HOPELESSNESS OF THE KING OF PRODUCTION IN NIGERIA: THE CONSUMER PROTECTION COUNCIL A SAVIOUR OR A MIRAGE?

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In spite of growing global solidarity in protecting consumers against the unwholesome practices of unscrupulous manufacturers and service providers (Producers), consumers in the developing world, with particular reference to Nigeria, have suffered under the interminable mischief of these Producers. The Consumer Protection Council (the “CPC”) was established by the Consumer Protection Council Act in 1992 to protect the consumer against hazardous products and to provide, among an array of protections, speedy redress to consumers’ complaints through negotiations and mediation. Contrary to the intention for constituting the CPC, the plight of consumers in Nigeria remains unabated. This paper seeks to examine the concept of a consumer in Nigeria and his hopes or otherwise in the events of product liability. To this end, reference of what obtains, in this regard, in the United Kingdom and the United States will be flagged, as appropriate. Further the role of the CPC in Nigeria, its problems and prospect will be examined, and recommendations enhancing consumer protection in Nigeria will be proffered.

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INTRODUCTION

The wheel of commerce grinds when the consumer is active. When the consumer meets his needs, suppliers of goods and services are activated, and in the producers bid to meet the ever increasing needs of the consumer commerce

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thrives with a consequential flourishing effect on the economy.¹

The transformation of the world into a global village is one of the indices of industrialization. Quite positive to this bridge, and limited to our purpose, are that it gave rise to and developed a massive global market, eased the importation and exportation of goods and services around the globe, garnered high competition among manufacturers and marketers of goods and providers of services and, consequently, expanded the variety of goods and services open to end users. To this extent therefore, the wave of production and marketing of goods and services is said to be determined, in the main, by the choices of the consumers.²

However, it adversely birthed the hitch of determining and guaranteeing fair deal between contracting parties, particularly, having to contend with, or otherwise, balance between the highly disadvantaged bargaining positions of the end users and the occasional grossly dubious and exploitative practices perpetrated by some manufacturers, marketers and service providers, all in a bid to make sales, declare huge profit, beat competition and stay on in business.³

As the market grows bigger and the forces of demand and supply wax stronger, there remains the need to protect the vulnerable from the exploitative pecuniary predilection of manufacturers and marketers of goods and services. Some have, though, reasoned that it is unjustified protecting a party, whether labeled consumer or otherwise, from a consensual bargain, a transaction he may have benefitted from. On this score, Professor Ramsay⁴ stated thus:

Market failure analysis assumes that an unregulated perfectly competitive market will achieve an efficient allocation of resources and that government intervention is only justified to remove barriers to the smooth operation of markets or to attain an important public objective. 'Efficiency' in this context means that resources are being allocated to their most valuable use through the incentive of the price mechanism matching supply to consumer demand as reflected in consumer willingness to pay. Through the process of voluntary exchange, mutually advantageous transactions will occur between sellers and buyers until no further transactions will benefit one party without causing disadvantage to the other. Reaching such an optimal point is efficient in

¹ Ekanem, E.E., *Institutional Framework for Consumers Protection in Nigeria*, INTERNATIONAL JOURNAL OF ADVANCED LEGAL STUDIES AND GOVERNANCE, 2(1), 33 & 34 (April, 2011).

² See Ekanem, *ibid*, at 33.

³ See Ijewere, A.A., & Obeki, S.O., *Consumerism in Nigeria*, 9(2) JORIND, December, 2011. Available at

www.transcampus.org/JORINDv9Dec2011/Jorind%20Vol.9%20No.2%20Dec%20chapter26.pdf (last visited Sept. 15, 2014, 12:15pm).

