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A Legal Appraisal of the Protection of Consumer Rights and Intellectual Property regime in Nigeria

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Abstract

Fake, substandard and harmful products and services flood the Nigeria market, including fake intellectual property products. These fake goods and services are harmful to human existence, hence the enactment of laws to protect the rights of consumers. The recent and most comprehensive legislation that protect consumers rights is the Federal Competition and Consumer Protection Act (FCCPA) 2018. The rights of the consumer are the rights to the right to the satisfaction of basic need, right to safety, right to be informed, right to choose, right to be heard, right to redress, right to consumer education, right to health and sustainable environment. This article aims at looking into the legislations that protect consumers rights, means of redress and the extent of awareness of consumers of the existence of such protection. It was found out that most consumers are not aware of the existence of the Laws and the channel of redress in case of infringement. It is recommended that Government, NGOs and Regulatory Agencies charged with consumer rights protection should educate the consumers on their rights and means of redress.

Key Words: Legal Appraisal, Consumer, Rights, Protection, Intellectual Property.

Introduction:

Generally, in Nigeria the consumers have been subjected to fake, substandard and harmful products, imitation of original products and health hazards in the market place. The markets have been inundated by some producers, of goods and services that are dangerous to human health and existence. However, researches and law makers have expended a lot of time and resources to make sure those consumers of goods and services are protected, including consumers of intellectual property products. Judicial and quasi-Judicial Institutions have been established and empowered by law to assist consumers get redress when they suffer harm from the use of harmful products and services. But the average consumer is ignorant of the existence of this protection under the law.

Be that as it may, the supply of fake and substandard products, including poor services have posed a lot of problems to the consumers, manufacturers and government contrary to the thoughts of society. The consumers do not get value for their money, the manufacturers of genuine products are cheated, while the manufacturers of fake products reap from where they did not sow by producing colourable imitation of genuine products. The government who is thought by international community to have permitted fake products are degraded by comity of nations. Nigeria as a nation has legislations which seems adequate, which if applied and enforced will go a long way to reduce fake and substandard products in the market place.

Who is a consumer?

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There is no generally accepted definition of consumers, it differs with different authors and scholars depending on their background, orientation & purpose. In the words of Garner [562] a consumer is a person who buys goods or services for personal, family, or household use, with no intention of resale; a natural person who uses products for personal rather than business purposes[563]. A consumer is also said to be someone who buy goods and services for personal use or need.[3] The consumer is equated to a person who buys any goods for consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system or deferred payment, when such services are availed of with the approval of the first mentioned person, but, does not include a person who avails of such service for any commercial purpose.[4] The Federal Competition and Consumer Protection Act[5] provides that the consumer is any person who purchases or offers to purchase goods otherwise than for the purpose of resale (but does not include a person who purchases good otherwise than for the purpose of resale) but does not include a person who purchases any goods for the purpose of using them in the production or manufacture of any other goods or articles for sale; to whom a service is rendered.

However, all the definitions above are quite restrictive, in the sense that resale is restricted. Meaning that the goods must be used by the said person privately and not for any other purpose.

In intellectual property law consumers are broadly conceptualized to cover creators, innovators, owners of intellectual property rights and users of creative and innovative products[564]. To Stazi and Mular [565] consumers within the intellectual property context includes users of the products embodying intellectual property; and the creators, innovators and owners of Intellectual Property Rights (IPRs)(IP producers) themselves since they would usually rely on existing intellectual property owned by others to create and innovate.

