

# COVID-19 PANDEMIC AND CONSUMER PROTECTION ISSUES IN NIGERIA: RETHINKING THE CURRENT INSTITUTIONAL APPARATUS FOR SUSTAINABILITY

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## ABSTRACT

*The long battle with the COVID-19 virus has left an indelible mark on consumer attitudes, lifestyles, and habits all around the world. They were and are victims of internet scams, and unfair and misleading advertisements. Inferior goods and fake products, particularly, fake COVID-19 drugs and vaccines are being sold daily to consumers who have little or no knowledge of the negative effects of such products. This becomes worse in Nigeria, where the literacy level is very low. Businesses have continued to experiment with new initiatives and business models to adapt to a new environment and meet fast-changing client expectations. Consumer protection agencies have taken actions in response to the hardship and crises occasioned to consumers as a result of the dismal emergence of the health hazard. The United Nations Guidelines for Consumer Protection, 2015 provides the plank for this institutional response. The Guidelines enjoins and urges member states to create, strengthen, or maintain measures relevant to the control of restrictive and other abusive business practices that may affect consumers and the means and implementation of such measures. Nigeria is not left out in the global quest for consumer protection in the COVID-19 era. The country initiated and implemented a quite number of measures aimed at protecting consumers in the wake of the pandemic, however, with few positive results. Example of these measures includes the partnership between the National Agency for Food and Drug Administration and Control (NAFDAC) and the Federal Competition and Consumer Protection Commission (FCCPC) on COVID-19 vaccine information dissemination and education across the country. Consequently, this paper chronicles Nigeria's COVID-19 pandemic and consumer protection issues to find the missing legal link. The paper, which adopts the doctrinal research method, also examines the international response to consumer protection in the COVID-19 period with an emphasis on, China, Qatar, Australia, Brazil, the United Kingdom, the United States of America, and South Africa and makes a case for a rethink on Nigeria's legal and institutional apparatus for consumer protection for sustainability.*

**Keywords:** NAFDAC; Covid-19; Corona Virus; Consumer Protection; Sustainability; Nigeria.

## INTRODUCTION

In the last two years, the global community has been battling with the scourge and effects occasioned by one of the dangerous health hazards called SARS – Coronavirus otherwise known as COVID-19. Since the emergence of the deadly virus on December 31, 2019, in Wuhan, China, and subsequent spread to other countries of the world including Nigeria, the

global space has been inundated and impregnated with several political, economic, social, social-political, and religious crises. Thus, the issue of consumer protection in the COVID-19 era has attracted so much concern both locally and internationally. The outbreak of the pandemic brought grave hardship and economic turmoil to consumers, who stand at a disadvantaged position in the production chain. They were and are victims of an internet scam, unfair and misleading advertisements. Also, inferior goods and fake products, particularly, fake COVID-19 drugs are being sold daily to consumers who have little or no knowledge of the negative effects of such products. This becomes worse in Nigeria, where the literacy level is very low. As a result of the government's closure of private and public facilities during the pandemic, electronic contracts have become common. Prices of goods and services have increased exponentially and monumentally. In the first quarter of 2020, the prices of medicines, personal protective and hygiene equipment, examples, nose/face masks, hand gloves, sanitizers, etc. skyrocketed as a result of unethical practices such as price gauging of products by manufacturers, suppliers, distributors and retailers of the products. The lockdown in Nigeria, which was accompanied by the closure of borders and a cross-state travel prohibition, resulted in a considerable decline in the number of vital medicines in health facilities, making it impossible for customers to obtain the medications they require. The pandemic impacted the availability of vital medicines for both acute and chronic illnesses. The proportion of people living with chronic diseases who had difficulty accessing vital medicines increased from 10.6 percent before the lockdown to 35.2 percent during the shutdown. Also, electrically consumers were and have been subjected to poor and ineffective electricity supply, despite the high amount of electricity bills that they pay for such services (Akaso & Ibrahim, 2020). This ineffective in-service delivery is also seen in the Nigerian telecommunication industry. Nigerian GSM subscribers are the world's most exploited consumers, even though telecommunication operators benefit the most from them. For years, millions of hapless Nigerian subscribers have suffered as a result of poor service delivery, with the judiciary and other institutions making little or no attempt to bring culprits to justice. Subscribers have also noticed other issues in the telecommunications sector, such as excessive internet subscription costs, bad ICT infrastructure, lack of base station maintenance, and poor fire optic cable services. Every day, a plethora of consumer rights violations in the telecommunications sector are brought to public attention, yet they quickly fade away due to a poor regulatory structure.