⁴ Professor of the Kent Law School, University of Kent.

economic terms.⁵

Similarly, Howells and Weatherill pondered thus:

In the theoretical caricature of the perfect market, there can be no such thing as a contract term that is unfair. Freely negotiated terms represent the parties' wishes. A term is a term – it cannot be unfair. Both parties have gained from the deal; why else would they have concluded it?⁶

By contrast, the need to protect the consumer, by way of imposing legislative or administrative control over private transactions, finds expression in the imperfection of the market. The victims usually of unwholesome commercial practices are the vulnerable.⁷ The circumstances of these persons do not afford them equal bargaining strength in the market thereby causing them to make wrong value-judgments in their bargains, whether in terms of quality, quantity or even pricing. Reliance on the rule of caveat emptor, that is, let the buyer beware, is no sufficient measure to ensure protection of consumer given the vagaries of modern market environment, as the principle is underscored by the assumption that both contracting parties are at par in the transaction.⁸ Indeed, several factors obscure the purity of the individual's bargain and contribute to his inability to make informed choices.⁹ The rationale of consumer protection, therefore, lies principally in the imbalance between the competing interests of the supplier and the consumer. Such safeguard is necessary for sustainable human development.

Although, a large chunk of consumer laws and regulations today are superficially geared toward providing consumers with some level of safeguard against unscrupulous producers and suppliers of goods and services, some of the recurring questions, over the years, that sovereign States, even amongst very developed economies, have had to inquire into, deal with and in fact, still seek answers to, have been the extent of legislative and administrative encroachment on private transactions, the scope of protection to be afforded the consumer vis a vis the status of such protection, the remedies to be available in the event of a breach and the

⁵ See RAMSAY, I., CONSUMER LAW AND POLICY: TEXT AND MATERIALS ON REGULATING CONSUMER MARKETS 61 (USA: Hart Publishing 2007).

⁶ See HOWELLS, G., & WEATHERILL, S., CONSUMER PROTECTION LAW 261 (2nd Edition, England: Ashgate Publishing Limited 2005).

⁷ Mostly comprised of persons of low income and the illiterates.

⁸ See Ladan, M.T., *The Limits of Legal and Enforcement/Regulatory Frameworks in Consumer Protection against Counterfeit and Pirated Product: The Nigerian Experience*, REVIEW OF NIGERIAN LAW AND PRACTICE, 2(1), 2 (2008). Available at <http://www.afrilegstud.com/calsreview/PDF/pirated-products.pdf> (last visited Sept. 15, 2014, 01:03pm).

⁹ Howells & Weatherill, *op. cit.*

redress mechanisms.

In Nigeria, amidst other legislative measures taken, the Consumer Protection Council (the “CPC”) was established by the Consumer Protection Council Act (the “CPC Act”) in 1992,¹⁰ in line with the United Nations Guidelines for Consumer Protection of 1985, to protect the consumer against hazardous products and to provide, among an array of protections, speedy redress to consumers’ complaints through negotiations and mediation.

I. CONCEPTUALIZATION AND HISTORICAL UNDERPINNING

The concept ‘consumer’, like most social or economic concepts, defies any universally acceptable definition. Earlier attempts at defining the concept were either influenced by the peculiarity of the circumstance or the educational, social or economic background of the commentator. Defining ‘consumer’, according to Howells and Weatherill, is an endemic problem in shaping the law.¹¹ To them, it is critical to appreciate that irrespective of labels, the map of consumer protection law has fuzzy edges and one should know what lies beyond, including paths to other areas of law and the bridges to other academic disciplines such as economics, politics, sociology and psychology.¹²

Literally speaking however, consumer, in relation to goods, has been said to mean any person who might wish to be supplied with the goods for his own private use or consumption.¹³ 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.¹⁴ In the same vein, the Consumer Protection from Unfair Trading Regulations, 2008¹⁵ defined consumer as any individual who in relation to a commercial practice is acting for purposes which are outside his business.¹⁶

¹⁰ Although the CPC was established in 1992, it only started operation in 1999 when its institutional framework was put in place.

¹¹ Howells & Weatherill, *ibid*, at 5.

¹² *Ibid*.

¹³ RICHARD, P.H., & CURZON, L.B., THE LONGMAN DICTIONARY OF LAW 101 (8th Edition, England: Pearson Education Limited 2011).