In the words of Schiffnaan and Kanut[566] the term consumer has been classified into personal consumer and organizational consumer. In which case they went ahead to define personal consumer as the individual who buys goods and services for his own use, for the use of his house

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[563] BA Garner, *Black's Law Dictionary* (9thEdn, West publishing co, St Paul MN 1990) 358 [3]
M. Robinson, *Chambers 21st Century Dictionary,* Chamber Harrap Publishers Ltd 1999) 294.
[4] Consumer Protection Act 2019 (India), S. 2(7) [5] 2018, S. 167(1)
[564] D. O. Oriakhogba and I. A. Olubiyi, Intellectual Property Regime and Consumer Protection in F. Monye, et al (eds) *Compendium of Consumer Protection Law in Nigeria,* C Princeton & Ass Publishing Co. Ltd 2022) 314-350
[565] A Stazi& D. Mular, "Intellectual Property and Consumer Law" *Crossroads of Intellectual Property: Intellectual Property in the 21st Century,* 2009.http://www.researchgate.net/profil accessed on 15/5/2023.
[566] L.G. Schiffnaan and LL Kanut, *Consumer Behaviour,*C Printice-Hall Inc, Englewood Cliffs, 1978) 45

hold, or for just one member of the household or even as a gift for a friend. While organizational consumers purchase goods and services for further production, use in operations and resale to others[567].

It then follows that organizational consumers are manufacturers, wholesalers, retailers, government and other nonprofit institutions, who buy goods and services[568] for processing them for the ultimate users including personal or individual consumers. To Monye[569] a consumer includes a purchaser, contractual consumers, ultimate users, as well as any person who comes in contact with a product or service in any way whatsoever.

In my considered view the term consumer is elastic in nature, consequently, includes manufacturers, wholesalers, retailers, users of products and services, as well as creators, innovators and owners of Intellectual property rights.

Ukwueze[570], observed that the term Consumer is generic and broad, encompassing different categories of persons, which include the hirer, the buyer, the patient seeking medical services, the client seeking legal or other professional services as well as the hotel guest, the commuter, the bank customer, and all end users of goods and services.

Consumer Rights

Consumer rights are a set of rights governed by the law that gives, allows customers to have the necessary information about goods and services while purchasing.[571] It can also be said to be generally a reference to a body of law that pertains to things the producers of goods must do to protect consumers from harm.[572]

Suffice it to state that consumers have rights and responsibilities. The rights are right to safety, right to choose, right to be informed, right to consumer education, right to be heard and right to seek compensation.[15] In support of rights stipulated above Monye[573] posits that the internationally recognized consumer rights are – the right to the satisfaction of basic need, right to safety, right to be informed, right to choose, right to be heard, right to redress, right to consumer education, right to health and sustainable environment. Wherever there are rights, there must be responsibilities.

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[567] Ibid; Lindell's B2B lecture Notes, "Organizational consumer" <htpps://www.umsl.edu/uchewl/notes> accessed on 1/5/2023.

[568] Ibid

[569] F. N. Monye, *Law of Consumer Protection,* (Ibadan: Spectrum Books Ltd, 2003) 15-19

[570] F Ukwueze, "Elevating Consumer rights to Human Rights", (2015) *13 Nigerian Judicial Review*, 134

[571] Commerce Sample Papers, "Consumer Rights and Responsibilities," https://byjus.com/commerce/consumer accessed on 12/5/2023

[572] H G. Org legal resources, 'what are consumer Rights' accessed on 12/5/2023

[15]Commerce Sample Papers op.cit.

[573] F. Monye, 'Tips on Consumer Protection' *3 Consumer Journal* (2007) 134

The consumer has the responsibility to be aware, to think independently, to speak out, to complain and to be an ethical consumer.[574]

In the words of Ebitu[575], consumer rights are those demands, claims, privileges or immunities which society recognizes as proper for consumers to enjoy in relation to goods, services, environment, development information, education and redress. Consequently many cases of breach go without remedy.