To protect consumers from the nefarious, obnoxious and reprehensive acts and practices of some unscrupulous elements, who took undue advantage of the pandemic to maximize unending profits and prioritize their evil acts, governments across the globe initiated and implemented various policies. For example, on 29<sup>th</sup> April 2020, the Qatar Ministry of Commerce and Industry issued a plethora of health and safety guidelines and instructions to workers, who are engaged in the delivery of goods and services to consumers. These guidelines mandated delivery staff to wear medical gloves and masks; record on the purchase, the complete name of the delivery, etc. In consonance with the Qatar extant laws, on April 14, 2021, the Qatar Ministry of Commerce and Industry also directed all owners of restaurants to ensure that they uphold maximum health and safety conditions when preparing their meals (Hawa, 2021). All these measures are in addition to the general lockdown policy which includes the closure of schools, churches, banks etcetera. Worthy of note is the fact that these consumer protection policies, which are in tandem with the UN Guidelines on Consumer Protection, 2015, have also

been initiated and implemented in the United Kingdom, United States of America, China, South Africa, and Ghana amongst others.

Nigeria also initiated and implemented many measures geared at preventing, limiting the spread of the pandemic (COVID-19) as well as protecting consumers of goods and services. These measures include but are not restricted to the closure of the economy that is, restaurants, schools, markets, churches, institutions except those that offer essential services. However, most of these policies did not yield optimum results as a result of some loopholes or conundrums that are found in the Nigerian legal, institutional/administrative apparatus for consumer protection in the country. It is against this background that, this paper seeks to chronicle the extent and effectiveness of consumer protection in the wake of the COVID-19 pandemic to expose the missing link in the country's legal, institutional and administrative apparatus and also make suggestions on how same can be strengthened for sustainability. The paper shall also examine the worldwide response to consumer protection in the COVID-19 period with an emphasis on Qatar, China, Brazil, the United Kingdom, the United States of America, and South Africa.

### **Consumer Protection: Meaning, Nature, Scope, and Importance**

The aphorism "*Consumer is king*" is globally used to underscore the significance or utilitarian value or position occupied by the consumer(s) in the chain of production. She determines the overall success or failure of any product or service (Barnett, 2011; Rofus, 2021). The term "*Consumer*" just like other concepts does not have any scientific, absolute, or universally accepted definition. Thus, many scholars, commentators, draftsmen, statutes, and case laws have attempted to define it. While some authors or statutes restrict the term to contractual relationship (for example, Section 1 of the South Africa Consumer Protection Bill 2007 2<sup>nd</sup> Draft, 8<sup>th</sup> Sept. 2006), others proffered an expanded meaning that includes persons with no contractual bargain as well as corporation. This expanded approach has been adopted by Nigerian statutes, particularly, Section 32 of the defunct Consumer Protection Council (CPC) Act Cap C25 LFN, 2004, wherein the consumer is defined as "*an individual who purchases, uses, maintains, or deposes of products or services*".

Also, Prof. Monye (2003) opines that "*the term "consumer" refers to more than just the buyer. "It also covers contractual consumers, final users, and anybody else who enters the competition with a product or service in any way."*" (Monye, 2006). Judicially speaking, the decisions of *Donoghue v. Stevenson* [1932] UKHL 100; *Stenneth v. Hancock v. Peters* [1939] 2 All ER 578.; *Grant v. Australian Knitting Co* (1935) JELR 87322 (PC) amongst other judicial authorities, has fortified the argument that the term consumer goes beyond the realm of contractual relationships but also includes persons who are not parties to the contract. This paper, therefore, adopts this expanded definition of consumer.

Consumer protection entails the making available of appropriate and effective mechanisms to safeguard the financial, health, environment, and safety of all legal persons (natural or artificial) against deceptive, fraudulent, and harmful business practices, such as the manufacturing, trading, packaging, advertising, distribution, and sale of goods and services to the ultimate consumer. (Kanyip, 2005; Gambo, 2020). The hallmark of consumer protection is the safe guidance of consumer's interest in matters relating to the supply of products and services, fraudulent and hazardous practices as well as environmental degradation through legislative

investment, the establishment of agencies, and the adoption of policies and other measures which promote the interest and overall well-being of consumers (Ndubisi et al., 2016).

The rationales for consumer protection are not far-fetched. Firstly, there exists an imbalance/disparity of bargaining power between the suppliers of goods and services and the consumer. This is more so because, in the production chain, producers/suppliers of goods and services have a better hand or power than consumers, that is, the factors of demand and supply are in favor of the producers than the consumers (Kamarudeen et al., 2012). Secondly, the growing and frequent disparity of knowledge and technical know-how as to component and complexity of goods and services confer more advantages to the producer/supplier of goods and services as against consumers. Thus, the intricacy of the commodities themselves, as well as new forms of advertising and delivery, are important elements in business techniques. The need for consumer protection has become as eminent as a direct consequence of the fact that the fundamental principle of caveat emptor which enjoins the consumer to rely on his judgment in buying goods or paying for services does not apply complex articles (Ndubisi et al., 2016).