¹⁴ See 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, July 1962, 1 (London: Her Majesty’s Stationery Office).

¹⁵ For the United Kingdom.

¹⁶ See Part 1, Regulation 2 thereof. THE OXFORD DICTIONARY OF LAW by LAW, J., & MARTIN, E.A., 126 (7th Edition, United Kingdom: Oxford University Press 2009), also adopted this rather technical definition, when it defined consumer as a private individual acting otherwise than in a course of a business.

To Ralph Nader, the term ‘consumer’ may better feature as ‘citizen’ and his protection should be regarded as one of his fundamental rights. Oughton and Lowry believe that the nature of a transaction characterizes a party as a consumer, and they opined that in a consumer transaction, three elements must feature. First, the consumer must be an individual or other protected person who does not contract in a business capacity. Secondly the supplier must contract in a business capacity and finally the goods or services supplied must be intended for private, not business use.¹⁷ For our immediate purposes, we would be content¹⁸ with the definition offered by section 32 of the CPC Act¹⁹. It defined ‘consumer’ as an individual who purchases, uses, maintains or disposes of products or services. This definition appears to accommodate anyone in the chain of consumption, whether or not he is the direct purchaser or procurer of the product or service.

More so, whenever there is a substantial concentration of power, there is likely to develop a countervailing force representing an aggregation of individual interests. Consumer groups will have their effect both in direct relations with suppliers and in influencing new government policy to regulate the corporations or other business organizations with respect to which the consumer groups may have conflicting interests.²⁰ Thus, the aggregate of effort and attempt by government and citizens themselves to strengthen their bargaining powers and rights with respect to transactions entered into with manufacturers and marketers of goods and services is termed consumerism.²¹

‘Consumer Protection’ has been described as a convenient label for a great variety of measures designed to safeguard and assist the consumer.²² It is the provision of appropriate and effective mechanisms to protect the pecuniary, health, safety and security interests of all legal persons against misleading, fraudulent and harmful business practices, including manufacturing, trading, packaging, advertising, distributing and selling of

¹⁷ See OUGHTON, D., & LOWRY, J., TEXTBOOK ON CONSUMER LAW 2 (2nd Edition, New York: Oxford University Press 2000).

¹⁸ This is without prejudice to genuine criticisms offered by some writers to the definition. See for instance, the criticism by Ajai, O.—*Caveat Venditor! Consumer Protection Decree No. 66 of 1992 Arrives in the Nigerian Market Place*, (1992/93) 23, 26 NIGERIAN CURRENT LAW REVIEW.

¹⁹ See Cap C.25, Laws of the Federation of Nigeria, 2004.

²⁰ Feltham, I.R., *The New Regulatory State: Economic and Business Regulation Tomorrow* 51 CANADIAN BAR REVIEW 207, 209 (1973).

²¹ See Onah J.O., *Consumerism in Nigeria* in MARKETING IN NIGERIA: EXPERIENCE IN A DEVELOPING ECONOMY 126 (Onah, J.O., ed., London: Cassell, 1979).

²² Molony Committee’s Report, *op. cit.*, at 7.

products/goods and services to the ultimate consumer.²³ It emphasizes the attachment of liability of not only the manufacturers/producers of goods and services but also retailers, wholesalers, distributors and other suppliers of goods and services to persons who use or consume them.²⁴ The early attempt at protecting the consumer was to discourage fraudulent or dangerous practices.²⁵ However, modern consumer protection aims more at rectifying the inequality of bargaining power which exists between the individual consumer and the more powerful suppliers of goods and services with whom he deals.²⁶

Whilst writers' views on the contents of consumer protection seem congruent, they have quite differed on its antecedents.²⁷ Professor Badaiki²⁸ traced consumer protection to Deuteronomy 22:8 of the Old Testament, where injunction is issued to architects and builders to take care in their designs and construction so as to avert injuries to men.²⁹ However, modern consumer protection found its root in consumer movements in the United States around the mid 20th Century with the leading writings of social activists as J.K. Galibraith, Vance Packard, Rachel Carson, Ralph Nader, etc.³⁰ once the effects started materializing in the United States, it spread across Europe and beyond.

