

FCCPC (Federal Competition and Consumer Protection Commission)

The Federal Competition and Consumer Protection Commission (FCCPC) is the apex consumer protection agency in Nigeria. The Commission was established by the Federal Competition and Consumer Protection Commission Act (FCCPCA) (Cap. 25, Laws of The Federation 2004). The overall mandate of the Commission is to protect consumers by taking both preventive and remedial measures.

FCCPC was originally enacted in 1992, but the physical establishment of the Commission occurred in 1999. The Commission operates across all sectors of the economy and has evolved over the years. From a single office in 1999, the Commission now has zonal offices in the six geopolitical zones and additional emerging strategic intervention offices in key locations for better coverage of the country. Currently, there are nine offices including the headquarters in Abuja. Zonal offices are controlled and coordinated from the headquarters.

Since inception, the Commission has had four Director General. The current Director General is Babatunde Irukera.

WHAT FCCPC DOES

- The Commission in fulfillment of its statutory mandate deploys several regulatory tools to monitor and modify behavior of service providers and manufacturers. Some key areas of operation include complaint resolution, surveillance and enforcement, consumer education, as well as research and strategy.

- **Complaint Resolution**

Using different mechanisms, the Commission resolves complaints that are filed with it. Usually, consumer grievances and dissatisfaction are filed with the Commission as “Complaints”. The Commission receives these complaints in diverse ways including online, in-person, in writing, and multiple social media platforms. Most complaints are resolved using one or more of our resolution tools, such as direct engagement, negotiations, mediation, conciliation, investigations, administrative hearings and collaboration with other regulators. Investigations and hearings usually occur when a market intervention becomes compelling, or conduct is egregious or indicative of a pattern or widespread infraction.

- **Surveillance & Enforcement**

A vital tool of protecting consumers is market surveillance and enforcement where violations occur. This component of their work is both random and targeted. Most targeted interventions are on account of intelligence gathered by, or provided to the Commission, including anonymous tips. Random interventions are a quality assurance mechanism. Some activities here are preventive and may lead to publishing Guidelines or Advisories about products in the market and restrictions on consumption or use.

- **Quality Assurance & Development**

The Commission is committed to nationwide quality assessment of products and services, through inputs into national & international standards, sampling, analysis, investigation, process auditing, developing and issuance of guidelines/standard operating procedures (SOPs) in order to ensure that products, services and processes are of good quality, safe and meet consumers’ expectation, while giving value for money.

- **Consumer Education**

A fundamental factor in consumer protection is an educated consumer. As such, the Commission engages in routine and periodic consumer education to inform consumers of their rights, available enforcement mechanisms and how to use the processes. Another vital aspect of consumer education is to provide information about key market developments such as Advisories, Warnings, recalls and similar interventions. The Commission conducts numerous specific and general awareness campaigns.

- **Research & Strategy**

The Commission engages in domestic and global research about products and services, as well as changing or evolving market trends and consumer behavior. The objectives are to:

- provide data base for organizational planning purposes on the concept of consumerism;
- develop strategies for interventions; and
- Modify existing mechanisms to be more effective and/or efficient.

Research and strategy play a pivotal role in how the Commission accomplishes its mandate and allocates its limited resources.

FCCPC GOALS

1. Ensure that producers and service providers and their patrons mutually respect their commercial and social contracts.
2. Diminish to the barest minimum incidents of consumer aggravation and frustration.
3. Sufficiently protect consumers from hazardous products or injury from consumption of substandard products.
4. Promote a quality culture in both processes and final products.
5. Engender a marketplace of informed, sophisticated and discriminatory consumers.
6. Provide information and be a resource to consumers regarding products, trends and patterns.
7. Ensure that service providers and manufacturers make full and frank disclosures of relevant information about their products, or developments with respect to consumption of their products, in a consumer friendly manner which truly guides consumers' choices.
8. Ensure that producers and service providers institutionalize appropriate customer care systems including providing information, appropriate support through the acquisition/consumption, and post-acquisition/consumption process.
9. Promote the establishment of dedicated customer service apparatus by producers and service providers, including clear, transparent and accessible complaint resolution mechanisms.
10. Hold providers and producers accountable to satisfying customers, including serving as a secondary level complaint resolution mechanism.

Source: fccpc.gov.ng

FEDERAL COMPETITION AND CONSUMER PROTECTION ACT, 2018

A Bill

For An Act to repeal the Consumer Protection Act Cap C25, Laws of the Federation of Nigeria, 2004, establish the Federal Competition and Consumer Protection Commission and Competition and Consumer Protection Tribunal for the development and promotion of fair, efficient and competitive markets in the Nigerian economy to facilitate access by all citizens to safe products and secure the protection of rights for all consumers in Nigeria; and for related matters.