Consumer Rights Protection

Consumer protection is the efforts of government, public interest organizations, individuals and businesses to establish, protect and enforce the rights of people who buy products such as food and automobiles, or services such as healthcare and insurance.[576]It is also the act of safe guarding the interest of the consumer in matters relating to the supply of goods and services from fraudulent and hazardous practices as well as environmental degradation.[577]

To Badler[578] consumer protection is implementing consumer rights so as to ensure what is just, good or proper when dealing with consumers, as well as ensuring that consumers are protected from harm. In the opinion of Chukwu[579], consumer protection covers the rights and privileges of consumers and how the rights should be accorded to them[580]. Notably, consumer protection dates back to ancient times, where any product considered unsatisfactory is returned to the seller. In line with the above observation Akpan[581] stated that consumer protection has its root from daily lives of the stone age cave-man who had the right to return to the seller any product they found to be unsatisfactory. The idea became more serious in 1950s when an American political activist, Ralph Nadar championed activism for consumer safety and protection in the 1960s.

However, consumer protection governs the market place by safeguarding the weaker party in any transaction and one way to achieve this is by developing mandatory rules.[582] Several laws exist for the protection of the consumers' rights globally, creating the impression that the positions of the consumers are well regulated and their rights protected. [583] In Nigeria there are several laws protecting consumer rights, some of which are the Federal competition and consumer protection

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[574] Ibid

[575] E R Ebitu, 'Consumer Protection and Public Policy in Nigeria: A Critical Review' (2014) 7 *International Business Research,* 122.

[576] I. Umenyi, 'The Role of Consumer Protection Council in a liberalized Economy, (2007) *2 Consumer Journal,* 70.

[577] F Monye *2 Consumer Protection* (2007) 20

[578] H. Badler, 'What are my consumer Rights' http://www.bizcommunity.com/article accessed 4/9/2023

[579] I. M. Chukwu, 'Advertising Practice and Consumer Protection' (2005) *Consumer Journal*, 147

[580] Ibidi

[581] E. Akpan, 'A comparative Analysis of Consumer from work in Nigerian,'*Journal online*, <nigerianjournalsonline.com> accessed on 4/9/2023

[582] B. Herre, 'Consumer Legislation'

[583] B. M. Marco

Act 2018 (FCCPA) Consumer Protection Council Act, National Agency for Food and Drug Administration and Control Act Cap N1 LFN 2004, Food, Drugs and Related Products (Registration etc) Act Cap F 33 LFN 2004, Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act Cap C34 LFN 2004. Intellectual property regime such as the Copyright Act, Trade Marks Act and Patent and Designs Act.

Suffice it to state that the question that then comes to fore is whether consumers are aware of the existence of these laws that provide for their rights and consequently are aware of their rights as consumers. And whether the consumers would actually exercise these rights. In response to the above question Monye[584]posits that one of the prominent reasons for low level of consumer protection in Nigeria is ignorance of the consumers. She then advocated that the regulatory agencies should embark on public enlightenment campaigns to educate consumers who are many in the Nigerian Society. Chukwu[585] also stated that consumers in Nigeria should be protected from unethical advertising practices through consumer education on their rights as consumers, to seek redress when aggrieved.[586]

It is my considered opinion for there to be effective and efficient consumers' protection, consumers should be made aware of the laws protecting them, their rights therein and how to effectively and adequately enforce them when infringed or seek legal redress from the courts when aggrieved. Some of the laws which are inadequate such as Sale of Goods Act should be amended to sufficiently protect consumers.

Consumer protection centers on twin goals of safety and fair trading.[587] Consumer goods and services can be marketed through electronic channels with enormous benefits. These are not without challenges, legal and socio-economic that affects consumers, including inadequate laws in bringing justice to consumers.[588] Notably, the goal of the law of consumer rights protection is to prevent harm and injury to the consumer and provide redress for an individual purchaser, user or disposer of any product or service.[589]

Importantly, consumer protection is basically to safeguard buyers of goods and services from deceptive business practices, protect against poor quality goods and unethical practices. So that good quality goods are sold and fake goods discarded.