Although, nothing of the concept 'consumer protection' was heard before 1970 in Nigeria, when the Consumer Education and Protection Council of Nigeria was established to, amongst others, bring succor to the consumer against unscrupulous manufacturers and traders. Before now, the Nigerian society experienced a typical agrarian economy where there was no surplus production, no cash, consequently, there was no cause to protect anyone against anything.³¹ But with the latter waves of industrialization and the resultant commercial activities between Nigerians and foreigners, there arose, at a point, the need to protect consumers against the unwholesome

²³ Ladan, *op. cit.*, at 1-2.

²⁴ *Ibid.*

²⁵ Oughton & Lowry, *ibid.*, at 15.

²⁶ *Ibid.*, at 16.

²⁷ See Igweike, K.I., *Consumer Protection in a Depressed Economy: The Nigerian Experience* in AYUA, I.A., & GUOBADIA, D.A., *POLITICAL REFORM AND ECONOMIC RECOVERY IN NIGERIA* 344 (Lagos: Nigerian Institute of Advanced Legal Studies 2001).

²⁸ Professor of Law, Faculty of Law, Ambrose Alli University, Ekpoma.

²⁹ Badaiki, A.D., *Towards an International Legal Regime of Consumer Protection for Developing Countries: Nigeria as a Case Study*, 6(4), 43 (Jus. 1993).

³⁰ See Ogechukwu, A.D., *Consumerism The Shame of Marketing in Nigeria: Challenges to Corporate Practices*, 3(3) *UNIVERSAL JOURNAL OF MANAGEMENT AND SOCIAL SCIENCES* 49, 51 (March 2013). Available at <http://cprenet.com/uploads/archive/UJMSS-12-1231.pdf> (last visited Sept. 15, 2014, 01:15pm).

³¹ See Igweike, *op. cit.*, at 349.

commercial practices.³²

II. LEGAL FRAMEWORK FOR CONSUMER PROTECTION IN NIGERIA

Consumer protection law in Nigeria is built on two broad but distinct areas of the law, to wit: civil and criminal laws.³³ With respect to the former, an aggrieved consumer whose rights have been violated in relation to supply of goods and services can maintain a civil action against a manufacturer, distributor or retailer etc, as the case may be, for either breach of contract or the tort of negligence. Simple as these remedies may appear, they are not without challenges.³⁴

The remedy in contract seems a perfect option where there is privity of contract between the alleged offender and the consumer. The privity of contract rule as enunciated in *Dunlop Pneumatic Tyre Co. Ltd. v. Selfridge Ltd.*³⁵ provides that a contract cannot confer rights or impose obligations arising under it on any person or agent except parties to it. A major setback of this principle of law is that a stranger to the bargain is not afforded any benefit, no matter the damage suffered by him under the contract.³⁶ Some exceptions have been developed by the Common Law of England overtime, ranging from collateral contracts, trusts, restrictive covenants on land, agency and assignment to third party insurance, etc., but definitely not sufficient to cater for the plight of aggrieved consumer who is not a party to a contract. To this extent, scholars have advocated for the abrogation of this common law doctrine for want of relevance, or, otherwise, its modification to stand the test of time and to meet the needs of other persons, who may be affected by a contract, though are not parties to it.³⁷

Further, a consumer's right may also be hampered by exemption clauses in the contract leading to the cause of action.³⁸ Although, the law in this regard, to a large extent, seems settled in the United Kingdom with the

³² See generally, Edegbo, W.O., *The Relevance of Information in Consumer Protection in Nigeria*, 1(1) COMMERCIAL AND PROPERTY LAW JOURNAL 147, 152—154 (2006).

³³ See Ladan, *op. cit.*, at 15; Monye, F.N., *Enforcement of Consumer Protection Laws in Nigeria*, 3(1) DELSU LAW REVIEW 89—103 (2007).

³⁴ See Monye, DELSU LAW REVIEW, *ibid*, at 97.