PART I- OBJECTIVES AND SCOPE OF APPLICATION

1. The objectives of this Act are to

- (a) Promote and maintain competitive markets in the Nigerian economy;
- (b) Promote economic efficiency;
- (c) Protect and promote the interests and welfare of consumers by providing consumers with wider variety of quality products at competitive prices;
- (d) Prohibit restrictive or unfair business practices which prevent, restrict or distort competition or constitute an abuse of a dominant position of market power in Nigeria; and
- (e) Contribute to the sustainable development of the Nigerian economy.

Scope of application

2. (1) except as may be indicated otherwise, this Act applies to all undertakings and all commercial activities within, or having effect within, Nigeria.

(2) This Act also applies to and is binding upon

- (a) A body corporate or agency of the Government of the Federation or a body corporate or agency of a subdivision of the Federation, if the body corporate or agency engages in commercial activities;
- (b) A body corporate in which a Government of the Federation or government of a State or a body corporate or agency of Government of the Federation or any State or Local Government has a controlling interest where such a body corporate engages in economic activities; and
- (c) All commercial activities aimed at making profit and geared towards the satisfaction of demand from the public.

(3) This Act shall apply to conduct outside Nigeria by

- (a) A citizen of Nigeria or a person ordinarily resident in Nigeria;
- (b) A body corporate incorporated in Nigeria or carrying on business within Nigeria;

(c) Any person in relation to the supply or acquisition of goods or services by that person into or within Nigeria; or

(d) any person in relation to the acquisition of shares or other assets outside Nigeria resulting in the change of control of a business, part of a business or any asset of a business, in Nigeria.

PART XV- CONSUMERS' RIGHTS

114. (1) The producer of a notice, document or visual representation that is required under this Act or any other law, to be produced, provided or displayed to a consumer must produce, provide or display that notice, document or visual representation

(a) in the prescribed form, if any, for that notice, document or visual representation; or

(b) in plain language, if no form has been prescribed for that notice, document or visual representation.

(2) For the purposes of this Act, a notice, document or visual representation is in plain language if it is reasonable to conclude that an ordinary consumer of the class of persons for whom the notice, document or visual representation is intended, with average literacy skills and minimal experience as a consumer of the relevant goods or services, could be expected to understand the content, significance, and import of the notice, document or visual representation without undue effort, having regard to

(a) the context, comprehensiveness and consistency of the notice, document or visual representation;

(b) the organization, form and style of the notice, document or visual representation;

(c) the vocabulary, usage and sentence structure of the notice, document or visual representation; and

(d) the use of any illustrations, examples, headings or other aids to reading and understanding.

(3) The Commission may publish guidelines on methods for assessing whether a notice, document or visual representation satisfies the requirements of subsections (1) and (2).

115. (1) An undertaking shall not display any goods or services for sale without adequately displaying to the consumer a price of those goods or services.

(2) For the purposes of this subsection, a price is adequately displayed to a consumer if, in relation to any particular goods or services, a written indication of the price, expressed in the currency of the Federal Republic of Nigeria, is annexed or affixed to, written, printed, stamped or located upon, or otherwise applied to the goods or services or to any band, ticket, covering, label, package, reel, shelf, or other thing used in connection with the goods or services, or on which the goods or services are mounted for display or exposed for sale, or published in relation to the goods or services in a catalogue, brochure, newspaper, circular or similar publication available to the consumer, or to the public generally.

(3) An undertaking shall not require a consumer to pay a price for any goods or services higher than the displayed price for those goods or services, or if more than one price is concurrently displayed, higher than the lower or lowest of the prices so displayed.

116. (1) For the purposes of this section, a trade description is applied to goods if it is

(a) applied to the goods, or to any covering, label or reel in or on which the goods are packaged, or attached to the goods;

(b) displayed together with, or in proximity to, the goods in a manner that is likely to lead to the belief that the goods are designated or described by that description; or

(c) is contained in any sign, advertisement, catalogue, brochure, circular, wine list, invoice, business letter, business paper, or other commercial communication on the basis of which a consumer may request or order the goods.

(2) An undertaking shall not knowingly apply to any goods a trade description that is likely to mislead consumers as to any matter implied or expressed in that trade description or alter, deface, cover, remove or obscure a trade description or trade mark applied to any goods in a manner calculated to mislead consumers.

(3) An undertaking shall not supply, offer to supply or display any goods if the undertaking knows, reasonably could determine, or has reason to suspect, that

(a) a trade description applied to those goods is likely to mislead consumers as to any matter implied or expressed in that trade description; or

(b) a trade description or trade mark applied to those goods has been altered.

117. An undertaking that offers or agrees to supply, or supplies, any goods that have been used or are second-hand or have been re-conditioned, re-built or re-made, must apply a conspicuous notice to those goods stating clearly that they have been used or are second-hand or have been re-conditioned, re-built or re-made.