Apart from the complexity of modern products, consumers' choices are equally inhibited by an intensive advertisement which may create a false impression about a product. This is the case of promotional sales strategies, where often the promised reward, creates an irresistible incentive for the patronage of advertised products, thus, denying the consumer the freedom of rational choice. For example, in recent times, a drug manufacturing company called "Eradiplus" has been moving around the streets of Calabar, making grandiose but spurious claims that her drug "Eradiplus" has the capability of curing all manner of diseases including COVID-19, HIV/AIDS, and Hepatitis B viruses. Consumers who are in dire need of solving their health challenges often patronize them by buying these drugs without getting the needed result.

### **Legal and Institutional Apparatus for Consumer Protection in Nigeria**

Nigeria has a variety of laws and institutions on consumer protection. First on the list is the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Sections 4,5, and 6 of the Constitution create the three arms of government in Nigeria to wit: legislature, executive, and judiciary respectively. The legislature is empowered to make laws (including consumer protection Laws) that are germane and necessary for the growth, development, and wellbeing of the country; the executive is commissioned to implement such laws, while the judiciary is saddled with the responsibility of interpreting such laws and resolving conflicts were necessary. Apart from the ground-norm, that is, the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the Federal Competition and Consumer Protection Commission Act (FCCPA) 2018, is the primary law that regulates consumer protection in Nigeria. The Act which brought to extinction the Consumer Protection Council Act, 2004 is made of XVIII Parts and 168 Sections. Sections 3 and 7, Part II and III of the Act establishes the Federal Competition and Consumer Protection Commission, with the mandate to protect and promote the interest and welfare of consumers through the provision of consumers with a broader scope or variety of products at competitive prices as well as the prohibition of restrictive or unfair business practices that are monopolistic and ipso facto, impede, restrict or negate fair competition in the Nigerian market (Muse-Sadia & Abada, 2021; Awucha et al., 2020).

Part XV (Sections 114-131) of the Act, confer certain rights to consumers. These rights include but are not limited to the following: the right to obtain accurate, clear unambiguous, and

not vague information and data concerning the goods as well as services that she/he buys, uses, or is made available to him/her; right to protection from false, deceptive and misleading advertisements; right to protection from arbitrary conditions (express or implied) imposed by manufacturers, suppliers or providers of goods and services; right of the consumer to return a good/commodity in exchange for a reimbursement, exchange or repair of the product without consideration if the defect is discovered or that fails to tally with the standard specification or purpose for which it was purchased; consumer's right to guarantee as regards the quality and conformity goods and approved specification; right of the consumer to safety when using ordinary goods and services; rights of consumers to fair compensation for any damage suffered as a result engaging in any consumer-related activities. Section 39 of the Act creates the Competition and Consumer Protection Tribunal otherwise known as the CCPT. The CCPT is empowered to hear appeals from or review any decision of the FCCPC or decision of any of the sector-specific regulatory agencies, such as the Central Bank of Nigeria, Nigeria Communications Commissions (NCC), Nigeria Electricity Regulatory Commission (NERC); National Agency for Food and Drug Administration and Control (NAFDAC), Standards Organization of Nigeria (SON); Nigeria Broadcasting Commission (NBC); Nigerian Civil Aviation Authority (NCAA) among others. Under Section 51(3) of the Act, the CCPT is empowered to where necessary, impose certain administrative penalties to ensure that the provisions of the Act are given ultimatum compliance, provided that, the tribunal when imposing such penalty (ies) shall have recourse to the nature, duration, gravity, and extent of the contract as well as the nature of loss/damage suffered by the aggrieved party. The tribunal is mandated to also consider the circumstances, behavior, previous records, and the profit derived by the defaulting party.

