

LEGAL ANALYSIS OF THE REGULATION OF COSMETIC PRODUCTS IN NIGERIA

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Abstract

Cosmetic products are one of the most utilized goods in the country. These products have become indispensable in the daily life of consumers in Nigeria and many businesses have sprung up solely towards satisfying this demand. Unfortunately, many of these products are produced without compliance to safety and quality standards thus raising the question of whether an efficient regulatory framework is in existence in Nigeria.

This paper underscores the legal and regulatory framework governing cosmetic product in Nigeria. To achieve this, the NAFDAC Act and other regulations were thoroughly analysed. Case laws, news articles, journal articles and official reports were also utilized in this work.

It is the finding of this research that several statutes and regulations have been enacted towards regulating cosmetic products in Nigeria. However, several deficiencies in its provisions coupled with poor enforcement have left it unable to address and curb issues such as the under-regulation of e-commerce, adulteration, misleading advertisement and non-compliance with safety standards. The regulatory body must take a well-rounded and proactive step towards consumer protection.

Keywords: Cosmetic products, Cosmetic Regulation, Deceptive Marketing, Influencer Marketing.

1.0.Introduction

Different cultures and regions have their unique history of cosmetic use. In China, people would stain their fingernails with beeswax, gum Arabic and egg white as a symbol of class.⁴ Japanese women entertainers who would later be called ‘Geisha’ used rice powder to make their faces white and pigment on their eyebrows and lips. Henna has been used in India and several North African

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⁴ Melissa Sonntang, ‘A Brief History of Cosmetics [Timeline]’, (*Repsly*, 26 November 2018) <<https://www.repsly.com/blog/consumer-goods/a-brief-history-of-cosmetics>> accessed 30 September 2023.

cultures as hair dye and mehndi, an art design painted on the hands, especially during weddings⁵. This is known as laali in Hausa and Fulani cultures in West Africa. In Rome, people applied barley flour and butter on their pimples, and mud baths were the order of the day.⁶

Over the years, cosmetics have evolved into the packaged foundations, eyeshadows, and lotions of today but the purposes they serve are reminiscent of ancient times; a symbol of status or wealth, hygiene, cultural significance, beauty, and creative expression in the performing arts. The cosmetic or beauty industry is predicted to be valued at 417.24 billion United States Dollars (USD) by the year 2030.⁷

Products are readily available in physical stores and now e-commerce in cosmetics industry surged fourfold between 2015-2022, accounting for over twenty percent of sales, driven by retail giants like Amazon and brands leveraging social media for conversion.

The impact the growth of the cosmetic industry will have on the Nigerian economy is nothing but welcoming. The cosmetic sector contributed a record one trillion naira turnover to the Nigerian economy in 2022.⁸ Many Nigerian-owned brands such as House of Tara, Yanga Beauty, Arami Essentials, House of Coco and Zaron Cosmetics are establishing themselves in the beauty space.

However not enough is done to address the public health risks associated with cosmetic products. Last year, a scandal broke out when a lady shared the skin damage caused by the heavily advertised

⁵ Ibid.

⁶ Cosmetics Info, 'A History of Cosmetics', (*Cosmetics Info*, 2023) < <https://www.cosmeticsinfo.org/history-of-cosmetics/> > accessed 30 September 2023.

⁷ Fortune Business Insights, 'Cosmetics Market Size, Share And Covid-19 Impact Analysis, By Category (Hair, Skin Care, Makeup, And Others), By Gender (Men And Women), By Distribution Channel (Specialty Stores, Hypermarkets/Supermarkets, Online Channels, And Others), And Regional Forecasts, 2023-2030', (*Fortune Business Insights*) <<https://www.fortunebusinessinsights.com/enquiry/request-sample-pdf/cosmetics-market-102614>> accessed 30 September 2023.

⁸ Guardian Nigeria, 'Nigeria's cosmetic market hits N1tr turnover, records 14.5% growth', (*The Guardian Nigeria*, 13 July 2023) <<https://guardian.ng/business-services/nigerias-cosmetic-market-hits-n1tr-turnover-records-14-5-growth/#:~:text=The%20value%20of%20Nigeria%27s%20cosmetic,report%20by%20Euromonitor%20has%20stated.>> accessed 1 October 2023.

beauty company, Jenny's Glow.⁹ Other consumers and citizens have accused the company of selling harmful cosmetics to the public.¹⁰ This is not a phenomenon peculiar to this singular brand.

Studies show that the majority of cosmetics in Nigeria contain harmful ingredients linked to various health problems.¹¹ Despite the plethora of studies showing the chronic and long-term health effects, regulation of cosmetics in Nigeria falls significantly below required standards, with consumers most times being ignorant of the potential harm of these products.¹²

2.0. Conceptual Clarification

2.1. Cosmetics

The question of what exactly falls under cosmetics may differ from region to region, depending on the definitions proffered by the regulatory body or industry usage. These definitions typically centre on the product's functions, the body parts on which it is used, the application method, the indication of usage, the claims made, and the opinions of the customers.

In Nigeria, the NAFDAC Act gives an extensive definition:

including any substance, or mixture of substance, intended to be rubbed, poured, sprinkled or sprayed, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the complexion, skin, hair or teeth and includes deodorants and detergent powder.¹³

⁹ Ankrah Shalom, 'How My Problem with Jenny's Glow Began: VeryDarkMan Finally Opens Up in Video', (*Legit*, 12 September 2023) <<https://www.legit.ng/people/1553590-how-problem-jennys-glow-began-verydarkman-finally-opens-video/>> accessed 30 October 2023.

¹⁰ Temi Iwalaiye, 'Jenny's Glow: Do they sell skin bleaching creams?', (*Pulse Nigeria*, May 30 2022) <<https://www.pulse.ng/lifestyle/beauty-health/does-jennys-glow-sell-skin-bleaching-creams/hnpyekb>> accessed 30 October 2023.

¹¹ Usman Usman and others, 'Assessment of Heavy Metal in Some Commonly Used Cosmetic Product and Associated Health Risk in Nigeria: Threat to Public Health' (2021) 397 *Macromolecular Symposia* 1

¹² Victor Dibia and others, 'Place of Consumerism in Nigeria' (2018) 3 *International Journal of Marketing and Communication Studies*.

