

# **An Examination of the Emerging Legal Frontiers in the Protection of Consumer of Telecommunications Services in Nigeria**

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## **Abstract**

The rapid growth of telecommunications worldwide has led to a surge in global subscribers, making telecommunications services more accessible and beneficial. This growth has also brought about significant challenges to consumers, particularly in Nigeria. Some of the pressing concerns faced by the Nigerian consumers include high tariff charges, poor customer care service, call jamming, and network congestion. In response, the NCC introduced Quality of Service Regulation 2024 and the Consumer Code Practice Regulation 2024, alongside other Regulations, to protect consumers' rights. Using doctrinal research methodology, this article examined the adequacy or otherwise of these Regulations. Additionally, the study traced the origin of consumer protection of telecommunications services in Nigeria, by exploring the global evolution of consumer protection. The study found that the challenges facing consumers are largely a legacy of Nigeria's colonial administration. Accordingly, the paper revealed that the Consumer Code Practice Regulations 2024 and the Quality-of-Service Regulation 2024 was aimed to address the long-standing challenges facing consumers. The study further revealed that the existing modes of sanctioning telecommunication operators in Nigeria fall short of the expected standards; in protecting consumers' rights and enhance quality service. It however, found that resource constraints, and insufficient penalties, coupled with consumer disempowerment may hinder effective implementation of these Regulations. The paper concluded by recommending workable solutions that will protect consumers and promote their interests.

**Keywords:** Consumer Protection, Origin, Telecommunication Services, Regulations

## **1.0 Introduction**

The rapid expansion of telecommunications has led to a significant increase in global subscribers, providing widespread access to the numerous benefits of telecommunications services. It has been described by many as a revolution that has dramatically changed the face of information and communications technology in Nigeria. The socio-economic impact of this development is immense and far-reaching; the mobile phone has become the most popular method of voice communications, broadband penetration is on the increase, commercial transactions are concluded on mobile phones without requiring face to face contact between contracting parties. It has also enabled the cashless society policy of the Federal Government of Nigeria, while in the health sector; it has advanced health care delivery through teleconsultation. Despite these benefits, significant challenges persist, sparking urgent concerns among telecommunications consumers.

For the purpose of this study, the terms 'subscriber' and 'consumer' are used interchangeably to refer to individuals who utilize telecommunications services. The consumer occupies a vital position in the telecommunications services. Consumers are ultimately the end-users and beneficiaries of the telecommunication services, representing the final destination in the telecommunications value chain. The complexities of modern telecommunications services, coupled with the increasing sophistication of technologies and networks, have created an imbalance in power between consumers and telecommunications service providers. This can put consumers at a disadvantage in terms of negotiating service quality, pricing, and resolving disputes, highlighting the need for consumer protection and advocacy in the telecommunication sector. This has led to a growing demand for consumer protection and the recognition of consumers as a distinct group requiring specialized legal treatment and protection<sup>1</sup>.

As Adam Smith aptly noted the central role of consumer in a production process and the need to protect him thus:

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<sup>1</sup> P T Angya, "Legal Regime for the Regulation of Consumer Services in Nigeria", (Unpublished) LLM Dissertation submitted to Faculty of Law, Benue State University, Makurdi, 2004. p 2.

*Consumption is the sole end and purpose of production and the interest of the producer ought to be attended to, only so far as it may be necessary, for promoting that of the consumer. The maxim is so perfectly self-evident, that it would be absurd to attempt to prove it. But in the mercantile system, the interest of the consumer is almost constantly sacrificed to that of the producer, and it seems to consider production and not consumption as the ultimate end and object of all industry and commerce<sup>2</sup>.*

Thus, consumers of telecommunications industry are exposed daily to problems of poor service quality and high tariff charges, among others. These problems are impactful not only on the individual but on society at large. As Kanyip rightly observed, citing Belobaba assert that,

*The nature and extent of consumer protection regulation in a modern society says a great deal about that society, about its social and economic development, about its legal values, about its sense of justice, about its political sophistication and maturity, about its system of government, politics and policy making and priority setting<sup>3</sup>.*

Available data reveals a wide range of common complaints made by consumers regularly and they include high tariff charges, poor customer care service, call jamming, network congestion, unsolicited messages, automatic billing for unwanted services (such as caller tunes, health tips, etc.), echoing and poor audio quality, unnecessary billings for calls that do not go, complaints of drop calls and call interference, uncompleted calls, non-delivery or delayed short message services, call routing or wrong connection are recurring in the industry.