In addition to the aforementioned general consumer protection laws in Nigeria, that is, the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Federal Competition and Consumer Protection Commission Act, 2018, there are other sector-specific legislations on consumer protection in the country. These legislations include the following: the Central Bank of Nigeria (CBN) Act, 2007, the Banks and other Financial Institutions Act, 2020, CBN Consumer Protection Regulations, 2019, the Nigerian Civil Aviation Authority Act, 2006, the Standards Organization of Nigeria (SON) Act, 2015; Nigerian Communications Commission (NCC) Act, 2003; the NCC General Consumer Code of Practice, 2018; the Nigerian Electricity Regulatory Commission (NERC) Act, 2005; the NERC Customer Service Standards of Performance for Distribution Companies, 2009; the NERC Customers Complaints Handling Standards and Procedure, 2006, the National Agency for Food and Drugs Administration and Central Act 2004, etc. These legislations at one point or the other establish different consumer protection agencies and confer on them certain functions for instance Section 1 of the CBN Act, 2007 and Section 1 of BOFIA confer on the Central Bank of Nigeria the powers to effectively guide and protect consumers in the financial industry. To achieve its mandate, in 2019, the CBN issued the consumer protection regulations which its tone and tenor seeks to effectuate consumer protection practices of financial institutions in the country.

Section 1 of the NAFDAC Act, 2015 establishes NAFDAC, and saddle it with the mandate of ensuring consumer protection in the country by regulatory and controlling the manufacture, importation, advertisement, distribution, sale, and use of food, drugs, cosmetics, medical and other related products in Nigeria. Closely Knitted to NAFDAC is the Standards Organization of Nigeria (SON). SON was established by the SON Act, 2015, particularly in

Section 1 amongst its multifarious functions, is the duty to ensure that legally manufactured products in Nigeria give the required satisfaction to consumers.

Another important institution on consumer protection is the Nigerian Broadcasting Commission. Just as its name implies, the agency which is a creation of Section 1 of the NBC Act 2004 is vested with duties to amongst others, receive, consider and where necessary investigated and/or prosecute broadcast stations in respects of broadcasting services in Nigeria. The Nigeria Communications Commission, which happens to have been established by Sections 1-3 of the NCC Act, 2004 is also an important institution that governs consumer protection in Nigeria. The commission seeks to protect electricity consumers by ensuring that prices charged by electricity suppliers are fair to their users, that is, electricity consumers, and also that there is security quality and reliability on the production supply and distribution of electricity to consumers in the country. In the aviation, industry the Nigerian Civil Aviation authority plays a regulatory oversight function over the aviation industry in Nigeria by ensuring that all consumers in the aviation sector get optimum services in air transportation. Thus, in 2015, the authority issued the Nigerian Civil Aviation Regulations, 2015. The regulations to some extent have laudable provisions on consumer protection, as well as compensation for denied boarding delays and cancellation of flights. Other consumers' protection institutions include Non-Government Organizations, Consumers Protection Associations, Civil Societies, the Medical and Dental Council of Nigeria, the Nigerian Bar Association; the Legal Practitioners Disciplinary Committee, etc.

### **Assessing the Global Response to Consumer Protection in the Wake of COVID-19 Pandemic**

It is trite that the COVID-19 pandemic took the world by surprise. Its emergence and spread may properly be described as that which is unprepared, unwarranted, and unwelcomed. The pandemic came with it, grave and thundering consequences and crises that countries, economics, businesses, and even individuals are still struggling to overcome (OECD Report, 2020). The issue of consumer protection has also been affected by the pandemic. This is more so because human lives as well as the quality of their food, medicine, goods, and services have been hampered and threatened by the pandemic (Hawa, 2021). To save the world, particularly, consumers from the nuances associated with the pandemic, collective and multi-sectoral efforts have been undertaken both nationally, regionally, and internationally. They are legislative and institutional responses, geared towards protecting consumers in the wake of the pandemic. Consumer protection laws and policies have shown to be beneficial during the pandemic. Consumer protection organizations have acted quickly, appropriately, and effectively in response to the problems posed by the extraordinary crisis. At various levels, states have taken varied actions. These responses are anchored on the following principles, namely: actions to stop price gouging and/or unjustifiable rises; actions to stop other unfair business practices; activities to get travel reimbursements; actions to make it easier to get justice; actions to safeguard customers who are vulnerable or disadvantaged (United Nations Conference on Trade & Development, 2021).

In China, where the virus emanated, the issue of consumer protection in the wake of the COVID-19 pandemic has been given utmost priority by the Chinese government and other stakeholders. The pandemic has instilled a sense of security in the average Chinese consumer

(Lietzow & Tan, 2021). According to data from China's local consumer groups, more than 980,000 complaint cases were filed in 2020, with over three-quarters of them being resolved, resulting in about 1.56 billion yuan (about 240 million USD) in reimbursements (Xinhuamet, 2022). The China Consumers Association (CCA) saw a nearly equal distribution of complaints in terms of commodities and services. Inadequate after-sales services are the biggest source of consumer dissatisfaction, accounting for over a quarter of all complaints. Product quality criticisms have decreased by 4.48 percentage points in comparison to 2019. Many of the most popular Chinese social networking platforms launched e-commerce features during the pandemic. Alibaba owns Eleme, one of China's top two meal delivery platforms (Accenture, 2021). The platform launched an aggressive expansion strategy in 2020 to expand product categories and delivery territories. Eleme worked with most of the major healthcare companies, including Sinopharm, Pfizer, GSK, and others, to provide 24-60-minute OTC and prescription pharmaceutical delivery services to 700 counties in China. Alibaba also made online health diagnoses and consultation services with pharmacists and doctors more accessible to consumers, assisting them in receiving the medical care they require (Accenture, 2021).