³⁵ (1915) AC 815, 853; see the Nigerian cases of *Union Bank of Nigeria Plc. v. Sparkling Breweries Ltd. & ors.* [1997] 5 NWLR (Pt. 505) 344; *Incar v. Ojomo* [1988] 5 NWLR (Pt. 39) 111.

³⁶ See Lord Haldane's classic exposition on this doctrine in *Dunlop Pneumatic Tyre Co. Ltd. v. Selfridge Ltd.* (*supra*) 815, 873.

³⁷ See suggestions by Monye, DELSU LAW REVIEW, *ibid*, at 98; Odion, J.O., *Privity of Contract and Consumer Protection in Nigeria: Matters Arising*, 1 (1) AMBROSE ALLI UNIVERSITY LAW JOURNAL 28—32 (2009).

³⁸ For further reading see MONYE, F.N., *LAW OF CONSUMER PROTECTION* 244—249 (Ibadan: Spectrum Books Ltd. 2003).

regulation of exemption clauses by statutes such as the Unfair Contract Terms Act, 1977 and the Unfair Terms in Consumer Contracts Regulations, 1999, same remains alarmingly unresolved in Nigeria, with conflicting decisions emanating from the Supreme Court of Nigeria³⁹ as to whether or not an exemption clause will apply to avail a party who has committed a fundamental breach or breached a fundamental term of the contract⁴⁰ or it is strictly a matter of interpretation of intentions of parties to the contract.⁴¹

The hopes of an aggrieved consumer, who has no contractual relationship with the alleged offender, are not completely displaced. Accordingly, in the event of product liability⁴², 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 need prove satisfactorily the ingredients of negligence established by the English House of Lords in *Donoghue v. Stevenson*,⁴³ 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 foolproof defence usually put forward by manufacturers with respect to breweries cases has really been an onerous one.⁴⁴ Almost in all cases, the aggrieved consumer has been left without a remedy.⁴⁵ The courts being *the hope of the hopeless, the help of the helpless and the safe sanatorium for the*

³⁹ The Supreme Court of Nigeria is the apex court of Nigeria.

⁴⁰ See *Niger Insurance Ltd. v. Abed Brothers* (1976) 6 UILR (Pt. 1) 61; and also *International Messengers Ltd. v. Pegofor Ltd.* (2005) 5 CLRN 1.

⁴¹ *Narumal & Sons v. Niger/Benue Transport Co. (NBTC)* [1989] 2 NWLR (Pt. 106) 730.

⁴² 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, G., & WEATHERILL, S., *CONSUMER PROTECTION LAW* 213 (2nd Edition, England: Ashgate Publishing Limited 2005). For further reading, see also Clark, A., *The Consumer Protection Act, 1987*, THE MODERN LAW REVIEW, 50(5), 614—622 (September, 1987); Cardwell, K., *The Consumer Protection Act 1987: Enforcement of Provisions Governing the Safety of Consumer Goods*, THE MODERN LAW REVIEW, 50(5), 622—638 (September, 1987); Odion, J.O., *Privity of Contract and Consumer Protection in Nigeria: Matters Arising*, 1(1) AMBROSE ALLI UNIVERSITY LAW JOURNAL 28—37 (2009).

⁴³ (1932) AC 562

⁴⁴ See *Solu & ors v. Total Nigeria Ltd.* (Unrep.) Lagos State High Court, Suit No. ID/619.85, 1988

⁴⁵ See *Okonkwo v. Guinness (Nig.) Ltd. & anor.* (1980) 1 NCLR 130; *Onyejekwe v. Nigerian Breweries Ltd.* (Unrep.) Suit No. E/129/72. 01 June, 1973; *Nigerian Bottling Company (Nig.) Ltd. v. Ngonadi* [1985] 1 NWLR (Pt. 4) 739; *Okwejinor v. Gbakeji & anor.* [2008] 5 NWLR (Pt. 1079)