118. Except where it is impracticable to do so, an undertaking shall provide a written record of each transaction to any consumer to whom goods or services are sold or supplied, and include in that record at least

(a) the undertaking's full name, or registered business name;

(b) the address of the premises at which, or from which, the goods or services were sold or supplied;

(c) the date on which the transaction occurred;

(d) a name or description of any goods or services supplied or to be supplied;

(e) the unit price of any particular goods or services supplied or to be supplied;

(f) the quantity of any particular goods or services supplied or to be supplied;

(g) the total price of the transaction, before any applicable taxes;

(h) the amount of any applicable taxes; and

(i) the total price of the transaction, including any applicable taxes.

119. An undertaking shall not require, as a condition of offering to supply or supplying any goods or services, or as a condition of entering into an agreement or transaction, that a consumer shall

- (a) purchase any other particular goods or services from that undertaking,
- (b) enter into an additional agreement or transaction with the same undertaking or a designated third party, or
- (c) agree to purchase any particular goods or services from a designated third party, unless the undertaking can demonstrate that the convenience to the consumer in having those goods or services bundled outweighs the limitation of the consumer's right to choice, or that the bundling of those goods or services results in economic benefit for the consumer.

120. (1) A consumer shall have the right to cancel any advance booking, reservation or order for any goods or services, subject to a reasonable charge for cancellation of the order or reservation by the supplier or service provider.

(2) For the purpose of this section, a charge is unreasonable if it exceeds a fair amount in the circumstances, having regard to

- (a) the nature of the goods or services that were reserved, booked or ordered;
- (b) the length of notice of cancellation provided by the consumer;
- (c) the reasonable potential for the supplier or service provider, acting diligently, to find an alternative consumer between the time of receiving the cancellation notice, and the time of the cancelled reservation, booking or order; and
- (d) the general practice of the relevant industry.

(3) A supplier or service provider may not impose any cancellation fee in respect of a booking, reservation or order if the consumer is unable to honor the booking, reservation or order because of the death or hospitalization of the person for whom, or for whose benefit the booking, reservation or order was made.

121. (1) Notwithstanding any statement or notice to the contrary, a consumer or potential consumer is not responsible for any loss or damage to any goods displayed by a supplier, unless the loss or damage results from action by the consumer amounting to gross negligence or recklessness, malicious behaviour or criminal conduct.

(2) Where goods are displayed in or sold from open stock, a consumer has the right to select or reject any particular item from that stock before completing the transaction.

(3) Where a consumer has agreed to purchase goods solely on the basis of a description or sample, or both provided by the supplier, the goods delivered to the consumer shall in all material respects and characteristics, correspond to that which an ordinary alert consumer would have been entitled to expect based on the description, or on a reasonable examination of the sample, as the case may be.

(4) Where the supply of goods is by sample, as well as by description, it is not sufficient that any of the goods correspond with the sample, if the goods do not also correspond with the description.

122. In addition to the consumer's right to return unsafe or defective goods under any law or enactment, the consumer may return goods to the supplier and receive a full refund of any consideration paid for those goods, if the supplier has delivered

(a) goods intended to satisfy a particular purpose communicated to the supplier and within a reasonable time after delivery to the consumer, the goods have been found to be unsuitable for that particular purpose; or

(b) goods that the consumer did not have an opportunity to examine before delivery, and the consumer has rejected delivery of the goods within a reasonable time after delivery to the consumer for the reason that the goods do not correspond with description, sample or that they are not of the type and quality reasonably contemplated in the sales agreement.

123. (1) A producer, importer, distributor, retailer, trader or service provider shall not, in pursuance of trade and for the purpose of promoting or marketing, directly or indirectly, goods or services make any representation to a consumer

(a) in a manner that is likely to imply any false or incorrect representation concerning those goods or services;

(b) that is reasonably misleading or likely to be misleading in any material respect concerning those goods and services;

(c) in a manner that is erroneous, fraudulent or deceptive in any way, including in respect of

(i) the nature, properties, advantages or uses of the goods or services,

(ii) the manner in, or conditions on, which those goods or services may be supplied,

(iii) the price at which the goods or services may be supplied, or the existence of, or relationship of the price to, any previous price, or competitor's price for comparable or similar goods or services,

(iv) the sponsoring of any event, or

(v) any other material aspect of the goods or services;

(d) in the form of a statement, warranty or guarantee of performance, efficacy or length of life of products that is not based on an adequate and proper test of the goods or services, the proof of which lies on the person making the representation;

(e) in a form that purports to be a warranty or a guarantee of any goods or services, or a promise to replace, maintain or repeat an article or any part thereof or to repeat or continue the service until it has achieved a specified result, if the form of purported warranty, guarantee or promise is materially misleading or there is no reasonable prospect that it will be carried out;

(f) to falsely represent to the public in the form of a statement, warranty or guarantee that services are of a particular kind, standard, quality or quantity, or are supplied by any particular undertaking or any undertaking of a particular trade, qualification or skill;

(g) that is materially a misleading representation to the public concerning the price at which particular goods or services or like goods or services have been, are or will be ordinarily supplied.