In Qatar, a handful of precautionary measures have been put in place to prevent and control the virus' spread as well as protect consumers from unhealthy and unsafe practices that negate or are detrimental to them and safeguard competition and prevent monopolistic practices. (Abdullah, 2021). Some of these measures include the closure of all restaurants, food outlets, food carts, and cafés; and the regulation of prices for goods and services in the country. The Qatar Ministry of Commerce and Industry released a circular on February 3, 2020, which for all intents and purposes temporarily closed all food outlets and mobile vehicles restaurants, cafes, in numerous sections of the country. In March 2020, the temporary lockdown policy was extended to other areas of the economy, namely: shopping malls, retail centers, beauty salons, banks, and exchange offices. To ensure the availability and reduce the exponential increase in the prices of drugs and other protective devices, on April 13, 2020, the ministry acting by Article No. 13 of the Consumer Protection Law No. 8 of 2008 and its amendments regulated the prices and methods for the distribution of the products. To combat the effects of the Corona pandemic and to benefit consumers, the Ministry of Commerce and Industry monitors the consumer market daily issuing fixed pricing for vegetables, fruits, and seafood every week. The Qatar Ministry of Trade and Industry created and designed a phone line and website geared towards receiving complaints from consumers and in the same vein, adopted a fast-trade procedure for solving the identified problems.

In the same light, in December 2020, the state of Qatar established a public prosecution office, which specializes in handling consumer-related issues and ensuring that consumers have access to justice, especially in the pandemic period. For the same reasons, other cafes and service shops have closed. The Ministry also administratively closed certain stores and fined those who sold masks and sterilizers that did not meet required requirements and contained erroneous data, in violation of the law and decisions connected to the pandemic where their rights have been violated. The Qatari Ministry of Commerce and Industry has closed stores that have infringed consumer rights by breaking the Corona stage preventative measures, which are rights connected to safety and adherence to health standards. In light of the Corona pandemic, the Ministry has shuttered several specialty food outlets for failing to comply with the extant regulations on consumer safety and right.

The State of Qatar has been careful to keep 'strategic food stocks' even before the pandemic. In 2019, it enacted a Law christened “*Decree-Law No. (24)*”. The Law seeks to organize and manage strategic stocks for food and consumer goods. Simply put, the hallmark of the Law is to ensure and maintain consumer access to goods and services appropriately in terms of quality and price (Hawa, 2021). It is targeted at strategic commodities, such as local or imported food and consumer goods, that become increasingly important to consumers, given that strategic stock is the stock kept from strategic commodities in warehouses and other locations for periods determined by management to avoid depletion and prepare for emergencies, crises, or disasters. During the global coronavirus lockdown, the State of Qatar distributed some of these food items to the vulnerable to cushion the effect of the pandemic. The State also adopted a national food security strategy as part of its response to the Gulf crisis, resulting in Qatar being ranked first in the Arab world and 13<sup>th</sup> globally in the Food Security Index. These sustainable steps constituted a potent tool for the State of Qatar to fight food insecurity in the wake of the pandemic.

Further, in response to the hardship suffered by consumers as a result of COVID-19, the Australian Competition and Consumer Commission and the Competition and Markets Authority of the United Kingdom of Great Britain and Northern Ireland both established task forces to monitor, identify, and respond to unfair commercial practices (OECD Report of July 15, 2020). In March–June 2020, the Republic of Korea issued legislation prohibiting the hoarding of face masks and hand sanitizer, which was later extended to June 2021 (United Nations Conference on Trade & Development, 2021). In Saudi Arabia, it is now illegal for enterprises to charge exorbitant prices for necessary items or services for people's health, safety, or welfare (United Nations Conference on Trade & Development, 2021). In South Africa, two suppliers were accused of overcharging for face masks, with increases of more than 900 percent (United Nations Conference on Trade & Development, 2021). In Turkey, the Unfair Price Assessment Board was established and laws governing the prices and selling circumstances of critical commodities such as surgical masks and disinfectants (United Nations Conference on Trade & Development, 2021). Similar measures or apparatus were initiated and implemented in Brazil, Peru, the United Kingdom, the USA, France, Finland amongst others.