*legally injured*⁴⁶ is, accordingly, enjoined to avoid, or in the least curtail, within its jurisdictional limits all unnecessary substantive, procedural and evidential obstacles militating against the effective protection of consumers against product liability. It may be safe drawing some inspiration from the position of the law in the United States, where the strict liability rule applies with respect to product liability.⁴⁷

On the other side of the divide, legislative efforts⁴⁸ have also been made by successive governments to cater for public interest, safety and health. For this purpose, various unwholesome activities or products of actors in the chain of production have been identified as crimes punishable under the law. The list of legislative enactments in this regard includes the Standards Organization of Nigeria Act 1971,⁴⁹ the Weights and Measures Act 1974,⁵⁰ the Food and Drugs Act 1974,⁵¹ the CPC Act 1992,⁵² the National Agency For Food and Drug Administration and Control Act 1993,⁵³ the Trade Malpractices (Miscellaneous Offences) Act, 1993,⁵⁴ the Food, Drug and Related Products (Registration etc.) Act 1993⁵⁵ and the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act 1999.⁵⁶

Again, some sector based regulatory statutes have also been designed to meet the needs of consumers in those sectors. Prominent among these are the Nigerian Communications Act, 2003,⁵⁷ the Nigerian Civil Aviation Authority Act 2006, the National Insurance Commission Act,⁵⁸ the Utilities Charges Commission Act,⁵⁹ and the Nigerian Tourism Development Corporation Act.⁶⁰

Despite the existence of the above legal framework in Nigeria, the level

⁴⁶ Oputa, C.A., *Quod Vadis – Nigerian Supreme Court: Judicial Activism or Judicial Rascality*, in TOWARDS FUNCTIONAL JUSTICES: SEMINAR PAPERS OF JUSTICE CHUKWUDIFU A. OPUTA 368 (Chris, O., ed., Ibadan: Gold Press Ltd. 2007).

⁴⁷ Howells, & Weatherill, *ibid*, at 213-217.

⁴⁸ These legislative efforts focus on preventing the occurrence of violation to the rights of consumers, as well as the redress in the event of any violation.

⁴⁹ Cap. S9, Laws of the Federation of Nigeria, 2004.

⁵⁰ Cap. W3, Laws of the Federation of Nigeria, 2004.

⁵¹ Cap. F32, Laws of the Federation of Nigeria, 2004.

⁵² *Supra*.

⁵³ Cap. N30, Laws of the Federation of Nigeria, 2004.

⁵⁴ Cap. T12, Laws of the Federation of Nigeria, 2004.

⁵⁵ Cap. F33, Laws of the Federation of Nigeria, 2004.

⁵⁶ Cap. C34, Laws of the Federation of Nigeria, 2004.

⁵⁷ The 2003 NCC Act repealed and replaced the 1992 NCC Act.

⁵⁸ Cap. N53, Laws of the Federation of Nigeria, 2004.

⁵⁹ Cap. U17, Laws of the Federation of Nigeria, 2004.

⁶⁰ Cap. N137, Laws of the Federation of Nigeria, 2004.

of consumer protection in Nigeria remains at its lowest ebb.⁶¹ This has been ascribed to various factors such as the high level of illiteracy, ignorance and absence of consumer awareness and education of market place transactions, high poverty rate, apathy or complacency of the average consumer, the rigidity of the judicial system and the rudimentary level of consumerism in Nigeria, etc.⁶²

III. CONSUMER PROTECTION COUNCIL OF NIGERIA: FUNCTIONS AND POWERS, CHALLENGES AND PROSPECT

The CPC is the regulatory agency in Nigeria mandated to receive general consumers' complaints and provide appropriate and speedy redress thereto through negotiation, mediation and conciliation.⁶³ Apposite to this Mandate, the CPC is to ensure that consumers' interests receive due consideration at appropriate forums and to provide redress to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade association or individual.⁶⁴