(2) For the purpose of this Act, the following types of representations shall be deemed to be made to the public by, and only by, the undertaking who caused it to be expressed, made or contained, that is to say, a representation that is

(a) expressed on goods or services offered or displayed for sale;

(b) expressed on anything attached to, inserted in or accompanying goods offered or displayed for sale, their wrapper or container, or anything on which the goods are mounted for display or sale;

(c) expressed on a display in the place where the goods or services are sold;

(d) made in the course of selling goods or services to the ultimate consumer; or

(e) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner made available to a member of the public.

(3) Where the undertaking referred to in subsection (2) is outside Nigeria, the representation shall be deemed to be made

(a) in a case described in subsection (2) (a), (b) or (e), by the undertaking that imported the goods or services; and

(b) in the case described in subsection (2) (c), by the undertaking that imported the display into Nigeria.

124. (1) An undertaking or any person acting on its behalf shall not use physical force, coercion, undue influence or pressure, harassment, unfair tactics or any other similar conduct against any person in connection with

(a) marketing of any goods or services;

(b) supply of goods or services to a consumer;

(c) negotiation, conclusion, execution or enforcement of an agreement to supply any goods or services to a consumer;

(d) demand for, or collection of, payment for goods or services by a consumer; or

(e) the conduct of a legitimate business transaction.

(2) In addition to any conduct contemplated in subsection (1), an undertaking or any person acting on its behalf shall not knowingly to take advantage of the fact that a potential consumer was substantially

unable to protect the consumer's own interests because of physical or mental disability, illiteracy, ignorance, inability to understand the language of an agreement, or any other similar factor.

125. (1) where in the marketing of any goods or services an undertaking or any person acting on its behalf by words or conduct

(a) directly or indirectly expresses or implies a false, misleading or deceptive representation concerning a material fact to a consumer or prospective consumer, or

(b) fails to correct an apparent misapprehension on the part of a consumer or prospective consumer, amounting to a false, misleading or deceptive representation or permit or require any other person to do so, the undertaking is liable for damages to any person damaged, and shall be ordered to make monetary restitution.

(2) A person acting on behalf of a supplier of any goods or services shall not

(a) falsely represent that the person has any sponsorship, approval or affiliation, or

(b) engage in any conduct that the supplier is prohibited from engaging in under subsection (1).

126. (1) An undertaking shall not, for the purpose of promoting, directly or indirectly, the supply or use of any goods or services or any business interest, make a representation to the public that a test as to the performance, efficacy or length of life of the goods or services has been made by any person or publish a testimonial with respect to the products, unless it can establish the matters specified in subsection (2).

(2) The matters referred to in subsection (1) are

(a) that the representation or testimonial was previously made or published by the person by whom the test was made or the testimonial was given, as the case may be; or

(b) that before the representation or testimonial was made or published, it was approved and permission to make or publish it was given in writing by the person who made the test or gave the testimonial, as the case may be, and it accords with the representation or testimonial previously made, published or approved.

127. (1) An undertaking shall not

(a) offer to supply, supply, or enter into an agreement to supply, any goods or services at a price that is manifestly unfair, unreasonable or unjust, or on terms that are unfair, unreasonable or unjust;

(b) market any goods or services, or negotiate, enter into or administer a transaction or an agreement for the supply of any goods or services, in a manner that is unfair, unreasonable or unjust; or

(c) require a consumer, or other person to whom any goods or services are supplied at the direction of the consumer, to waive any rights, assume any obligation, or waive any liability of the undertaking, on terms that are unfair, unreasonable or unjust, or impose any term as a condition of entering into a transaction.

(2) Without limiting the generality of the provision of subsection (1), a transaction or agreement, a term or condition of a transaction or agreement, or a notice to

which a term or condition is purportedly subject, is unfair, unreasonable or unjust if

(a) it is excessively one-sided in favor of any person other than the consumer or other person to whom goods or services are to be supplied;

(b) the terms of the transaction or agreement are so adverse to the consumer as to be inequitable;

(c) the consumer relied upon a false, misleading or deceptive representation or a statement of opinion provided by or on behalf of the undertaking that supplied the goods or services concerned, to the detriment of the consumer; or

(d) the fact, nature and effect of that term, condition or notice was not drawn to the attention of the consumer.

128. (1) Any notice to consumers or potential consumers, or provision of a consumer agreement, which purports to

(a) limit in any way the risk or liability of an undertaking supplying goods or services or any other person,

(b) constitute an assumption of risk or liability by the consumer,

(c) impose an obligation on the consumer to indemnify an undertaking supplying goods or services or any other person for any cause, or

(d) be an acknowledgement of any fact by the consumer,

shall be drawn to the attention of the consumer in a conspicuous manner and form that is likely to attract the attention of an ordinarily alert consumer having regard to the circumstances.