¹³ National Agency for Food and Drug Administration and Control Act 2004, s 31

3.0. Problems in the Beauty Industry

3.1. The Media and Influencer Marketing

Different countries and regions have their specific beauty standards which the media portrays and exploits. In Nigeria, where the effects of colonialism are still at play, the quest for whiter or lighter complexion is seemingly unquenchable. The skin-lightening industry is estimated to reach a staggering 31 billion US dollars by 2024¹⁴ and according to the World Health Organisation, 77 per cent of Nigerian women use skin-lightening or bleaching products, the highest rate globally.¹⁵ Unfortunately, people's psychological drive to continue bleaching their skin outweighs any perceived and known health risks.¹⁶

The effect of influencer marketing cannot be overlooked either as it has a direct correlation with consumer behaviour. Customers are 53 per cent more inclined to purchase a brand's products based on trust.¹⁷ 42 per cent of cosmetic consumers make a purchase due to social media influence.¹⁸ Influencers have a significant impact on their follower's financial and lifestyle choices.¹⁹ When consumers see a particular influencer whom they view as authentic advertising or claiming to use a brand, that trust is also extended to the brand.²⁰

The success of 'organic' cosmetic brand Jenny's Glow is attributed to the heavy endorsements by celebrities and influencers such as WarripiKin and Nengi. Jennifer Osasenaga, the owner of the brand, has admitted on her Instagram Live that her products are in fact bleaching but cautioned

¹⁴ Temitayo Ayetoto-Oladehinde, 'Nigerians ignore skincare risks in boom for market', (*BusinessDay Nigeria*, 8 September 2023) <<https://businessday.ng/news/article/nigerians-ignore-skincare-risks-in-boom-for-market/?amp=1>> accessed 24 September 2023.

¹⁵ World Health Organization, 'Preventing Disease Through Healthy Environments: Mercury in Skin Lightening Products' (WHO 2011).

¹⁶ World Health Organisation, 'Skin bleaching in Africa...a public health problem', (Integrated African Health Observatory 2023).

¹⁷ Edelman, '2019 Edelman Trust Barometer Special Report: In Brands We Trust' (2019).

¹⁸ HelpLama, 'Beauty Industry Revenue and Usage Statistics 2023', (*HelpLama*, March 2024) <<https://helplama.com/beauty-industry-revenue-usage-statistics/>> accessed 17 March 2024.

¹⁹ Oluwaseun Jide, 'Social Media Influencer Marketing: Impact on Perceived Authenticity, Trust, and Purchase Intention Amongst Female Cosmetic Consumers in Nigeria' (thesis, 2022).

²⁰ Ibid.

consumers to ‘bleach small small’. Yet many celebrities and influencers continue to promote these products as safe and effective.

Many influencers do not exercise due diligence before promoting a product and may not even use the products they advertise, an unethical practice. Medical Biochemist, Dr. Banu Çaycı, expressed concerns over this situation alleging that influencers do not have a thorough understanding of the beauty products they promote and thus may unintentionally endanger public health.²¹

While the influencer economy has created new streams of income for many citizens, the government must establish if people with no medical or scientific background should be permitted to promote products that can greatly affect consumer health. France in 2023, passed a bill to regulate social media influencers and prevent misleading and harmful advertisements.²² This bill aims at ensuring consumer protection and includes hefty fines and jail time as penalties.

3.2. Qualification

The ease at which an individual can start a business today through an e-commerce platform is a welcome development to the economy. E-commerce is the buying, selling and marketing of goods and services to consumers through the use of communications technology such as the internet.²³ However, it also births new problems which our current framework does not address.²⁴

Starting a business on Facebook, Instagram, Flutterwave and many other social media and e-commerce platforms requires no submission of documents, certification or any form of license to demonstrate for example cosmetology expertise or that the products comply with regulations. Speed and ease have been prioritized to bridge the gap for intending start-ups.

²¹ Safak Costu, ‘Medical Expert Warns Against Cosmetic Products Promoted by Social Media Influencers’, (*BNN Breaking*, 25 Novemver 2023) <<https://bnnbreaking.com/breaking-news/health/medical-expert-warns-against-cosmetic-products-promoted-by-social-media-influencers/>> accessed 10 January 2024.

²² Global Cosmetics News, ‘France Regulates Social Media Influencers’ (*Global Cosmetics News*, 22 October 2023) <<https://www.globalcosmeticsnews.com/france-regulates-social-media-influencers/>> accessed 1 April 2024.

²³ Robinson Bananda and Kennedy Nwagwu, ‘The Changing Face of E-Commerce in Nigeria; Prospects and Challenges’ (2021) 5 *International Journal of Trend in Scientific Research and Development*.

²⁴ Tech Digest, ‘E-Commerce in Nigeria: Legal Framework, Challenges and Prospect’ (*Tech Digest* 12 May 2021) <<https://techdigest.ng/e-commerce-nigeria-legal-framework/>> accessed 28 January 2024.

On Meta Platforms which include Instagram and Facebook, the ‘Commerce Eligibility Requirements’ are simply to comply with their policies, represent your business, be located in a supported market, demonstrate trustworthiness provide accurate information and follow best practices. Their policies do not require licensing for consumables like cosmetics or food that potentially affect consumer health.

The integrity and safety of the products is the responsibility of the seller. The requirement of demonstrating trustworthiness solely has to do with vanity metrics: maintaining a sufficient follower base and not at all in line with provisions of the Sale of Goods Act. Although their Sellers Agreement and Purchase Protection Policies do contain some laudable commercial law provisions, they however make no credible attempt to protect the consumer from unsafe products like mandating sellers to obtain licenses relevant to their industry.

The government must ensure that these new systems do not work to the detriment of the health or interests of the consumers. Many of the manufacturers of cosmetics in Nigeria are not registered with the relevant authorities nor do they have the requisite knowledge and expertise,²⁵ a phenomenon worsened by e-commerce. Leaving up this entire sector to self-regulation or the efforts of third-party platforms is not sufficient when weighing the consequences and threats to public health.

Many countries have set up regulations against online third-party platforms and e-commerce marketplaces in concrete attempts to control how these platforms operate in their country.²⁶ States need to impose strict regulations in order to improve the efficiency and security of online sales. A growing number of transactions are being made online, which can lead to major issues like data theft, trade security breaches, financial loss, and reputational harm. The United Nations Commission on International Trade Law (UNCITRAL) has created a model law for e-commerce and it has been adopted by several nations including Australia and New Zealand.²⁷

²⁵ Chineyere, ‘Cosmetics: The Beautiful Packaging May be Deceptive’, (*Safety and Security Watch*, 19 December, 2022) <<https://safetyandsecuritywatch.com.ng/2022/12/19/cosmetics-the-beautiful-packaging-may-be-deceptive/>> accessed 29 January 2024.