The CPC is required to seek ways and means of removing or eliminating from the market hazardous products, causing offenders to replace such products with safer and more appropriate alternative, encouraging them to adopt more appropriate measures for future production to ensure safe products for consumers' use,⁶⁵ as well as, ensuring the publication, at intervals, of list of banned products by both Nigerian and foreign governments.⁶⁶ Where necessary, the CPC is to cause an offending company, firm, trade, association or individual to protect, compensate, provide relief and safeguards to injured consumers or communities from the adverse effects of any technologies that are inherently harmful, injurious, violent or highly hazardous,⁶⁷

With respect to its publicity role, the CPC is further mandated to

⁶¹ KANYIP, B.B., CONSUMER PROTECTION IN NIGERIA: LAW, THEORY AND POLICY 364 (Abuja: Rekon Books Ltd., 2005); MONYE, F.N., LAW OF CONSUMER PROTECTION, *ibid*, at 15; Monye, F.N., *Consumer Remedies Under The Nigerian Communications Act*, 1(1) COMMERCIAL AND PROPERTY LAW JOURNAL 24, 25 (2006).

⁶² See MONYE, F.N., LAW OF CONSUMER PROTECTION, *ibid*, at 15; MONYE, F.N., CONSUMER REMEDIES UNDER THE NIGERIAN COMMUNICATIONS ACT, *ibid*; Bello, K.B., Suleiman, J. B. A., & Danjuma, I., *Perspectives on Consumerism and Consumer Protection Act in Nigeria*, 4(10) EUROPEAN JOURNAL OF BUSINESS AND MANAGEMENT 72, 74 (2012). Available at www.africa-cpn.org/images/pdf/nig-protection-act.pdf (last visited Sept. 15, 2014 at 2:20pm).

⁶³ See section 2(a) of the CPC Act.

⁶⁴ See section 2(i) of the CPC Act.

⁶⁵ See section 2(j) of the CPC Act.

⁶⁶ See section 2(b-c) of the CPC Act.

⁶⁷ See section 2(d) of the CPC Act.

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organize and undertake campaigns and other forms of activities as will lead to increased public consumer awareness, encourage trade, industry and professional associations to develop and enforce in their various fields quality standards designed to safeguard the interest of consumers, issue guidelines to manufacturers, importers, dealers and wholesalers in relation to their obligation under the CPC Act and, finally, to encourage the formation of voluntary consumer groups or associations for consumers well being.

To ensure the effective discharge of its mandates, the CPC is empowered to apply to court to prevent the circulation of any product which constitutes an imminent public hazard, compel a manufacturer to certify that all safety standards are met in their products, cause quality tests to be conducted on a consumer product, demand production label showing date and place of manufacture of a commodity as well as certification of compliance, compel a manufacturer, dealer and service company, where appropriate, to give public notice of any health hazards inherent in their products and ban the sale, distribution, advertisement of products which do not comply with safety or health regulations.⁶⁸ The CPC is to be assisted in carrying out this herculean task by State Committees operating at various state levels.⁶⁹

With respect to how much it has fared so far in executing its statutory mandates, commentaries online abound that the CPC has failed in its responsibility to protect the rights of consumers and others believe that the problem of fake products in Nigeria is of such a magnitude that the CPC cannot easily control, given the space of near 15years of its operation. Commenting on the plight of Nigerian consumers, Emmanuel Amlai⁷⁰ shifted the blame to the consumers when he stated thus:

“It is no longer news that consumers in Nigeria are buying substandard products which have become a huge challenge for stakeholders, especially consumers, manufacturers and government.”⁷¹

Corroborating the above stance, Dr. Joseph Odumodu⁷² also stated as follows:

“Most Nigerian consumers do not report to appropriate authority.

⁶⁸ See section 3 of the CPC Act.

⁶⁹ See Part II of the CPC Act.

⁷⁰ The Director General of the CPC.

⁷¹ Akingbolu, R., *Weak Regulation, Setback for Consumer Protection, Expert Asserts*. Available at <http://www.thisdaylive.com/articles/weak-regulation-setback-for-consumer-protection-experts-asser/142836> (last visited Sept. 22, 2012 at 12:24pm).

⁷² The Director General of the Standards Organization of Nigeria.