(2) Before the consumer enters into the transaction, or is required or expected to offer consideration for the transaction or agreement, the consumer shall be given adequate opportunity in the circumstances to receive and comprehend the provision or notice.

129. (1) An undertaking shall not make a transaction or agreement subject to any term or condition if

(a) its general purpose or effect is to defeat the purposes and policy of this Act, mislead or deceive the consumer, or subject a consumer to fraudulent conduct;

(b) it directly or indirectly purports to

(i) waive or deprive a consumer of a right to return defective goods or any right set out in this Act,

(ii) avoid the undertaking's obligation or duty under this Act,

(iii) set aside or override the effect of any provision of this Act,

(iv) authorize the undertaking to do anything that is unlawful under this Act, and

(v) or fail to do anything that is required under this Act;

(c) it purports to

(i) limit or exempt the undertaking from liability for any loss directly or indirectly attributable to the gross negligence of the undertaking or any person acting for or controlled by the undertaking,

(ii) constitute an assumption of risk or liability by a consumer for the said loss,

(iii) impose an obligation on a consumer to pay for damage, or

(iv) otherwise assume the risk of handling any goods displayed by the supplier;

(d) it falsely expresses an acknowledgment by the consumer that before an agreement was made, no representations or warranties were made in connection with the agreement by the undertaking or a person acting on behalf of the undertaking or the consumer has received goods or services, or a document that is required by this Act to be delivered to the consumer; and

(e) it expresses an agreement by the consumer to

(a) its general purpose or effect is to defeat the purposes and policy of this Act, mislead or deceive the consumer, or subject a consumer to fraudulent conduct;

(b) it directly or indirectly purports to

(i) waive or deprive a consumer of a right to return defective goods or any right set out in this Act,

(ii) avoid the undertaking's obligation or duty under this Act,

(iii) set aside or override the effect of any provision of this Act,

(iv) authorise the undertaking to do anything that is unlawful under this Act, and

(v) or fail to do anything that is required under this Act;

(c) it purports to

(i) limit or exempt the undertaking from liability for any loss directly or indirectly attributable to the gross negligence of the undertaking or any person acting for or controlled by the undertaking,

(ii) constitute an assumption of risk or liability by a consumer for the said loss,

(iii) impose an obligation on a consumer to pay for damage, or

(iv) otherwise assume the risk of handling any goods displayed by the supplier;

(d) it falsely expresses an acknowledgment by the consumer that before an agreement was made, no representations or warranties were made in connection with the agreement by the undertaking or a person acting on behalf of the undertaking or the consumer has received goods or services, or a document that is required by this Act to be delivered to the consumer; and

(e) it expresses an agreement by the consumer to

(i) deposit with the undertaking, or with any other person at the direction of the undertaking, an identity document, credit or debit card, bank account or automatic teller machine access card, or any similar identifying document or device, and

(ii) provide a personal identification code or number to be used to access an account.

(2) A purported transaction or agreement, provision, term or condition of a transaction or agreement, or notice to which a transaction or agreement is purported to be subject, is void to the extent that it contravenes the provisions of this section.

130. (1) When an undertaking agrees to perform any service for or on behalf of a consumer, the consumer has a right to

(a) the timely performance and completion of those services, and timely notice of any unavoidable delay in the performance of the services;

(b) performance of the services in a manner and quality that reasonable persons are generally entitled to expect;

(c) the use, delivery or installation of goods that are free of defects and of a quality that persons are generally entitled to expect, if the goods are required for the performance of the services; and

(d) the return of any property or control over any property of the consumer in at least as good a condition as it was when the consumer made it available to the undertaking for the purpose of performing the services, having regard to the circumstances of the supply, and any specific criteria or conditions agreed between the undertaking and the consumer before or during the performance of the services.

(2) Where an undertaking fails to perform a service to the standards contemplated in subsection (1), the consumer may require the undertaking to either

(a) remedy any defect in the quality of the services performed or goods supplied; or

(b) refund to the consumer a reasonable portion of the price paid for the services performed and goods supplied, having regard to the extent of the failure.

131. (1) Every consumer has a right to receive goods that

(a) are reasonably suitable for the purposes for which they are generally intended;

(b) are of good quality, in good working order and free of defects;

(c) will be useable and durable for a reasonable period of time, having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply; and

(d) comply with any applicable standards set by industry sector regulators.

(2) In addition to the right set out in subsection (1), if a consumer has specifically informed an undertaking of the particular purpose for which the consumer wishes to acquire any goods, or the use to which the consumer intends to apply those goods, and the undertaking ordinarily offers to supply such

goods or acts in a manner consistent with being knowledgeable about the use of those goods, the consumer has a right to expect that the goods are reasonably suitable for the specific purpose that the consumer has indicated.

132. (1) In any transaction or agreement pertaining to the supply of goods to a consumer, there is an implied warranty that the goods shall comply with the requirements and standards contemplated in section 131 (1) and (2) of this Act.