These challenges have resulted in substantial losses, including contract and income losses, time wastage and disruption of business plans. Furthermore, these challenges can lead to stress, discomfort and psychological distress. The consequences of Nigeria's telecommunications woes are severe, with reports of lost contracts, strained relationships and even breakdown in marriages.<sup>4</sup> In response, the Nigerian Communications Commission (NCC) introduced the Regulations 2024 aimed at protecting telecommunications consumers. This paper examines notable provisions of the Consumer Code of Practice Regulations 2024 and Quality of Service Regulations 2024.

## **2.0 Global Evolution and the Origin of Consumer Protection in Nigeria**

*Consumer protection is a global concern that knows no borders. While its importance is universally acknowledged, the development and emphasis of consumer protection differ significantly across countries and cultures. The history of consumer protection is complex, with scholars tracing its origin to various time periods and civilizations. Notably, some researchers point to ancient religious texts, such as the Holy Bible's Old Testament<sup>5</sup>, which specifically directed architects and builders to exercise caution in designing and constructing buildings to avoid injury to men.<sup>6</sup> While others identify the historical roots of consumer protection in traditional*

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<sup>2</sup> S Adam, "An Inquiry into The Nature and Wealth of Nations" (Eds., Liberty Classics, Indianapolis, 1951) p 66.

<sup>3</sup> B B Kanyip, "Consumer Redress", *Finance and Investment Journal* Vol.11 (1999) p 77.

<sup>4</sup>The case of Njikonye v. Mtn Nig. Communications Ltd. (2008) ALL FWLR Part, Page 1343 is one of the cases fought on the basis of loss of contract as a result of service delivery problems from the service provider. On broken marriages, the case of a man who travelled from Kano to his village where there was no GSM service readily comes to mind. His wife called his GSM number and the call was wrongly routed into a lady's phone leading to serious quarrel between him and the said wife as she suspected him of cheating on her. In the long run the marriage was dissolved between the said couples.

<sup>5</sup> B B Kanyip, *Consumer Protection in Nigeria: Law, Theory and Policy*, (Abuja: Rekon Books Limited, 2004) p 81

<sup>6</sup> Ibid (Kanyip citing the view of Badaiki).



agrarian societies. Thus, it is imperative to state that the concept of consumer protection was first introduced by John Fitzgerald Kennedy, the 35<sup>th</sup> President of the United States on 15<sup>th</sup> March 1962. In his landmark speech, he emphasized the importance of consumer protection, outlining four fundamental rights that consumers are entitled to. These rights are: (1) the right to safety; (2) the right to be informed; (3) the right to choose; and (4) the right to be heard.<sup>7</sup> This innovation sparked a deliberation and subsequent legislation to protect consumers. Later, the Worldwide Consumer Movement led by the Consumers International (CI)<sup>8</sup>, a global federation of over 240 member organizations in 120 countries, added four more rights and they are: (5) the right to satisfaction of basic needs; (6) the right to redress; (7) the right to education; (8) the right to a healthy environment.<sup>9</sup> Accordingly, CI adopted these rights as a charter and started recognizing March 15 of every year, as World Consumer Rights Day.<sup>10</sup> Since 1983, March 15 has been observed as “World Consumer Rights Day”. This originated from the declaration of US President John F Kennedy in 1962, that ‘consumers by definition include us all. They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group...whose views are often not heard’.<sup>11</sup> Today, the World Consumer Rights Day is observed with the aim of (a) promoting the basic rights of all consumers; (b) demanding that those rights are respected and protected; and (c) protesting the market abuses and social injustices which undermines them.<sup>12</sup> Another important name in the international sphere on consumer protection is Ralph Nader. He is the author of the book “Unsafe at Any Speed” which indicates the faulty design of automobiles.<sup>13</sup> The book led to a series of landmark laws that have prevented multiple motor vehicle accidents thus curbing deaths and injuries.<sup>14</sup> He revolutionized consumer protection in the United States of America.<sup>15</sup> *The legal regime on consumer protection in the US experienced a number of activities and legislative efforts in the 21<sup>st</sup> century as many consumer protection legislations (including the telecom consumer protection legislations) were passed while others submitted for deliberations to the congress. These include the Telephone Consumer Protection Act 1991, Cable Television Consumer Protection and Competition Act 1992,*