²⁶ Firat Çetiner, ‘Law of E-Commerce and Its Regulations around the World’ (*Arcadia*, 8 July 2023) <<https://www.byarcadia.org/post/law-of-e-commerce>> accessed 1 April 2024.

²⁷ *Ibid.*

3.3. Adulteration, Fraud, Counterfeiting and Deceptive Marketing

Counterfeit cosmetics are likely to contain toxic ingredients, allergens or improper formulas which may lead to negative reactions, skin irritations or even more serious health problems. Counterfeiting is the act of creating a product which physically mimics or replicates an authentic product to deceive customers into believing it is the product of another business.²⁸

According to Regulation 4 of the Cosmetic Products (Prohibition of Bleaching Agents, etc.) Regulations 2019, an adulterated cosmetic is one which either: contains more than a trace of mercury or mercury salt, has more than 1 percent of hydroquinone, has poisonous substances, is prepared or packaged in unsanitary conditions or consists of more than the permissible limits of an ingredient.

Aside from the intellectual property concerns counterfeiting, fraud and adulteration have on the original business owners it also poses a major threat to the consumers and invariably infringes their right to safe products.²⁹ In 2017, the House of Tara beauty mogul, Tara Fela-Durotoye had to launch a campaign to combat the alarming counterfeiting of her cosmetic products.³⁰

According to a report, cosmetics are one of the most counterfeited products in Nigeria.³¹ In 2019, NAFDAC seized 60-million-naira worth of fake cosmetics from a Lagos warehouse.³² More recently, Nigerians took to social media lamenting the alarming increase in fake products marketed to them.³³

²⁸ Oscar Odiboh, Thelma Ekanem and Tunji Oyedepo, 'Curbing Counterfeiting and Piracy with Public Relations Tools: The Case of Nigeria's Beauty and Cosmetics Industry' [2022] *Journal of African Research in Business and Technology* 1.

²⁹ Ibid.

³⁰ Mercy Familusi, 'A Legal Perspective on Counterfeiting Beauty Products: The House of Tara Story' (thesis, Babcock University 2018).

³¹ Adekunle Agbetiloye, 'Here Are the Most Counterfeited Products in Nigeria' (*Ventures Africa*, 26 January 2023) <<https://venturesafrica.com/here-are-the-most-counterfeited-products-in-nigeria/>> accessed 29 January 2024.

³² Taiwo Ojoye, 'Nafdac Confiscates N60m Fake Cosmetics from Lagos Warehouse' (*Punch Newspapers*, 8 January 2019) <<https://punchng.com/nafdac-confiscates-n60m-fake-cosmetics-from-lagos-warehouse/>> accessed 29 January 2024.

³³ Peace Akinyode, 'Netizens Lament Increase in Fake Products, Seek Nafdac's Intervention' (*Punch Newspapers*, 19 December 2023) <<https://punchng.com/netizens-lament-increase-in-fake-products-seek-nafdacs-intervention/?amp>> accessed 29 January 2024.

Deceptive marketing is not foreign to the beauty industry, with many products claiming results or certain benefits which it ultimately was never manufactured to do. Numerous brands exploit customer's ignorance and trust, and the cosmetics industry is not exempted.³⁴ All these issues greatly affect the safety of a product and the well-being of the consumer.

4.0. Legal and Regulatory Framework Governing Cosmetics in Nigeria

4.1. Statutes and Bodies Regulating Cosmetics in Nigeria

Considering the public health risks that the usage of certain beauty products poses, it is necessary to implement systems to combat deceptive marketing, adulteration, counterfeiting, fraud, unlicensed manufacturers and unsafe products. Nigeria has various statutes, agencies, regulations and policies which aim to achieve consumer protection. Each of these will be analysed in detail and strictly in relation to cosmetics to determine the legal structure and system governing cosmetic products in Nigeria as well as their effectiveness.

a. National Agency for Food and Drug Administration and Control Act 2004

The Act establishes the National Agency for Food and Drug Administration and Control.³⁵ The agency regulates food, drugs, cosmetics, medical devices, bottled water and chemicals. It is the major regulatory body for cosmetics. Section 5 outlines the functions of the agency. They include regulating the importation, exportation, manufacture, advertisement, distribution, sale and use of cosmetics, investigating the production premises and raw materials for cosmetics, registration of cosmetics and creation and maintenance of laboratories for conducting tests on product samples.

b. Food and Drug Act 2004

This Act provides regulations for the manufacture, sale and advertisement of food, drugs, cosmetics and medical devices. While the NAFDAC Act mainly establishes NAFDAC and its powers and functions, the Food and Drug Act details laws governing cosmetics, which the agency then enforces.

³⁴ Yetunde Olumide, 'The Skin Bleaching Culture In Nigeria: Prevalence, Motives, Determinants, Products and Adverse Effects' (2017) 7 Nigeria Journal of Dermatology.

³⁵ NAFDAC Act 2004, s 1.

Section 1 restricts the production and distribution of cosmetics that are inappropriate for human consumption, contain toxic or dangerous ingredients, or are made of filthy, repulsive, rotten, or diseased materials. It also prohibits the sale of adulterated cosmetics. The Act illegalizes making, marketing, importing or storing any cosmetic product that was made in unhygienic conditions.³⁶

Section 5 prevents promoting products as a cure, treatment or prevention for a disease or disorder. It further prohibits various misleading practices by suppliers such as labelling a product in a manner that creates a wrong impression as to its safety.

Cosmetics imported into Nigeria must be accompanied by a certificate from the manufacturers asserting that it was produced in accordance with the existing standards, meets international standards, as well as a certificate of compliance from the government of the country where it was produced.

c. Food, Drug and Related Products (Registration) Act

The production, marketing, and distribution of unregistered food, medicine, drugs, cosmetics, medical devices, or water are all prohibited under this law. NADFAC can however permit the importation of cosmetic samples for the purpose of registration or clinical trial.³⁷ The agency is empowered to cancel any registration if the grounds are faulty or untrue.³⁸ It can also cancel the registration of a cosmetic found to fall short of quality and safety standards or if the premises in which it was manufactured are unsanitary.³⁹ When the registration has been cancelled or suspended, the agency releases an order for withdrawal of the products from circulation and goes further to alert the public of this cancellation.⁴⁰

Clinical testing ensures the product can perform its claims and is safe to use. To ensure that this process is conducted by a professional, the law mandates that only a holder of a clinical trial certificate can conduct clinical trials on cosmetic products.⁴¹

³⁶ Food and Drug Act 2004, s 1(3).