(2) Within three months after the delivery of any goods to a consumer, the consumer may return the goods to the undertaking that supplied those goods, without penalty and at the undertaking's risk and expense, if the goods fail to satisfy the requirements and standards contemplated in section 131 (1) of this Act and the undertaking shall either repair or replace the failed, unsafe or defective goods or refund to the consumer the price paid by the consumer for the goods.

133. (1) The Commission shall promote the development, adoption and application of industry-wide codes of practice providing for effective and efficient systems to

(a) receive notice of consumer complaints or reports of product failures, defects or hazards; the return of any goods because of a failure, defect or hazard personal injury, illness or damage to property caused wholly or partially as a result of a product failure, defect or hazard and other indication of failure, defect or hazard;

(b) monitor the sources of information contemplated in paragraph (a), and analyse the information received with the object of detecting or identifying any previously undetected or unrecognised potential risk to the public from the use of or exposure to those goods;

(c) conduct investigations into the nature, causes, extent and degree of the risk to the public;

(d) notify consumers of the nature, causes, extent and degree of the risk pertaining to those goods; and

(e) if particular goods are unsafe, recall those goods for repair, replacement or refund.

(2) Where the Commission has reasonable grounds to believe that any goods may be unsafe, or that there is a potential risk to the public from the continued use of or exposure to the goods, and the undertaking that produced, distributed or imported those goods has not taken any step required by an applicable code contemplated in subsection (1), the Commission, by written notice, may require that undertaking to recall the goods on any term required by the Commission.

PART XVI - DUTIES OF MANUFACTURERS, IMPORTERS, DISTRIBUTORS AND SUPPLIERS OF GOODS AND SERVICES

134. A manufacturer, importer or distributor of goods shall label or describe the goods in a manner that will be easily traceable to the manufacturer, importer or distributor.

135.(1) Upon becoming aware of any unforeseen hazard arising from the use of goods already placed on the market, the manufacturer or distributor of such goods shall notify the general public immediately of such risk or danger and cause such goods to be withdrawn from the market.

(2) An undertaking that violates the provisions of section 134 of this Act or subsection (1) commits an offence and (a) where the undertaking is a natural person, is liable on conviction to imprisonment for a term not exceeding three years or to payment of a fine not exceeding NIO,000,000.00 or to both the fine and imprisonment; and

(b) where the undertaking is a body corporate, is liable on conviction to a fine not exceeding 1 0% of its turnover in the preceding business year;

(3) In the case of a body corporate referred to in subsection (2) (b), each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in subsection (2) (a).

(4) Where a consumer suffers loss or injury by the violation of any person of provisions of section 13 4 of this Act or subsection (1), the consumer shall have a right to be awarded compensation by the Commission.

136. (1) Where a damage is caused wholly or partly by defective goods or the supply of a service, the undertaking that supplied the goods or service is liable for the damage.

(2) For the purpose of this Act, damage includes personal injury and damage to the consumer's property.

(3) An undeliaking that supplied the defective goods or service is liable whether or not the user or consumer bought the goods or service from or entered into any contractual agreement with the undertaking.

(4) A person affected by the defective goods or services has the right to sue under this section.

(5) The liability of any undertaking under this section shall not be excluded or restricted.

137. (1) In the case of goods of a type ordinarily supplied for private use or consumption, where loss or damage arises from the goods proving defective while in consumer use or results from the negligence of an undertaking concerned in the manufacture or distribution of the goods, liability for the loss or damage cannot be excluded or restricted by reference to any contract term or notice contained in or operating by reference to a guarantee of the goods.

(2) For the purpose of this section

(a) goods are to be regarded as "in consumer use" when a person is using them or has them in his possession for use, otherwise than exclusively for the purposes of a business; and

(b) anything in writing is a guarantee if it contains or purports to contain some promise or assurance (however worded or presented) that defects will be made good by complete or partial replacement, or by repair, monetary compensation or otherwise.

138. (1) Liability for breach of the obligations arising from a seller's implied undertaking as to title not be excluded or restricted by reference to any contract term.

(2) As against a person dealing as a consumer, liability for breach of the obligations arising from seller's implied undertakings as to conformity of goods with description or sample, or as to their quality or fitness for a particular purpose, shall not be excluded or restricted by reference to any contract term.

(3) As against a person dealing otherwise than as a consumer, the liability specified in subsection (2) may be excluded or restricted by reference to a contract term only if the term satisfies the requirement of reasonableness.

139. (1) Where the possession or ownership of goods pass under or in pursuance of a contract, subsections (2), (3) and (4) apply as regards the effect, if any, to be given to contract terms excluding or restricting liability for breach of obligation arising by implication of law from the nature of the contract.

(2) As against a person dealing as a consumer, liability in respect of the goods' correspondence with description or sample or quality or fitness for any particular purpose shall not be excluded or restricted by reference to any contract term.