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<sup>7</sup>I Nwaizugbo, and C Ogbunankwor, “Measuring Consumer Satisfaction with Consumer Protection Agencies Insights from Complainants to CPA Offices in Anambah State”, *International Journal of Small Business and Entrepreneurship Research* (European Centre for Research Training and Development UK, September 2013) (2013) 1(3) 14.

<sup>8</sup> Formerly called International Organisation of Consumer Unions (IOCU) is an international consortium of consumer advocacy groups that promotes the rights and interest of consumers. CI was founded as the International Organisation of Consumers Union in 1960 and by the 21<sup>st</sup> century had grown to include more than 200 member organisations in more than 100 countries with its headquarters in London and with offices in Kuala Lumpur, Malay, and Santiago

<sup>9</sup> D Ariyoosu, and S Akangbe, “Consumer Rights Protection and its Impact on Service Quality in the Telecommunications Sector”, *Coventry Law Journal*, (2023) Vol. 28 No 1

<sup>10</sup> Consumers International, ‘World Consumer Rights Day’ available at <https://www.consumersinternational.org/what-we-do/world-consumer-rights-day/> accessed on December 19, 2024.

<sup>11</sup> ‘Telecoms Summit Harps on Subscribers Rights to Quality Services’ Daily Independent Newspaper (Nigeria, January, 2013) p 12.

<sup>12</sup>N Ahamuduzzaman, L Rahman and Z Nahida, “A Contextual Analysis of the Consumer Rights Protection Laws with Practical Approach: Bangladesh Perspectives”, *ASA University Review* (2009) Vol.3 No.2.

<sup>13</sup>Ibid

<sup>14</sup>S Sonikar, “The History of Consumer Protection”, available at <https://lawtimesjournal.in/the-history-of-consumer-protection/> accessed on 25<sup>th</sup> December 2024.

<sup>15</sup> Ibid

*Telecommunications Act 1996, Telemarketing and Consumer, Electronic Communications Privacy ("Wiretap") Act 1996 and Consumer Protection Act 1999. Other legislations include Consumer Data Security Notification Act 2005. This Act deals with privacy of consumer data and the Consumer Privacy Protection Act, 2005.*

*The above U.S. statutes are complemented by agencies charged with consumer protection mandate. These include the Federal Trade Commission (FTC)<sup>16</sup>; the Consumer Affairs Council; the Consumer Products Safety Commission<sup>17</sup>; the United States Office of Consumer Affairs among others.<sup>18</sup> These agencies make regulations on consumer protection ranging from issues of enforcement of product safety, recalling of hazardous products from the market, publication of quarterly consumer information catalogue, coordination of consumer program and consumers representation during policy-making process and the issue of research on consumer issues among other things.*

The coordination of consumer rights at the international level began in 1960, when the International Organization of Consumer Union was formed. The first ever international conference of leaders from consumer organizations took place in The Hague in March 1960. Five of the 17 organizations present signed papers to create the International Organization of Consumer Unions (IOCU). Its major functions include representation of interest of consumers within international agencies such as the Economic and Social Council of the United Nations and expanding the consumer movement and nurturing young consumer organizations. The participation of International Organization of Consumer Union in certain international campaign networks has been of immense value. It has recognized the following eight basic consumer rights and has expressed its concern for their promotion. These rights are: the right to safety; the right to information, the right to choice; the right to basic needs or necessities; the right to consumer education, the right to representation; the right to seek redress; and the right to a healthy environment.

