard to the processing of consumers' data.

CONCLUSION

Policies, laws, and regulations aimed at protecting consumers help to improve consumer welfare by ensuring that businesses can be held accountable. It ensures that consumers are able to obtain accurate, unbiased information about the products and services they purchase. This translates into dynamic and effective markets for businesses as well as enhances consumers' trust in the digital economy.



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