³⁷ Food, Drug and Related Products (Registration) Act 2004, s 1(2).

³⁸ Ibid, s 4.

³⁹ Ibid.

⁴⁰ Ibid, s 4(2).

⁴¹ Ibid, s 5.

The Food, Drug and Related Products (Registration) Act also created the Food and Drug Registration Committee.⁴² The committee evaluates the applications for registration to determine that the products meet preparation, labelling, packaging and safety requirements. It also advises NAFDAC on cancellation, withdrawal or suspension of any registration made.⁴³

d. NAFDAC Regulations

It is ground-breaking that NAFDAC recognizes the need for proactive regulation of cosmetics and has created regulations for cosmetic products. The regulations on cosmetics are: the Cosmetic Products Registration Regulations, the Cosmetic Products (Prohibition of Bleaching Agents, etc.) Regulations, the Cosmetic Products Advertising Regulations and the Cosmetic Products Labelling Regulations.

e. Cosmetic Products Registration Regulations 2023

NAFDAC drafted the Cosmetic Products Regulations in 2023 pursuant to the powers vested in it by the NAFDAC Act and Food, Drugs and Related Products (Registration, Etc.) Act. Unlike both Acts, this regulation focuses solely on cosmetics. It contains similar provisions as the Food, Drugs and Related Products (Registration, Etc.) Act but with novel improvements. A significant provision is the classification of cosmetics, which the previous laws failed to do. Cosmetics are categorized into: skin care, hair care, oral care, sun care, decorative cosmetics, body care and perfumes.⁴⁴

Applications for registration are made to NAFDAC. The particulars of the cosmetic products must be very detailed and be accompanied by the relevant documents needed for the agency to make a decision.⁴⁵ For ease of making applications for the registration of cosmetic products, NAFDAC has also established an e-registration system known as the NAFDAC Automated Product Administration and Monitoring System (NAPAMS).

After submission of requested documents and forms, samples of the product are to be provided to NAFDAC for laboratory analysis. The fee as prescribed by the agency must also be paid. Unless

⁴² Ibid, s 11.

⁴³ Ibid.

⁴⁴ Cosmetic Products Registration Regulations 2023, reg. 3.

⁴⁵ Ibid, reg. 4(1-2).

nullified by NAFDAC, the registration is valid for five years and can be renewed.⁴⁶ A list of the registered products is easily accessible online on the NAFDAC Database.

The agency reserves the right to refuse an application if the facilities and methods used to produce, process or package the cosmetic products do not guarantee their quality and purity or if the laboratory report is unsatisfactory.⁴⁷ Minor changes regarding the packaging and labelling design can still be made after registration but distribution is put on hold pending approval from NAFDAC.⁴⁸ Changes to formulation and production premises require an entirely new registration.⁴⁹

The regulation makes an interesting provision by requiring that products with Skin Lightening Agents (SLAs) must indicate a warning statement during advertising and on the labels notifying the consumer of any risks involved in using cosmetic products with SLAs.⁵⁰ As previously established skin-whitening or lightening products have severe health consequences. NAFDAC including this provision shows that the agency acknowledges the public health menace these products pose and the need for the consumer to be fully aware of the nature of the items they consume.

A similar tactic was employed in the cigarette and tobacco industry where manufacturers were required to add a warning that ‘smokers are liable to die young’ on the products.⁵¹ This approach minimizes deceptive marketing by producers who may claim that such cosmetic products do not contain any health risks or side effects. Considering how severe the consequences of using such products are, outright banning and taxation may produce better results in protecting public health.

⁴⁶ Ibid, reg. 4(4).

⁴⁷ Ibid, reg. 4(6).

⁴⁸ Ibid, reg. 6(4).

⁴⁹ Ibid, reg. 7.

⁵⁰ Ibid, regs. 8 and 9.

⁵¹ Surapong Chudech and Piyapong Janmaimool, ‘Effectiveness of Warning Graphic Labels on Cigarette Packs in Enhancing Late-Teenagers’ Perceived Fear of Smoking-Related Harms in Bangkok, Thailand’ (2021) 10 Journal of Public Health Research.

Tackling harmful products through taxation can influence consumer decisions⁵² since high costs of goods discourage purchasing.

Nigeria in 2022 decided to follow suit with several countries across the globe and impose taxes on sugar-sweetened beverages or ‘soft drinks’.⁵³ This was in an effort to combat the risk of diseases such as diabetes heightened by these beverages. Unfortunately, the sugar tax imposed was a mere ten naira. Consumers have not been deterred and see an increase in costs as a mere consequence of inflation in the country where basically everything costs so much more.⁵⁴

An effective taxation measure for cosmetic products with SLAs would require imposing a reasonable fine, but producers may resist inclusion of warning labels which may potentially scare customers.

NAFDAC can cancel or suspend a registration if the product is incapable of doing what was claimed in its registration or if the manufacturing site is not in compliance with Good Manufacturing Practices (GMP).⁵⁵ NAFDAC removes cosmetic products from circulation upon cancellation of registration and notifies the public of the product withdrawal.⁵⁶

Until the cosmetic product is withdrawn or for as long as the Minister of Health deems sufficient, NAFDAC may seal off any location where an infringement of any of the regulations occurred.⁵⁷ Violating any of the regulations is an offence punishable by no more than a year imprisonment or N800,000 or both.⁵⁸ In the case of a corporation, the penalty is five million naira.⁵⁹ The hefty fines imposed are commendable efforts to deter contravention.

The regulation even employs the practice of lifting the veil. In a scenario where a corporation is guilty, every director, manager, secretary or any other person involved in the management of affairs

⁵² Mahdi Kooshkebaghi, Hossein Dargahi, and Sara Emamgholipour, ‘The Role of Taxation Measures in the Management of Harmful Products, Services, and Practices: A Qualitative Study’ (2022) 22 BMC Public Health.

⁵³ Paul Adepoju, ‘Making It Count: The next Battle over Nigeria’s Sugary Drinks Tax’ (*Health Policy Watch*, 11 August 2022) <<https://healthpolicy-watch.news/making-count-next-battle-nigeria-sugar-tax/>> accessed 2 March 2024.

⁵⁴ Ibid.