### **Nigeria’s Response to Consumer Protection in the COVID-19 Era**

Nigeria is not immune to COVID-19 and its attendant consequences. The outbreak of the pandemic brought grave hardship and economic turmoil to consumers, who stand at a disadvantaged position in the production chain. The country initiated and implemented a myriad of policies targeted at containing the spread of COVID-19 as well as protecting consumers of goods and services in the country. Nigeria's approach to the COVID-19 epidemic is multi-sectoral, multi-structural, and collaborative (Nabiebu & Akpanke, 2021). They are several institutions, bodies, and parastatals engaged. The Presidential Task Force on COVID-19 is the first on the list. President Buhari established this body on March 9, 2020. Among its responsibilities is the duty to organize and manage Nigeria's multi-complex inter-governmental framework to combat and restrict the corona virus's spread and its devastating impacts (statehouse.gov.ng.com, 2020; National COVID-19 Pandemic Multi-Sectional Response Plan, 2020). To carry out its mission, the body issued rules, instructions, and recommendations and collaborated with other government agencies to wit: the NCDC and the Central Bank of Nigeria.



The Taskforce also put in place certain measures which include but not restricted the closure of the economy, that is, restaurants, schools, markets, churches, institutions with exception to those that offer essential services.

The Federal Competition and Consumer Protection Commission have to some extent ensured the protection of consumers in the wake of the pandemic. Following the COVID-19 outbreak in Nigeria, the Commission, on February 28, 2020, observed that certain suppliers and retailers were taking undue advantage of citizens and engaging in unconscionable trade practices concerning basic safety and protective apparel such as face masks and latex gloves, as well as personal hygiene products such as sanitizers and anti-bacterial wipes, because the products are relevant and necessary in preventing the spread of the virus (FCCPC Report of August 19, 2020). Consequently, the Commission issued a stern warning that price gouging vendors and those who indulge in price gouging and or unjustified rises in the cost of protection and hygiene items would be made to face the axe of the law and or prosecuted. Thus, acting on the Commission's instructions, Jumia Nigeria has removed 390 products from its online store that belonged to 168 merchants of hand sanitizers and face masks in March 2020 (Premium Times Report of March 9, 2020). Also, in the course of an ongoing investigation, on May 4, 2020, the Federal Competition and Consumer Protection Commission (FCCPC) in the exercise of the powers donated to her in Section 18(1) of the FCCP Act, 2018, sealed Med Contour because of an abundance of caution and consumer protection (FCCPC Report of August 19, 2020). Further, in June 2020, in a charge brought before the Federal High Court, Abuja, the Commission accused four large pharmacies and supermarkets of using the COVID-19 outbreak in the country to raise the pricing of important hygiene items in violation of the law. The prosecution of the concerned companies, H-Medix Pharmacy and Stores, Faxx Stores, Ebeano Supermarket, and Bakan-Gizo Pharmacy, is being led by Babatunde Irukera, the Commission's Chief Executive Officer (FCCPC Report of August 19, 2020).

Other laudable achievements of the Commission include the prioritization of key competition and consumer protection issues related to and arising from the pandemic (including failed electronic banking transactions and associated delays in restoration, reconciliation, or resolution, slow internet connectivity, arbitrary and inexplicable data charges, and restricted access or delayed signal release after payment for PayTV services during the COVID-19 era) (FCCPC Report of August 19, 2020). The Commission has received hundreds of consumer complaints in the aforementioned sectors since February 2020, which it is now resolving. The Commission's obligation to promote competition was not overlooked in its COVID-19 response. It made provisions for merger reviews, advisory, and investigations in her COVID-19 response. Thus, the FCCPC agreed to accept remote filing and electronic notifications for merger assessment, especially where there is a likelihood of imminent failure of a merging party's company, (FCCPC Report of August 19, 2020). Other reasons for merger examination proposed by the Commission during the period include the presence of a host jurisdiction other than Nigeria, situations requiring communication and determination by the FCCPC before the completion of the underlying transaction, and other sensitive situations (FCCPC Report of August 19, 2020). In recognition of her 'outstanding performance' during the pandemic, the Federal Ministry of Industry, Trade, and Investment (FMITI) on August 19, 2020, gave the Commission (FCCPC) an award for outstanding performance during the COVID-19 pandemic (Premium Times, August 19, 2020).