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[584] F. N. Monyeop.cit

[585] I. M. Chukwu, 'Advertising Practice and Consumer Protection' (2005) *Consumer Journal.* 147

[586] I. M. Chukwu, 'Advertising Practice and Consumer Protection' (2005) *Consumer Journal*. 147

[587] F. Ajayi, 'Safety of Products in Nigeria: A consumer Protection Perspective' (2007) 1 *Kogi State University Law Journal*, 129; E. G. Ikeatu, 'The Regulatory Regime for consumer Rights Protection in Nigeria', A seminar paper presented to Faculty of Law UNIZIK, 2023

[588] Ibid

[589] F. O. Ukwueze, Elevating Consumer Rights to human Rights, *op. cit*; E. G. IkeatuIbid.

Interestingly the Federal Competition and Consumer Protection Act (FCCPA) 2018 established the Federal Competition and Consumer Protection Commission (the Commission) and the Consumer Protection Tribunal for the development and promotion of fair, efficient and competitive markets to facilitate access to safe products and secure and protection of rights for all consumer in Nigeria[590]. FCCPA has wider protection of consumers and reduces the availability of fake products in the market. Its objectives are to:

1. Promote and maintain competitive markets in the Nigerian economy.
2. Protect and promote the interest and welfare of consumers by providing wider variety of quality products at competitive and affordable prices consequently promoting economic efficiency.
3. Prohibit restrictive and unfair business practice. At the same time contributing to the development of Nigerian economy.[591]

In further protection of the consumer, section 17 of the FCCPA[35] provides that the Commission shall –

1. Initiate broad based policies and review economic activities in Nigeria to identify anticompetitive, anti-consumer protection and restrictive practices which may adversely affect the economic interest of consumers and make rules and regulations under this Act and any other enactment with regards to competitions and protection of consumers.
2. Advise the Federal Government generally on national policies and matters pertaining to all goods and services and on the determination of national norms and standards relating to competition and consumer protection.
3. Report annually on market practices and the implications for consumer choice and competition in the consumer market.
4. Carry out investigations or inquiries considered necessary or desirable in connection with consumer protection.

[35] 2018

[590] Long Title of FCCPA 2018
[591] Sec. 1 FCCPA 2018

5. Advise the Federal Government on any matter relating to the operation and the review of policies, legislation and subsidiary legislation as considered appropriate for the eradication of anti-consumer protection and anti-competitive behaviour.
6. Eliminate misleading unfair, deceptive or unconscionable marketing, trading and business practices.
7. Create public awareness through seminars, workshops, studies and make available information with regards to the exercise of its powers and performance of its functions to the public.
8. Protect and promote consumer interests ; regulate, seek ways and means of removing or eliminating from the market, hazardous goods and services, including emission, untested, controversial, emerging or new technologies, products or devices and cause offenders to replace such goods or services with safer and more appropriate alternatives.
9. Publish, from time to time, list of goods and services whose consumption and sale have been banned, withdrawn, restricted or are not approved by the Federal Government or foreign governments.
10. Organise or undertake campaigns and other forms of activities capable of promoting increased private and public consumer awareness.
(11. Encourage trade, industry and professional associations to develop and enforce in their various fields quality standards designed to safeguard the interest of consumers.
12. Cause all imported goods to be registered for traceability whenever the need arises.
13. Collaborate with consumer protection groups and associations for consumer protection purposes.
14. Ensure that consumers' interests receive due consideration at appropriate for a and provide redresses to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals to ensure the adoption of appropriate measures to guarantee that goods and services are safe for intended or normally safe use.
15. Collaborate with international organisations and agencies, firms, groups or persons for the purposes of exchange of information to locate the source of substandard goods.
16. Undertake regular research, study and analysis of consumer product standards and services rendered to the consumer and publish relevant observations, findings and recommendations in journals or other forms of publications for the benefit and general information of consumers.

17. Collaborate with government agencies or professional bodies in establishing and using laboratories, testing facilities, common procedures in ensuring or enforcing standards of consumer goods or in assessing the quantum of loss or damage.
18. Ensure that all service providers comply with local and international standards of quality and safe service delivery.
19. Cause an offending company, firm, trade, association or individual to protect, compensate, provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, injurious, violent or highly hazardous.