⁵⁵ Cosmetic Products Registration Regulations 2023, reg. 10(1).

⁵⁶ Ibid, reg. 10(2).

⁵⁷ Ibid, reg. 13.

⁵⁸ Ibid, reg. 14.

⁵⁹ Ibid.

is equally liable except they can claim the offence was committed without their knowledge or consent.⁶⁰ Earnings from the sale of cosmetics as well as any assets or tools utilised in the crime must be forfeited to NAFDAC.⁶¹ This regulation is however still a bill and yet to be enforced.

f. Cosmetic Products (Prohibition of Bleaching Agents, etc.) Regulations 2019

Beyond simply enforcing warning labels, NAFDAC created the Cosmetic Products (Prohibition of Bleaching Agents, etc.) Regulations to prohibit unsafe cosmetic products. Regulation 1 of the Cosmetic Products (Prohibition of Bleaching Agents, etc.) Regulations 2019 states that no person shall produce, import, export, sell, display for sale, or use adulterated cosmetics or cosmetics with substances which are likely to endanger the health of the consumer.

This prohibition extends to cosmetics containing these skin bleaching agents; corticosteroids, mercury or mercury compounds. Likewise, cosmetic products with more than 2 per cent hydroquinone by itself or 1 per cent hydroquinone in addition to other bleaching ingredients cannot be sold, distributed, exhibited or offered for sale.

NAFDAC has also prohibited or restricted the following ingredients from being used in the formulation of cosmetic products: bithionol, vinyl chloride, methanol, halogenated silicylanilides, zirconium complexes in aerosol cosmetics, chloroform, methylene chloride, chlorofluorocarbons propellants and hexachlorophene.⁶² Lanolin and boric acid are banned from use in baby lotion and baby powder respectively.⁶³

g. Cosmetic Products Labelling Regulations 2021

The regulation states that all cosmetic products must have a label. The labels must be informative, accurate, prominent, legible and distinct. The label must state the brand name, statement of

⁶⁰ Ibid, reg. 14(2).

⁶¹ Ibid, reg. 15.

⁶² NAFDAC, 'Micro, Small & Medium Enterprises (MSME)', (NAFDAC) <<https://www.nafdac.gov.ng/our-services/micro-small-medium-enterprises-msme1/#1596104770278-53df9313-9b01>> accessed 11th March, 2024.

⁶³ Ibid.

identity, batch number, net content, date of expiration, producer's name and location, registration number as well as storage directions.⁶⁴

Labelling cannot be fraudulent, dishonest, misleading, or likely to provide the wrong impression about the nature, quality, quantity, or origin of the product.⁶⁵ It must also not contain words or pictures which falsely suggest a connection with another cosmetic product.⁶⁶ This could constitute a trademark infringement as was the issue of contention in *The Proctor and Gamble Company v Global Soap and Detergent Industries Ltd.*⁶⁷

All information on the labels is to be in English language, although other languages may be added. Both the outside and inner labels of the cosmetics must display a comprehensive list of all the ingredients used in the preparation.⁶⁸ This means that not only the bottle or container holding the product should contain the required information, but also the secondary packaging. In a situation where one of the ingredients is known to induce hypersensitivity, this fact must be contained in the label.⁶⁹ The labels must always contain the necessary warnings and cautions as well as directions on how to use the product.⁷⁰

This need for the consumer to be aware of the ingredients and be protected was emphasized in Justice Adedayo Oyebanji's ruling in *Fijabi Adebo Holdings Limited & Dr Emmanuel Fijabi Adebo v. Nigeria Bottling Company Plc & National Agency for Food and Drug Administration and Control (NAFDAC)*⁷¹ where she compelled the Nigerian Bottling Company to include warnings in their products which contained the extremely harmful ingredient- benzoic acid and is poisonous when consumed with vitamin c. The judge proceeded to grant 2-million-naira damages against NAFDAC for their failure to ensure public health.

The second schedule contains standards for specific cosmetic products. For hair dyes with para-phenylenediamines or other coal tar dye variants, the labels must include a caution that it is capable

⁶⁴ Cosmetic Products Labelling Regulations 2021, reg. 3(6).

⁶⁵ Ibid, reg. 3(4).

⁶⁶ Ibid, reg. 3(9).

⁶⁷ (2012) JELR 35030 (CA).

⁶⁸ Cosmetic Products Labelling Regulations 2021, reg. 5.

⁶⁹ Ibid, reg. 5(9).

⁷⁰ Ibid, regs. 13 and 14.

⁷¹ Suit No. LD/13/2008.

of causing skin irritations and must not be used on the eyebrows or eyelashes as it could lead to blindness. Any cosmetic product designed for use in the genital area must include directions and cautions on the label. Foaming bath detergents such as body washes must have a warning that extended and excessive use can result in skin and urinary tract infections. The label must also inform the consumer to discontinue if they notice adverse reactions on the skin and consult a doctor if it continues. When the product is meant for babies, the warning ‘Keep out of reach of children’ is mandated to be included.

h. Cosmetics Products Advertisements Regulations 2021

This regulation governs all cosmetic products advertised and promoted in Nigeria. Cosmetics cannot be advertised unless the product has been registered and advertisement approved by NAFDAC.⁷² The regulation defines advertisement as:

a form of communication through the media about products, services or ideas paid for by an identified sponsor and it is also used to encourage, persuade or manipulate an audience (viewers, readers or listeners) to continue with or take some new action.⁷³

Advertising, on the other hand, is defined as:

the publicity of goods and description of all products (which includes any form of notices in circulars, handouts, labels, wrappers, catalogues and price lists, billboards, posters, newspapers, magazines, digital and social media, and any other documents) made orally, online or otherwise or by means of projected light and sound recordings.⁷⁴

The regulation covers a broad sphere of different forms of marketing from both physical and online mediums. Due to this broad range described, it would appear impractical for NAFDAC to approve every form of advertisement prior. In 2020, the agency fined a pharmaceutical company for advertising on social media without a NAFDAC approval and was made to remove the

⁷² Cosmetics Products Advertisements Regulations 2021, reg. 2.

⁷³ Ibid, reg. 21.

⁷⁴ Ibid.

advertisement from social media.⁷⁵ In 2019, NAFDAC raided and confiscated unauthorized products from a skin care facility following a social media post advertising a chemical peel procedure to bleach the skin.⁷⁶ These scenarios are exceptional because a wide range of potentially injurious cosmetic products are regularly and unrestrictedly advertised and sold on social media.