In ancient Indian, they witnessed the supremacy of the Vedas as a religious text, coming from God himself. The Vedas were strictly followed by the majority in the ancient Indian society. Apart from the Vedas, this period also gave rise to the Code of Chanakya, Manu Smriti, Narada Smriti and so on. These ancient codes contained provisions which sought to safeguard the interests of the consumer, with the aim of consumer safety. The punishment was also granted when the consumer-related provisions were gone against. A shift in India's time period from ancient to medieval times resulted in a focus on Islam as a religion and the laws of Islam. The Holy Quran, the main text of the Muslims, also stressed the protection of consumers. The Quran has verses that indicate that the use of unjust weights and measures is unacceptable. During the period of the Sultanate, local conditions influenced the price of commodities.<sup>19</sup> Both Hindu and Muslim scriptures that were

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<sup>16</sup>This is the largest federal agency that handles consumer complaints and regulates unfair or deceptive trade practices in the U.S. Local trade practices deemed unfair or deceptive may fall within the jurisdiction of the FTC laws and regulation when they have adverse effect on interstate commerce.

<sup>17</sup>It has the job of this Commission to protect consumers from faulty or dangerous products by enacting mandatory safety standards for those products. It has the authority to ban products from the market place or to recall products. When a product is recalled by the Commission, it is removed from the shelves or sales lots, and consumers may be able to return it to the manufacturer or place of purchase for repair, replacement or a refund.

<sup>18</sup>At state level in the U.S. there exist Department of Consumer Affairs devoted to regulating certain industries and protecting consumers who use goods and services from such industries. A good example is the California Department of Consumer Affairs which regulates about 2.3 million professionals in over 230 different professions, through its forty regulatory entities.

<sup>19</sup>Ibid



being used together by the kings of different states of India promoted consumer protection until modern times when the traditional legal systems established by Indian kings were replaced by new modern laws which include, amongst others; the Indian Contract Act, (1872), the Sale of Goods Act (1930), Indian Partnership Act, 1932, the Bureau of Indian Standards Act 1986, The Consumer Protection Act, 1986, the Competition Act 2002 and the recently introduced Telecom Regulatory Authority of India Regulations 2024.

*Consumerism has a long history in England.<sup>20</sup> The government at earliest times enacted and enforces laws that benefited consumers in terms of setting uniform weights and measures and pricing standard among other issues. Evidence of these laws can for example be traced as far back as 1266<sup>21</sup> with the passage of Assize of Bread and Ale which empowered Justices of peace and the Court Leet<sup>22</sup> exercise jurisdiction to enforce compliance regarding pricing and measurement standards. In 1664 a statute was enacted to regulate the pricing, weighing and marking of coal.<sup>23</sup> By 1709, there was in existence a statute regulating bread prices and weights. The statute empowered Justices of Peace or the Mayors of boroughs to set bread prices and weights and required bakers to mark loaves according to standard size and quality. In fact, prices were fixed based on current market prices of grain, meal or flour.<sup>24</sup> The enforcement of consumer protection laws at that time was an issue pursued by the state through various officials, including Justices of Peace, Mayors, Ale Conner, Constables, Market-lookers, the searchers and sealers of leather, Town Scavengers, etc. The judicial structure that assisted in trying consumer related offences played a significant role in the Court Leet.*

*The current legal regime on consumer protection in England is made up of several legislations and other statutory instruments made to regulate consumer protection in the telecommunications and other sectors of the economy. The key statutes include the Communications Act of 1934; the Misrepresentation Act, 1967; the Unsolicited Goods and Services Act, 1971; the Fair Trading Act, 1973; the Consumer Credit Act; 1974; the Unfair Contract Terms Act, 1977; the Consumer Safety Act, 1978; the Sale of Goods 1979; the Supply of Goods and Services Act, 1982; the Food Act, 1984; the Weights and Measures Act' 1985; the Consumer Protection Act, 1987<sup>25</sup>; the Consumer Arbitration Agreements Act, 1988; Sale and Supply of Goods Act, 1994 and the Office of Communications (Ofcom) Act, 2002. The regulations on the other hand include the Price Marking (Bargain Offers) Order (S.I. No. 364), 1979; Supply of Service (Exclusion of Implied Terms) Order (S.I. No. 1771), 1982; the Credit Card (Price Discrimination) Order (S.I. No. 2159) 1990; the Unfair Terms in Consumer Contracts Regulation (S.I. 3074) 1993; the General Product Safety Regulation (S.I. NO. 2328) 1994; Electronic Commerce Regulation, 2002; the General Product Safety Regulation 2005.*

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<sup>20</sup>F Monye, "Law of Consumer Protection", (Ibadan: Spectrum Books 2000) p 4.