In addition, the Act[592] stated *inter alia* that the Commission has powers to prevent the circulation of goods or services which constitute a public hazard or an imminent public hazard ; compel manufacturers, suppliers, dealers, importers, wholesalers, retailers, providers of services and other undertakings to comply with the provisions of this Act ; cause quality tests to be conducted on consumer goods as it deems necessary; compel manufacturers, suppliers, dealers, importers, wholesalers, retailers, or other undertaking where appropriate to certify that all quality standards are met in their goods and services. In *FCMB v. Consumer Protection Council*[593] the Court of Appeal held that "Section 8 of the Consumer Protection Council(CPC) Act vests the Council with power to grant remedial orders in addition to Court based civil remedies instituted by the consumer based on its investigation of consumer complaints."

Notably, the manufacturers of goods also owe their consumers duty of care. This is comprehensively enunciated by the Court of Appeal in *NB Plc v. Audu*[594]thus –

> *"I consider it apposite to give a short introduction of how the laws on product liability evolved in Nigeria. This is because the instant matter is a typical case of product liability. Product liability simply refers to manufacturers liability under the law in respect of their products meant for public consumption. In the past, it was observed that manufacturers of products had the upper hand over the consumers of their goods. The consumers were unable to negotiate for their economic rights. The manufacturers produced what they had and sold to the consumers with little or no regard for the merchantability of the goods for their selfish economic gains. Hence, manufacturers engaged in what is called deceptive and unfair trade practices which is better described than defined. Deceptive and unfair practice includes, causing a dishonest and unjust relationship in the process of exchange of goods, services and other facilities for economic gains. It covers causing a person or many consumers to accept as true or genuine something (goods, services, credit facilities, rights, etc) that is false. It connotes misleading information and pictorial misrepresentation and all forms of trade*

[592] Federal Competition and Consumer Protection Act 2018
[593] (2021) LPELR 55804 CA
[594] (2009) LPELR-8863(CA) (Pp. 20-24

> *malpractices. It is a term that refers to all manifestations of unconscionable practice on the part of certain traders towards consumers".*

The Court in continuation stated that production of sub-standard goods and services for public consumption which ultimately cause personal injury to the consumer is well illustrated in the case of: *N.B.C Ltd Vs. N.C. Onadi*[595] where Aniagolu J.S.C. opined thatit is often the unhappy lot of consumers in Nigeria to be inflicted with shoddy and unmerchantable goods by some pretentious manufacturers, entrepreneur, shoddy middle men and unprincipled retailers whose avowed interest seems only and always to be, to maximize their profit leaving honesty a discounted and shattered commodity. Also, it is not uncommon for goods of a manufacturer to result in the death or injury of a consumer or an innocent by-stander. As a result of this bad and horrible trend, the government of Nigeria has come out to protect the consumers with various criminal sanctions imposed by law aimed at protecting the consumer's safety, such legislations as Consumer Protection Council Act, the Food and Drugs Act, the National Agency for Food and Drug Administration and Control Act (NAFDAC), the Drugs and Related Products Act, etc. By the nature of these legislations, the right to produce or supply a particular good or offer a particular service is made to depend on the maintenance of minimum standards considered to be necessary for the protection of the users of the products or services.

In order to ensure the enforcement of such standards, the law attaches penalty for non-compliance and set up regulatory bodies. The Consumer Protection Council Act Cap. C25, Laws of the Federation of Nigeria, 2004 seeks not only to preserve the consumer's civil right of action for compensation but also empowers the Council to apply to the Court to prevent the circulation of any product which constitutes an imminent public hazard, or ban the sale, distribution, advertisement of products which do not comply with safety or health regulations. It also noted that a manufacturer of products owes the consumers of his products duty of care in ensuring that such products reach the ultimate consumer in the good form in which the products left him with no reasonable possibility of intermediate examination, and with the knowledge that the absence of reasonable care in the preparation or putting up of the products will result in an injury to the consumer's life or property which principle of law was laid down in *Donoghue Vs. Stevenson* (1932) A.C. p. 562."