The advertisement materials including the script and artwork are required to be submitted to the agency before they can be used.⁷⁷ This provision however is likely to promote censorship and for such to be employed then the criteria and process must be completely transparent. That way, businesses are not unfairly restricted. The regulation also fails to provide an avenue whereby businesses can contest a decision by the agency to refuse an advertisement. Principles of equity and fair hearing must always be involved in every governmental action.

Advertisements must not directly or indirectly mislead consumers and must be accurate, cohesive and easy to understand.⁷⁸ Additionally, advertisements are prohibited from copying the words, tagline or artwork of another cosmetic product.⁷⁹ In *Duwin Pharmaceutical & Chemical Co. Ltd v Beneks Pharmaceutical & Cosmetics Ltd & Ors*,⁸⁰ the plaintiff sought an injunction to restrain the defendant from producing, selling, or advertising any cosmetic product with the trademark 'Hot Motave Gel' or 'Motave' or anything similar to the plaintiff's trademark. The court granted the plaintiff an interim injunction to that effect.

The agency has the authority to revoke an advertisement's clearance if new scientific data indicates that the claims contained in the commercial are unfounded or no longer true.⁸¹ It can also be revoked following a court order. Additional grounds include violating the terms under which the

⁷⁵ Banwo & Ighodalo, 'Regulation of Social Media Advertisements by NAFDAC: Do I Need a NAFDAC Approval for My Social Media Advertisements?' (*Banwo & Ighodalo*, 3 November 2021) <<https://banwo-ighodalo.com/grey-matter/regulation-of-social-media-advertisements-by-nafdac-do-i-need-a-nafdac-approval-for-my-social-media-advertisements>> accessed 9 March 2024.

⁷⁶ Afam Offor, 'NAFDAC Officials Raid Facility Where Ladies Peel Their Skin (Video)', (*Obiaks News*, 8 December 2019) <<https://news.obiaks.com/national/191205072815/nafdac-officials-raid-facility-where-ladies-peel-their-skin-video>> accessed 9 March 2024.

⁷⁷ *Cosmetics Products Advertisements Regulations 2021*, reg. 5.

⁷⁸ *Ibid*, reg. 3.

⁷⁹ *Ibid*, reg. 4.

⁸⁰ (2008) LPELR-974(SC).

⁸¹ *Ibid*, reg. 7.

approval was obtained or if the justifications for the approval are discovered to be untrue.⁸² The claims of a cosmetic product are to be verified before approval to advertise is granted.⁸³

NAFDAC approval is required for product launches and press releases, highlighting unnecessary government interference. Balancing consumer protection and promoting entrepreneurship is crucial. Regulation 13 provides a vital requirement in terms of combatting deceptive marketing. All advertisements containing research findings must present them in an accurate manner. This means no falsification or exaggeration of data to encourage the purchase of a product.

i. NAFDAC Guidelines

Apart from the laws and regulations, NAFDAC has also created guidelines defining how certain activities should be done. The NAFDAC guidelines on cosmetics include Guidelines for Registration of Cosmetics Made in Nigeria, Guidelines for Registration of Imported Cosmetics, NAFDAC Good Manufacturing Practice Guidelines for Cosmetic Products, Guidelines for Inspection of Premises for Global Listing of Cosmetic Products and Guidelines for Clearing of Cosmetics and Medical Devices.

These guidelines inform businesses on the acceptable procedures when handling cosmetic products and are easily accessible on the official NAFDAC website and outline the steps in clear and understandable language.

j. General Legislations and Agencies

Although NAFDAC is the major regulatory body for cosmetics, there are other statutes and bodies which have some relevant provisions in construing the regulatory framework of cosmetics in Nigeria. One of which is the Federal Competition and Consumer Protection Act (FCCPA) of 2018 which was established to safeguard consumer interests, prevent restrictive business practices and ensure a competitive market. Consumer protection laws impose liabilities and responsibilities on

⁸² Ibid.

⁸³ Ibid, reg. 16.

not only the manufacturers but also the distributors, retailers and other parties involved in the chain of distribution.⁸⁴

Consumers require protection as producers are powerful, and intelligent and employ highly skilled and aggressive marketers who can sell anything to them.⁸⁵ This notion however appears to contradict the principle of ‘caveat emptor’ meaning buyer beware. Caveat emptor imposes a sense of responsibility on the consumer to be alert, and smart and make informed decisions before making a purchase. It recognizes that the purchasing power lies in the hands of the consumers. Consumer protection however recognizes the imbalance of power between producers and consumers and so must step in to balance the playing field to ensure fair trade.

The FCCPA applies to all commercial activities within Nigeria by individuals, corporations and the government. It even extends to the business activities outside the country by Nigerian citizens, residents and entities incorporated or carrying out business in Nigeria.⁸⁶ The Act establishes the Federal Competition and Consumer Protection Commission (FCCPC)⁸⁷ as well as the Federal Competition and Consumer Protection Tribunal (FCCPT).⁸⁸ The FCCPC is tasked with enforcing the provisions of the Act whereas the FCCPT adjudicates on activities prohibited by the Act.

Sections 17 and 18 of the FCCPA provide for the powers and functions of the FCCPC. They include identifying anti-consumer protection practices, eliminating hazardous and untested goods from the market, organizing consumer awareness campaigns, carrying out investigations, conducting quality tests, sealing up premises with hazardous goods, resolving disputes and complaints from consumers, imposing penalties on erring businesses and publishing list of goods which have been banned, restricted or deemed unsafe. The Act provides the FCCPC with extensive powers to regulate cosmetics and promote consumer interest, ensuring their efficiency and safety.

⁸⁴ Enyinnaya Uwadi, ‘The Nigerian Federal Competition and Competition Protection Act 2019: Lessons from South Africa’, (*Afronomics Law*, 25 September 2019) <<https://www.afronomicslaw.org/2019/09/25/the-nigerian-federal-competition-and-competition-protection-act-2019-lessons-from-south-africa>> accessed 11 February 2024.

⁸⁵ Ibid.

⁸⁶ Federal Competition and Consumer Protection Act 2018, s 2.

⁸⁷ FCCPA 2018, s 3.

⁸⁸ FCCPA 2018, s 39.

Another body which is tasked with ensuring that goods on the market are of acceptable quality and standard is the Standard Organisation of Nigeria (SON). SON has the authority to, among other things, carry out tests, look into manufacturing facilities, register all manufactured items in Nigeria, control standards, markings, and certification, create a list of commodities that need to be registered and create industry standards.