Another important institution that contributed immensely to the quest for consumer protection in Nigeria in the COVID-19 era is the National Agency for Food and Drug Administration and Control (NAFDAC). The agency is saddled with the mandate of ensuring consumer protection in the country by educating, regulating, and controlling the manufacture, importation, advertisement, distribution, sale, and use of food, drugs, cosmetics, medical, and other related products in Nigeria, enlightened the public about the medical supplies required for the nation's COVID-19 pandemic response. The Agency also has put in place an expedited registration pathway to allow the granting of Emergency Use Authorization (EUA) for the masks and Personal Protection Equipment (NAFDAC Report of April 27, 2020). NAFDAC also created an online platform christened '*The Report a Problem Page*', which affords consumers the opportunity to report violations of NAFDAC any violation of her policies or regulations. The Agency also partnered with the Federal Competition and Consumer Protection Commission (FCCPC) on COVID-19 vaccine information dissemination and education (The Guardian, 21 February 2021)

The role played by the Nigeria Communications Commissions (NCC) in upholding the rights of consumers in Nigeria in the COVID-19 crisis cannot be underrated. Notably, the Commission to effectively interact with consumers has built e-platforms to channel all license requests, consumer complaints, and base transceiver station (BTS) investigation requests, or have designated e-mail addresses to use for such requests throughout the pandemic period (NCC Press Release of March 26, 2020). In November, the Commission took its consumer education campaign to students at the University of Benin (UNIBEN) over the weekend, teaching them about their rights and responsibilities in the telecom business. In a program titled "Telecom Campus Conversation," with the topic "Telecom Consumer Rights Awareness; The Role of Students," the telecom regulatory body said the NCC aimed to raise awareness among students about their rights and roles in the telecom business (Thisday Newspaper Report of November 11, 2021).

The Nigeria Electricity Regulatory Commission (NERC) also played an inalienable role in prioritizing consumer protection in Nigeria's electricity sector. To ensure that consumers' have uninterrupted access to electricity and their complaints are properly handled in the wake of the pandemic, the Commission established the NERC Situation Room. The decision was made in light of the negative impact of the movement limitations or restrictions imposed in the fight against COVID-19 (NERC Report, 2020). Nigerian Electricity Supply Industry (NESI) was monitored by the 'Situation Room' in three ways during this time: System Operators Report Analysis/Monitoring, Customer Complaints Handling, Transmission Company of Nigeria, and Discos Interface Resolution. Electricity customers' complaints are tracked daily with relevant operators via phone/text messaging, WhatsApp messages, and emails to guarantee prompt resolution. Weekly, daily operational records are examined, summarized, and trends detected for regulatory supervision and operator directives. The 'Situation Room' monitors long-term power outages to guarantee that Nigerians have a reliable electricity supply during the lockdown. Between April 4 to April 17, 2020, a total of 2,689 complaints on electricity supply interruptions were received and monitored by the Commission (NERC Report, 2020).

The aviation sector has been particularly hard hit by the coronavirus pandemic. This has resulted in many countries imposing movement restrictions and outright travel bans and closing their borders to inward and outward movement in an attempt to stem the spread of the deadly virus (Abolarin, 2020). Following the discovery of several COVID-19 cases in Nigeria, the

Nigerian government, through the Nigerian Civil Aviation Authority (NCAA) announced the immediate closure of all airports (both domestic and international) and a total lockdown of the country's major commercial centers, with several state governments following suit with varying degrees of movement restrictions within their states. Various responses to the COVID-19 epidemic around the world, particularly the closure of airports, resulted in the grounding of various fleets, resulting in the automatic cancellation of bookings (Abolarin, 2020). Of course, the COVID-19 pandemic comes under exceptional conditions that protect airlines from duty for compensation; as a result, we expect compensation worries to be minimal or non-existent. In practice, airlines do not have the option of rerouting in the event of a COVID-19-induced flight cancellation because airports are completely shut down. As a result, airlines are left with the option of reimbursing customers in cash, which may be difficult to achieve due to cash flow issues resulting from the substantial drop in demand before the total halt of operations, especially given the current economic climate.

Other key players of consumer protection include the Nigerian Medical Association; the Nigerian Bar Association, the Nursing and Midwifery Council of Nigeria, etc.