Suffice it to state that on appraisal, that the prominent problem militating against the consumers in Nigeria is the ignorance of the average consumer of the existing protection of their rights by the Laws and the channel of redress.

Consumer Protection within the Intellectual Property Regime.

Intellectual Property (IP) is an intangible, incorporeal property that is a creation of the mind or the human intellect. The legal rights associated with this property is regarded as intellectual property right. Intellectual property is made up of basically four subjects which are copyright, trademarks,

[595] (1985) 1 NWLR (Pt. 4) p.739

patents and designs. These subjects have independent and varying rights associated with them for effective protection.

Consumers of intellectual property need protection under the Law. In IP, consumers are creators, inventors, innovators, owners of IP rights and users. Producers of IP products are included as consumers because most IP owners would usually rely on existing IP owned by others to create and innovate.

Owners of IP rights are conferred with exclusive rights and seemingly monopoly right, but these rights are not absolute so as to protect consumers. There are exceptions to these rights which seems to be a monopoly right.

Copyright

The extant law protecting copyright in Nigeria is the Copyright Act 2022. This Act protects the consumers of copyright works such as, literary works, musical works, artistic works, audiovisual works, sound recordings and broadcast. In the protection of the consumer rights section 20(1) of the Copyright Act 2022 (the Act) provides that the rights conferred in sections 9-13 of the Act do not include the right to control any of the acts specified in these sections by fair dealing for purposes such as- (a) Private use

(b) Parody satire, pastiche, or caricature:

(c) Non-commercial research and private study

(d) Criticism, review or the reporting of current events, subject to the condition that if it is public there must be acknowledgement of the work and its author.

(e) Inclusion in an audiovisual work or broadcast of an artistic work situated where it can be viewed by the public

(f) Incidental inclusion of an artistic work in an audiovisual work or broadcast.

(g) Quotation in the form of short excerpts from a work.

(h) Reading or recitation in public or in a broadcast for non-commercial purposes, etc.

Furthermore, reproduction of a copy or the adaptation of a computer program is permitted if it is necessary for –

(1) Use with a computer for the purposes for which the computer program was obtained.
(2) For archival purposes or as a replacement for lost original copy.
(3) Activation of a machine that lawfully contains an original copy.[596]

[596] Sec 20 (2) of the Copyright Act 2022.

However, other major limitations and exceptions to creators' absolute rights and consequent protection of the consumer of Copyright works are:-

Copying in the course of or preparation for instruction,[597] recording of broadcasts by educational establishments; [598] reprographic copying by educational institutions; [599] achieves, libraries, museums and galleries, made for non-commercial purposes;[600] making or procuring an accessible format copy of a work or subject matter and supplying the copy to beneficiary persons.[601]

Trademarks

The extant legislation regulating trademarks in Nigeria is the Trademarks Act Cap T13 Laws of the Federation of Nigeria (LFN) 2004 and Trademarks Regulation 1967.Section. 67 of the Trademarks Act (TMA)[602] provides that trademark is a mark used or proposed to be used in relation to goods for the purpose of indicating a connection in course of trade between the goods and proprietor or registered user of the mark.

The consumer is protected by the TMA by not registering identical and resembling mark;[603]Deceptive and scandalous matter;[604]and names of chemical substances[605]. Other relevant legislation that are useful for consumer protection by creating criminal offences for trademark infringement in order to curb the activities of those dealing with counterfeit, false and deceptive goods are[606] - Merchandise Act[607], Trade Practices (Miscellaneous Offences) Act[608], Counterfeit and Fake Drugs and Unwholesome Processed Food (Miscellaneous provisions) Act [609] and Cybercrimes Act 2105.