Industry standards are documents that list specifications that have been accepted by associations of businesses, individuals engaged in a particular field, or producers of certain goods.⁸⁹ All stakeholders in the industry would have to abide by these standards in carrying out activities relating to that product. There are certain steps SON takes in order to establish an industry standard.⁹⁰

SON must first notify pertinent parties who have a significant stake in the industrial standard. It would then form a committee to look into the situation and generate a report. The report is used as a guide while creating the industrial standard. The standard is reviewed every five years to ensure it is up-to-date. The Standard Council of Nigeria can revise or revoke a standard which is no longer adequate. These standards are significant in furthering consumer protection by ensuring that all products on the market meet certain safety and quality levels.

However, SON has not created any industry standards for cosmetics. This may be due to the fact that SON recognizes the powers of NAFDAC in regulating cosmetics and as such it would be pointless to create industry standards when NAFDAC has already created ample guidelines governing the cosmetic industry in Nigeria. On the other hand, SON is a member body of the International Organization for Standardization (ISO) and the body has created an international standard for the manufacturing, storage and shipment of cosmetic products.⁹¹

The major question that arises when examining all these bodies, is what occurs where there is conflict in jurisdiction. Both the FCCPC and SON have enabling statutes which unlike NAFDAC do not specify the kinds of products they regulate but instead, give them overreaching powers

⁸⁹ Michael Pfeifer, 'Design Requirements', *Materials Enabled Designs: The Materials Engineering Perspective to Product Design and Manufacturing* (1st edn, Elsevier Science 2009).

⁹⁰ Standard Organisation of Nigeria Act 2015, s 28.

⁹¹ ISO 22716:2007.

across various industries. This matter was debated in *Dr Anu v FCCPC & Medical and Dental Council of Nigeria*.⁹²

The FCCPC following complaints shut down Medcontour an alleged illegal plastic surgery clinic operated by Dr. Anuoluwapo Adepoju in Lagos state. The clinic had been performing cosmetics surgeries in an unprofessional and negligent manner and it had allegedly resulted in the death of a female patient.⁹³ The surgeon and her clinic were arraigned in the Federal High Court following investigations by the FCCPC. The Medical and Dental Council of Nigeria interpreted the FCCPC's actions as an encroachment into their jurisdiction and an attempt to regulate medical practitioners.

The courts in deciding which of these bodies had jurisdiction over the matter held that the Federal Competition and Consumer Protection Act is a general legislation while the Medical and Dental Practitioners Act is the specific legislation in the circumstances of the case. In the court's opinion, the Medical and Dental Council of Nigeria was the more competent party since the case involved the professional negligence of a medical practitioner.

Inferring from the court's decision, it is clear that the courts will deliberate on which body is more competent to handle the matter rather than simply the question of jurisdiction. Since NAFDAC has been set up specifically to regulate cosmetics, it has more technical knowledge, expertise and personnel to handle issues arising in the cosmetic industry compared to the FCCPC or SON. Also, the Director-General of SON or his representative is a statutory member of the governing council of NAFDAC.⁹⁴ This minimizes issues of conflict since they are members of each other and as such must work in the primary interest of the public through effective cooperation.

4.2. Regulation of Cosmetics Through Law of Contract

Another Act worthy of note is The Sales of Goods Act of 1893 which governs all commercial transactions. It provides for the regulation of cosmetics through the law of contract. When it comes to the safety of cosmetic products, the Act imposes implied terms which guarantee consumer

⁹² FHC/L/CS/540/2020.

⁹³ Titilola Adegbile, 'Examining the Role of Federal Competition and Consumer Protection Commission (FCCPC) in Regulating the Medical Profession in Nigeria' (2022) 2 RUNJIL.

⁹⁴ NAFDAC Act 2004, s 2.

protection. Implied terms are clauses that, although not expressly mentioned in a contract, are understood to be a part of it due to the nature of the parties' relationship, custom, common-law rules or legal requirements.⁹⁵

When a consumer in Nigeria purchases a product in Nigeria, there is the expectation that these products are of good quality and fit for use. These expectations are implied conditions which the Sale of Goods Act provides for in certain circumstances. Products must match the description when they are being sold by description. The same condition applies to products sold by sample.⁹⁶ This means that if a lipstick product is described as 'red' in colour, it should match that description.

Another implied term is that the products are fit for purpose and are of merchantable quality.⁹⁷ Where the seller markets a product for a particular purpose, whether expressly or impliedly, then the products must be able to perform in that exact manner. Merchantable quality means that the product ought to be free of defects. However, in the event that the buyer inspects the product and such inspection should have identified product issues, this provision is waived.⁹⁸

4.3. Enforcement Procedures of NAFDAC

As crucial as legislation is, the enforcement of its provisions is equally important. In examining how NAFDAC enforces the Acts and regulations, its structure will be discussed. The Director-General is the chief executive officer of the agency responsible for the administration of the agency.⁹⁹

To further assist with the administration and enforcement of the provisions, the Act establishes different directorates; a Planning, Research and Statistics Directorate, a Narcotics and Controlled Substances Directorate, a Regulatory and Registration Directorate to be headed by a Director, an Inspectorate Directorate, a Laboratory Services Directorate and any other directorate deemed

⁹⁵ George Cohen, 'Interpretation and Implied Terms in Contract Law', *Contract Law and Economics*, (2nd edn, Edward Elgar Publishing 2011).

⁹⁶ Sales of Goods Act 1893, s 13.

⁹⁷ Sales of Goods Act 1893, s 14.

⁹⁸ *Ibid.*

⁹⁹ NAFDAC Act 2004, s 9.

necessary for carrying out the activities of the agency.¹⁰⁰ The agency also has regional offices in every state in Nigeria for efficient enforcement.

Section 24 of the Act confers NAFDAC officers with the power to enter into premises. A NAFDAC officer can enter into any premises, by force if required, known or believed to have products which do not conform to NAFDAC standards, inspect the products, equipment used, storage or packaging and any document with relevant information. This power must not be executed arbitrarily as was the case in *NAFDAC v. Imuokhuede*¹⁰¹ where NAFDAC officials broke down the plaintiff's gates causing serious damage to his premises. The court ordered NAFDAC to issue an apology to the plaintiff and granted damages as well.