(3) As against a person dealing otherwise than as a consumer, liability may be excluded or restricted by reference to a contract term only if the term satisfies the requirement of reasonableness.

(4) Liability in respect of

(a) the right to transfer ownership of the goods or give possession, or

(b) the assurance of quiet possession to a person taking goods pursuant to a contract, shall not be excluded or restricted by reference to any contract term, except if the term satisfies the requirement of reasonableness

140. Where a contract contains a term which excludes or restricts any liability to which a part of a contract may be the subject by reason of any misrepresentation made before the contract was made, or any remedy available to another party to the contract by reason of such a misrepresentation, that term shall have no effect.

141. (1) A person is not bound by any contract term prejudicing or taking away the person's rights arising under, or in connection with, the performance of another contract, so far as those rights extend to the enforcement of another's liability which this Act prevents that other from excluding or restricting.

(2) This Act prevents

(a) the exclusion or restriction of any liability;

(b) making any liability or its enforcement subject to restrictive or onerous conditions;

(c) excluding or restricting any right or remedy in respect of the liability or subjecting a person to any prejudice in consequence of the person pursuing any such right or remedy; and

(d) excluding or restricting rules of evidence or procedure.

(3) An agreement in writing to submit present or future differences to arbitration is not to be treated under this Act as excluding or restricting any liability.

142. (1) A contract is a contract for the supply of a service for the purposes of this Act whether or not goods are also transferred or to be transferred, or bailed or to be bailed by way of hire, under the contract and whatever is the nature of the consideration for which the service is to be carried out.

(2) For the purpose of this Act, a contract for apprenticeship is not a contract for the supply of a service.

(3) In a contract for the supply of a service where the supplier is acting in the course of a business, there is an implied term that the supplier will carry out the service with reasonable care and skill.

143. Where under a contract for the supply of a service by a supplier acting in the course of a business, the time for the service to be carried out is not fixed by the contract, left to be fixed in a manner agreed by the contract or determined by the course of dealing between the parties, it is implied that the supplier will carry out the service within a reasonable time.

144. (1) Where a right, duty or liability would arise under a contract for the supply of a service, it may be negated or varied by express agreement or by the course of dealing between the parties or by such usage as binds both parties to the contract provided that an express term does not negate a term implied by this section unless it is inconsistent with it.

(2) A supplier of service shall not, while dealing with a consumer, exclude or restrict its liability for breach of any term implied under sections 142 (3) and 143 of this Act.

(3) Nothing in this section shall prejudice any rule of law which imposes on the supplier a duty stricter than that imposed by section 143 of this Act.

145. Where it is alleged that goods or services are defective, the onus of proof shall lie on the undertaking that supplied the goods or services.

PART XVII- ENFORCEMENT OF CONSUMERS' RIGHTS

146. (1) A consumer may seek to enforce any right under this Act, a transaction or agreement, or otherwise resolve any dispute with an undertaking that supplied the goods or services to the consumer by

(a) referring the matter directly to the undertaking that supplied the goods or services;

(b) referring the matter to the applicable industry sector regulator with jurisdiction, if the undertaking is subject to the jurisdiction of the regulator; or

(c) filing a complaint directly with the Commission .

(2) Notwithstanding the provisions of subsection (1), an aggrieved consumer can directly approach a court with appropriate jurisdiction to seek redress.

147. Where an industry sector regulator concludes that there is no reasonable probability of the parties resolving their dispute through the process provided for in the relevant industry code, the industry sector regulator may terminate the process by notice to the parties and the party who referred the matter to the industry sector regulator may then file a complaint with the Commission.

148. (1) A consumer shall file a complaint with the Commission in the prescribed manner and form, alleging that an undertaking has acted in a manner inconsistent with the provisions of this Act.

(2) The Commission shall directly initiate a complaint concerning any allegedly prohibited conduct on its own motion, an industry sector regulator or an accredited consumer protection group.

(3) Upon initiating or receiving a complaint under this Act, the Commission may

(a) issue a notice of non-referral to the complainant in the prescribed form, if the complaint appears to be frivolous or vexatious or does not allege any fact which would constitute grounds for a remedy under this Act;

(b) refer the complaint to an industry sector regulator with jurisdiction over the matter for investigation or resolution; or

(c) direct an inspector to investigate the complaint as quickly as practicable.

(4) At any time during investigation, the Commission may designate one or more persons to assist the inspector conducting the investigation.

(5) After receiving a report of an investigation into a complaint, the Commission shall

(a) Issue a notice of non-referral to the complainant in the prescribed form;

(b) make an order; or

(c) issue a compliance notice.

149. (1) Where a matter has been investigated by the Commission, and the Commission and the respondent agree on the proposed terms of an appropriate order, the agreed terms shall be made on the order of the Commission.

(2) The Commission may, if it deems fit, register the order in a court of competent jurisdiction and the court, without hearing any evidence, may confirm that agreement as a consent order.

(3) An order of the Commission or a consent order confirmed pursuant to the provision of this section may include an award of damages to the complainant.