Government agencies are not spirits. But they only act on complaints. Consumers are part of the ecosystem. Consumers patronize fake products and shield producers perhaps because they are family.”⁷³

However, Mr. Kola Oyeyemi⁷⁴ took a rather objective stance when he stated thus:

“We are all culpable. It is a corporate culpability. I see a lot of shows designed to convince the public that they are working. What percentage of fake imported products into the country gets noticed. Somebody stamped it at the port before it came in. if we look at education of consumer, I heard there were eight rights enshrined in the consumer’s law... the Media has responsibility to educate the consumers. CPC said people buy from roadside to buy fake products. It is a function of disposable income...we need education. We need self-regulation...”⁷⁵

Given its enormous statutory functions and powers, much more is expected of the CPC in the protection of consumers’ interest in Nigeria than mere occasionally coming on air to display fake goods. The message that probably needs to be sent across is that, the fact that the law has projected the CPC to address individual complaints of consumers does not thereby detract from its primary duty of protecting the rights of consumers as a whole. For instance, it is no news that the power supply situation in the country, since CPC’s inception of operation, has been terrible and non commensurate with monthly bills or that the telecommunication service charge rates rendered to consumers have been exorbitant, and sometimes fraudulent, requiring an individual complaints to the CPC to act. Moreover, in spite of the plenitude of the inherent rights available to the Nigerian public under the CPC Act, what measures have been taken by the CPC to reach out to the local people and the rural areas, which constitute the majority of the vulnerable consumers, to educate them on their rights in accordance with its statutory obligation?

It is pertinent to acknowledge that the CPC has its challenges facing it in its bid to enhance consumer protection in Nigeria. These range from inadequate funding, inadequate and unqualified personnel, corruption of public officers, poor road network to most rural communities, high level of illiteracy of consumers, lack of awareness of rights by consumers, complacency on the part of consumers, porous borders etc. This is not to say that the CPC is not working, the point being made here is that it need be proactive in its activities to effectively tackle violation of consumers’ rights and in discharging its statutory functions.

⁷³ *Ibid.*

⁷⁴ The President of the Advertisers Association of Nigeria (ADVAN).

⁷⁵ *Ibid.*

However, with the growing level of consumerism and concern in recent time from some sector of the Nigerian public, stakeholders, government and non-government bodies alike, on the plights of consumers, it is believed that the statutory task of the CPC may in time be simplified and the effects of its operation duly felt.

CONCLUSION

This paper has attempted to examine the concept of consumer in Nigeria, his options in the event of product liability, and the role of the CPC in Nigeria. It is imperative to proffer possible suggestions on enhancing greater prospect for consumer protection in Nigeria as follows;

First, given the plenitude of regulatory statutes, it does not seem that the problem of consumer protection in Nigeria has anything at all, to do with the law but rather with its enforcement. Therefore the regulatory agencies need be strengthened to enable them live up to consumers' expectations.

Second, owing to the multiplicity of regulatory framework for consumer protection, it is important to put a mechanism in place to check function overlap. Surely, this would give proper guide to consumers willing to explore established redress options.

Third, consumer education needs to be aggressively pursued by the CPC through all appropriate and effective media, particularly at the grass root level to effectively intimate consumers of their rights and responsibilities in the fight against consumption of defective, fake and hazardous products.

Fourth, consumers should be encouraged to constitute healthy consumers' associations to serve, protect and defend the interest of consumers in all available forums.⁷⁶

Finally, specialized courts or consumer protection tribunals can be established and the normal courts are enjoined to break out from their shell of technical justice and ensure, at all times, that justice is not only done but apparently seen to have been done.

⁷⁶ Just like the situation in the United Kingdom where consumer associations represent the interest of consumers in the UK locally, regionally and internationally, as well as in the formulation of municipal laws, national policies and international conventions. For further reading on this, *see* SCOTT, C., & BLACK, J., *CRANSTON'S CONSUMERS AND THE LAW* 15—17 (New York: Cambridge University Press, 3rd Edition 2010).