### **Identifying the Missing Link/Conundrums to Effective Consumer Protection in the COVID-19 Era in Nigeria**

Undoubtedly, Nigeria has a flood of legislation and institutions on consumer protection. Some of these legislation and institutions have already been discussed in this paper. With the avalanche of this legislation and institutions, one would have expected that the issue of consumer protection in the country especially in the COVID-19 era is optimized. Sadly, the narrative is on the negative as Nigeria ranks low in the index of countries with the best consumer protection policies and implementation. Currently, she ranks 125<sup>th</sup> in the global Competition and Consumer Protection Index (The Guardian of 23 June 2021). A quite number of conundrums account for this ugly situation. The problem of illiteracy or lack of awareness on the part of the consumers on the existence of consumer protection laws as well as the right to obtain accurate, clear unambiguous and not vague information and data about the goods and services that she/he buys, uses or is provided to him/her; right to protection from false, deceptive and misleading advertisements; right to protection from arbitrary conditions (express or implied) imposed by manufacturers, suppliers or providers of goods and services; right of the consumer to return goods/commodity with a refund, exchange or repair of the product without consideration in the event that the defect is discovered or that it fails to conform to the standard specification or purpose for which it was contracted; consumer's right to guarantee as regard the quality and conformity goods and approved specification; right of consumer to right and safety when using ordinary goods and services; rights of consumers to fair compensation for any damage suffered as a result engaging in any consumer-related activities. In some situations, where they are aware of the existence of such rights, they don't know how to enforce same, and even they do, they don't have the resources to seek redress or enforce the rights that have been violated as a result of the high cost of litigation or the inability to employ experts to prosecute their claims. This has further been compounded by the poor attitudes of courts to the enforcement of consumer rights. Most times, courts prioritize technicalities as against substantial justice. For instance, in the celebrated case of Adegboruwa v. Nigerian Communications Commission (Unreported), the complainant sued the respondents for poor service delivery and arbitrary tariff hikes by

telecommunication operators in Nigeria; the courts appear to be rather complacent in reaching judgment in favor of teeming Nigerian consumers who have been subjected to disparaging exploitation by GSM operators since the matter was brought to court in 2002. For years, millions of hapless Nigerian subscribers have suffered as a result of poor service delivery, with the judiciary and other institutions making little or no attempt to bring culprits to justice. This is not the practice in other climes. In India for instance, the court has been proactive in ensuring that consumer rights enforcement is judiciously and expeditiously entertained. For example, in *Poonam Verma v. Ashwin Patel*, the respondent doctor, Ashwin Patel, was trained in homeopathy for four years and started his private practice. The appellant Poonam Verma, approached the Supreme court for compensation for her deceased husband, who was administered allopathic drugs for viral fever, and later typhoid fever by the homeopathy doctor. Her husband passed away within eight days of the treatment. The Court relied on the reasoning in the classic case *Indian Medical Association v. BP Shantha* and held that the Consumer Protection Act applies to medical professionals, including hospitals and private practitioners. Thus, the deceased was a “consumer” of the medical services. It is also true that during the pandemic, consumer disputes redress mechanisms were hampered, courts could not sit as a result of the lockdown policy initiated and implemented in the country.

Regulatory agencies such as NAFDAC, SON, NCC, NERC, and others often connive with operators to short-change consumers. For example, in the wake of the pandemic, the Kano State Public Complaints and Anti-Corruption Commission (PCC) detained Mr. Bello Alkary, also known as Nigeria, the state Consumer Protection Council's Director of Quality Assurance, for allegedly taking bribes. The Acting Chairman of the Commission, Mahmud Balarabe, confirmed the arrest, saying Alkary was apprehended and held after he was caught in the act. The director of the council was previously detained after being accused of taking bribes as well. The effect of this is that when consumers initiate complaints or proceedings to enforce their rights that have been violated, such complaints are usually swept under the carpet by the regulators and this practice has over the years led to consumer apathy towards the enforcement of their rights. All these factors or conundrums constituted a minus to the quest for effective consumer protection in the COVID-19 era in the country.

## CONCLUSION

The long fight against the COVID-19 virus has left an indelible effect on global consumer attitudes, lives, and habits. They have been and continue to be victims of online scams as well as unfair and deceptive advertisements. Consumers who have little or no understanding of the detrimental effects of such items are offered inferior goods and fraudulent products daily, particularly bogus COVID-19 medications and vaccinations. In Nigeria, where literacy is extremely low, this is exacerbated. To adapt to a new environment and satisfy rapidly changing client expectations, it follows from the research findings that to achieve an appreciable level of consumer protection in Nigeria, the consumer stakeholder group and the Federal Competition and Consumer Protection Commission (FCCPC) must step up their game on orientating and educating consumers on the existence as well as the procedure for the enforcement of their rights. Nigerian laws on consumer's protection should be amended to make provisions on E-courts and disputes resolution mechanisms. This will provide an environment that consumers can easily seek redress for future eventualities including pandemics. The government at all levels

should ensure that adequate funding and supervision of consumer protection agencies are given priority. This will go along to tackle the corruption that exists in these agencies.

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