The TMA which seems to protect monopoly right also seeks to protect the consumer from buying colourable imitation of goods, thereby passing off the goods of one for another. Sec 5 (2) provides that the right to the use of a trademark shall be infringed by any person not being the proprietor of a trademark or registered user, uses a mark identical with it or so closely resembling it to be likely to deceive or cause confusion in the course of trade, in relation to any goods in respect of which it is registered. In *Beecham Group Ltd v. Esdee Food Products Nig Ltd*[610] the court held that the

[597] S. 21 of the Copyright Act 2022
[598] Sec. 22
[599] Sec 23
[600] Sec 25
[601] Sec 26
[602] Cap T13 LFN 2004
[603] Sec 13 of Trademarks Act 2004 (TMA)
[604] Sec 11 *Ibid*
[605] Sec 12 *Ibid*
[606] D. O. Oriakhogba and I. A. Olubiyiop cit
[607] Cap M13 LFN 2004
[608] Cap T12 LFN 2004
[609] Cap C34 LFN 2004
[610] (1980) FHCL 17

striking similarity in the sound of the names LUCOZADE and GLUCOS-AID is very overwhelming to likely to deceive and confuse the public, particularly persons with imperfect recollection, the incautious and the illiterate, as well as those who may place an order by telephone. Many people particularly illiterates depend on what they hear.

In order to deter infringers and further protect consumers certain remedies are awarded to proprietors and registered users of trademarks against the infringers. Such remedies as damages, injunction, antopillar order, delivery up of possession and account of profits.

Patent

Patent in Nigeria is regulated by Patent and Designs Act Cap P2 LFN 2004 (PDA) and Patent Rules 1971. To protect the consumer not all inventions are patentable. The Act provides for nonpatentable inventions such as products against morality and public order; plant or animal varieties or essential biological processes for the production of plant and animals; principles and discoveries.[611]

The protection of patent rights under the law seems to make it a monopoly right and consequently detrimental to the consumer with the manifestation of unreasonable high prices of the products. However, in addition to the provision of non-patentable inventions, internal mechanism exists within the patent system that limits patent monopoly and protects consumers. They are provisions against ever-greening [612] , substantive examination of patent application, pre and post grant opposition of patent application and provisions allowing compulsory licenses.[613]

Consequently, consumers of patented products are adequately protected under the Patent and Designs Act by the exceptions and provisions and activities enumerated above.

Conclusion

Consumers in Nigeria have been subjected and exposed to fake, substandard and harmful products which are consequently detrimental to human health. However, to curb this harm and protect consumers several laws have been enacted to protect the consumers. These laws intends to protect the rights of consumer from infringement. One of the most elaborate and comprehensive in the protection of consumer rights is the FCCPA 2018. But then it is noted and observed that an average consumer is not aware of the existent and extent of these Laws and do not know where and how to seek redress.

Recommendations

It is recommended that government, NGOs and regulatory agencies responsible for consumers protection should organize enlightenment programmes for the public on the availability of laws and the channels of enforcement of the Laws.

[611] Ss. 4 and 5 of the Patent and Designs Act 2004 (PDA).
[612] Sec 1 (1)(a) of PDA
[613] D. O. Oriakhogba and I. A. Olubiyiop cit

Consumer protection rights should be included in the curriculum of schools as general course starting from senior Primary School to University level, so that the existence of such protection and channel of protection are appreciated and imbibed in the young ones early in life to curb abuse of such rights by manufacturers and producers of goods and services.

Consumers in the event of any breach of their rights should report to regulatory agencies such as Standard Organization of Nigeria (SON), Federal Competition and Consumer Protection Commission, Consumer Protection Council, Nigeria Communication Commission (NCC), etc.

There is also room to report to various professional bodies, for example, Medical and Dental Practitioners Council of Nigeria, if they are medical products and services, Nigerian Bar Association etc.

Civil action can be instituted, in court by the consumer whose rights has been infringed.