NAFDAC officers can also seize items believed to be in contravention of the laws. Seized products can only be returned after testing and confirmation that they are safe and conform to NAFDAC standards.¹⁰² The seized products are handed over to an analyst who tests the products and generates a report detailing their constituents and safety.¹⁰³ To do this, NAFDAC collaborates with the Institute of Public Analysts of Nigeria (IPAN), a professional body that certifies and regulates public analysts.¹⁰⁴ A public analyst is an individual who is legally authorized to analyse food, drugs, medical devices, cosmetics, water and chemicals. Their reports can also be used as evidence in court.¹⁰⁵

Obstructing an officer is a criminal offence punishable by up to two years imprisonment or a N5000 fine or both.¹⁰⁶ Contravention of any of the provisions in the NAFDAC act and regulations is equally an offence. Where there is no specified penalty for an offence, the person is given a fine of N50,000 or one year imprisonment or both. Where it is a corporate body, the entity is given a fine of N100,000 upon conviction.

¹⁰⁰ NAFDAC Act 2004, s 8.

¹⁰¹ (2018) LPELR-50525(CA).

¹⁰² NAFDAC Act 2004, s 24(3).

¹⁰³ NAFDAC Act 2004, s 24(4).

¹⁰⁴ Ejoywokeoghene Omohwovo and Don Lucero-Prisno III, 'The Dangers of Skin Bleaching in Nigeria: The Need for Strict Safety Regulations and Consumer Awareness' (2023) 3 Public Health and Toxicology 1.

¹⁰⁵ Institute of Public Analysts of Nigeria Act 2004, s 14(2).

¹⁰⁶ NAFDAC Act 2004, s 25(1).

The Federal High Court possesses exclusive jurisdiction over all matters in the act and regulations.¹⁰⁷ With the approval of the Attorney-General of the Federation, any NAFDAC officer can institute an action in court in respect of offences governed by the agency as was pronounced by the courts in *Umezinne v FRN*¹⁰⁸ pursuant to Section 26(1) of the NAFDAC Act.

NAFDAC has made significant efforts in ensuring that cosmetic products are safe and unscrupulous business owners who do not comply with its provisions are met with legal action. Their investigations have led to the arraignment and prosecution of offenders such as Chinonso Ndu, Nwadike Kingsley and Celestina Obi for the importation, sale and distribution of counterfeit Eva complexion soap.¹⁰⁹

Consumers can file complaints about cosmetic products or injuries through their official website or contact NAFDAC directly. Records of complaints are publicly available, detailing the NAFDAC officer, steps taken, and resolution status. However, a purview of the records show no follow-up or feedback from complainants. Aside from going through the NAFDAC complaint system and waiting on the agency to carry out the necessary investigations, consumers still have other avenues to seek redress from the court such as through the claim of negligence or a breach of contract.

Consumers and business owners equally have the right to institute legal action against NAFDAC as provided for by section 27 of the NAFDAC Act. The law requires them to give a one month notice of intention to sue containing the cause of action, facts of the matter and relief sought. The courts have also stated in *Syntex Global Incorporated v NAFDAC*¹¹⁰ that actions against public officers must be done within the statute of limitation prescribed by the Public Officers' (Protection) Act.¹¹¹

¹⁰⁷ NAFDAC Act 2004, s 25(5).

¹⁰⁸ (2013) LPELR-20680(CA).

¹⁰⁹ NAFDAC, 'Investigation and Enforcement Section', (NAFDAC) <<https://www.nafdac.gov.ng/our-services/compliance-enforcement/>> accessed 3 March 2024.

¹¹⁰ (2018) LPELR-50813(CA).

¹¹¹ Public Officers' (Protection) Act 2004 LFN.

In *NAFDAC v Reagan Remedies*,¹¹² the courts granted damages to the respondent for losses incurred due to the agency unjustly shutting down their factory. Aggrieved persons can make NAFDAC an additional party to a suit against an erring business, for failure to perform their duties efficiently. In a 2020 case, a retired judge instituted an action in court and sought for the agency to investigate, identify and safely dispose of banned chemicals which it had given a permit to a company to import.¹¹³

Conclusion

From the foregoing, it is evident that there exists a legal framework in Nigeria governing the sale, distribution, marketing, production and importation of cosmetics. The laws specifically regulating cosmetics in Nigeria include statutes, regulations and guidelines which contain commendable provisions and offer a solid foundation for ensuring consumer protection. The major regulatory body, NAFDAC, has done a good job of enacting regulations and guidelines and making attempts at enforcement.

However, while the existence of regulations is commendable, there needs to be an increase in the prosecution of offenders. NAFDAC should, pursuant to the regulations, impose penalties on erring business owners. These ‘scapegoats’ would serve as a deterrence and encourage more persons to undergo registration before producing, selling, distributing, advertising or importing cosmetic products.

Stricter regulation of e-commerce is paramount to preventing ease of trade being at the expense of the consumer’s health. The opportunities e-commerce provides for prospective business owners must not be abused or left off without regulation. NAFDAC should cooperate with (Nigerian) e-

¹¹² (2019) LPELR-47563(CA).

¹¹³ Akinwale Akintunde, ‘Retired Judge, NGO, Sue Nafdac, Others over Importation of Banned Chemical’ (*THISDAYLIVE*, 2020) <<https://www.thisdaylive.com/index.php/2019/10/15/retired-judge-ngo-sue-nafdac-others-over-importation-of-banned-chemical?amp=1>> accessed 3 March 2024

commerce platforms to create a balance where business activities are promoted and the products sold meet regulatory standards.

The issue of influencer marketing is in dire need of addressing. To create a safe environment for trade, it is necessary to adopt the approach of France and enact specific regulations which guide and impose responsibilities on influencers. Penalties should be ascribed to influencers who promote known (or ought to reasonably have known) harmful cosmetic products to their viewers and fanbase.

Another way Nigerian regulations on cosmetics can be enhanced is through imposing a duty on manufacturers to report product complaints and attach penalties where they fail to do so. The only exception to this obligation should be if the responsible person is genuinely ignorant of the complaints about the adverse effects of their products. Responsible persons must also be held liable when they fail to take corrective measures to mitigate the risks caused by a product they made available to the public.

Finally, consumer education is crucial to ensuring consumer protection. There needs to be increased sensitization on consumer rights, available recourse and regulatory provisions. The average Nigerian consumer should be familiar with how to read a label, determine whether a product has NAFDAC approval, and identify ingredients to avoid in cosmetics. This can be done through well executed campaigns across various media. NAFDAC should collaborate with the FCCPC which has a statutory function to protect and educate Nigerian consumers.