150. (1) The Commission may issue a compliance notice in the prescribed form to an undertaking or association of undertakings whom the Commission on reasonable grounds believes has engaged in prohibited conduct, provided that before issuing a notice to a member of a regulated industry, the Commission shall consult the industry sector regulator that issued a license to that regulated entity.

(2) A compliance notice shall set out

(a) the undertaking or association of undertakings to whom the notice applies;

(b) the provisions of this Act that have not been complied with;

(c) details of the nature and extent of the non-compliance;

(d) steps that are required to be taken and the period within which those steps shall be taken; and

(e) the penalty that may be imposed under this Act if those steps are not taken.

(3) A compliance notice issued pursuant under this section remains in force until it is set aside by a court, or until the Commission issues a compliance certificate upon being satisfied that there has been sufficient compliance with the compliance notice.

(4) If an undertaking or association of undertakings to whom a compliance notice has been issued fails to comply with the notice, the Commission shall

(a) shut down or close any premises from which the notice continues to be breached until the breach or non-compliance is remedied;

(b) impose the appropriate administrative fine; or

(c) refer the matter to a court of competent jurisdiction for prosecution.

151. (1) The Commission may collaborate with, facilitate, or otherwise support any of the following activities carried out by a consumer protection group

(a) consumer advice and education activities and publications;

(b) research, market monitoring, surveillance and reporting;

(c) promotion of consumers' rights and advocacy of consumers' interests

(d) representation of consumers, either specifically or generally, in court;

(e) alternative dispute resolution through mediation or conciliation; and

(f) participation in national and international associations, conferences or forums concerned with consumer protection matters.

(2) An accredited consumer protection group may

(a) commence or undertake any act to protect the interests of a consumer individually, or of consumers collectively, in any matter or before any forum contemplated in this Act; and

(b) intervene in any matter before any forum contemplated in this Act, if the interests of consumers represented by that group are not otherwise adequately represented in that forum.

(3) In addition to any other authority set out in this Act, an accredited consumer protection group may direct a generally stated concern or complaint to the Commission in respect of any matter within the purpose of this Act.

(4) The Commission may accredit a consumer protection group if that group

(a) functions predominantly to promote or represent the interests of all or a specific category of consumers generally;

(b) is committed to achieving the purposes of this Act; and

(c) engages in, or makes a realistic proposal to engage in, actions to promote and advance the consumers' interests.

(5) The Commission may impose reasonable conditions for the accreditation of a consumer protection group to provide the objectives of this Act and shall monitor the effectiveness of any such accredited consumer protection group and may reasonably require any accredited consumer protection group to provide information necessary for monitoring purposes.

152. Where upon an investigation by the Commission of a complaint by a consumer, it is proved that

(a) the consumer's right has been violated, or

(b) a wrong has been committed by the way of trade,' provision of services, supply of information or advertisement thereby causing injury or loss to the consumer,

the consumer shall in addition to the redress which the Commission may impose, have a right of civil action for compensation or restitution in a court of competent jurisdiction.

153. (1) Where it appears to the Commission that an undertaking has in the course of business persisted in a course of conduct which is detrimental to the interests of consumers, the Commission shall use its best endeavors to obtain from the undertaking concerned a satisfactory written assurance that it will refrain from a continuation of that course of conduct.

(2) Where the Commission is unable to obtain from the undertaking in question the assurance referred to in subsection (1), or if that undertaking has given such assurance and it appears to the Commission or the States office that the undertaking has failed to observe the assurance, the Commission shall cause proceedings to be commenced against such undertaking in a court of competent jurisdiction to refrain the undertaking from continuing that course of conduct.

(3) The Commission may order a temporary closure of any premises or facilities reasonably believed to be carrying on in a manner detrimental to the interest of consumers until the Commission is satisfied otherwise or pending the commencement of action.

154. (1) A court by or before which an undertaking is convicted of an offence under this Act may, in addition to dealing with such undertaking in any other way, make an order requiring the undertaking to pay compensation for any personal injury, loss or damage resulting from that offence of such amount as it may deem fit or as assessed by competent professional authority.

(2) In determining whether to make a compensation order against any undertaking, and in determining the amount to be paid by any undertaking under such an order, the court shall have regard to the means of the undertaking if they appear or are known to the court.

155. Except where otherwise provided for in this Act, any person who contravenes any consumer right commits an offence under this Act and

(a) in the case of a natural person, is liable on conviction to imprisonment for a term not exceeding five years, or to payment of fine not exceeding NIO,000,000.00 or to both the fine and imprisonment;

(b) in the case of a body corporate, is liable on conviction to a fine of not less than N100,000,000.00 or 10% of its turnover in the preceding business year, whichever is higher; and

(c) in the case of a body corporate referred to in paragraph (b) of this section, each director of the body corporate is liable to be proceeded against and dealt with as specified in paragraph (a).