<sup>21</sup>Halsbury's Statutes of England (Third Edition) p. 263, see also, Hygiene, 'A brief History of UK Food Safety Law', available at, <https://www.hygiene.org/a-brief-history-of-uk-food-safety-law> accessed on December 26, 2024

<sup>22</sup>The Court Leet is a Manorial Criminal Court Established by an actual or presumed grant. It was presided over by a Steward who was normally a lawyer and could punish by fine (called 'amercement'). The Steward could impose an imprisonment term in event of the convict failing to pay the fines imposed by the court.

<sup>23</sup>W B Harvey, "The Law of Consumer Protection and Fair Trading", (London: Butterworths, 978); p 3.

<sup>24</sup>Ibid, p 2

<sup>25</sup>The provision of this Act was introduced to bring the UK in line with EU legislation. It deals with three main aspects of consumer protection namely product liability, consumer safety and misleading pricing.

Prior to January 31, 2020, England was bound by EU consumer protection directives, established under the Single European Act 1986 and the Maastricht Treaty 1992. These directives led to the introduction of the EU's Consumer Code in 2005, which has undergone revisions. However, following BREXIT, England is no longer bound by these EU directives and the UK has implemented its own consumer protection laws, such as the Consumer Rights Act 2015 while the EU recently introduced Consumer Code of Practice Regulations 2024.<sup>26</sup>

### 3.0 The Origin of Consumer Protection in Nigeria

The origin of consumer protection in Nigeria can be traced back to the pre-colonial era, where kingdoms and empires existed. Despite the lack of documented evidence, it is evident that consumer protection was inherent during the bartering era, with transactions built on trust, reciprocity,<sup>27</sup> and community oversight, which provided a unique framework for protecting consumers. Traditional rulers played a pivotal role in resolving disputes while common forms of punishment that cut across tribes includes banishment, shunning or ostracism, mediation, physical punishment (such as flogging or community service), restitution, public shaming, and divine retribution. The fear of divine retribution largely served as effective deterrents against unfair trade practices at the time. This informal consumer protection system was deeply rooted in the social and cultural norms of the era, while many ancient cultures believed that deities would punish those who engaged in unfair or dishonest trade practices.

The introduction of cowries as a medium of exchange marked a significant transition from bartering to a standardized trade system in Nigeria. The country's consumer protection landscape underwent significant changes with the advent of British colonial rule in the 19<sup>th</sup> century, following the Berlin Conference of 1884-1885. Under the British rule, Nigeria was initially divided into the Southern and Northern Protectorates,<sup>28</sup> which were later amalgamated in 1914. This period marked an era of political influence, exerted by Her Britannic Majesty and through her agents, the supercargoes came for trade while the missionaries were interested in spreading the Christian religion and introducing the people to modern education.<sup>29</sup>

To facilitate communication, primarily for administrative purposes, a telegraphic submarine cable line connecting Lagos to London was established in 1886.<sup>30</sup> This development paved the way for modern telecommunications in Nigeria.<sup>31</sup> Although, the telecommunications industry in Nigeria

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<sup>26</sup>C Antonella, 'International Law Consumer Protection: The History of Consumer Protection' Available at [www.nyulawglobal.org/globalex/international\\_Law\\_Consumer\\_Protection.html](https://www.nyulawglobal.org/globalex/international_Law_Consumer_Protection.html) accessed on 23rd December 2024.

<sup>27</sup>B B Kanyip, "Consumer Protection Laws in Nigeria", 1997, PHD Thesis Submitted to School of Postgraduate Studies, Ahmadu Bello University, Zaria, p 11.

<sup>28</sup>P E Okon, 'Chapter 14: Historical Development of the Mass Media in Nigeria: From Colonial Era to the Present', available at [https://www.researchgate.net/profile/Patrick-Ene-Okon/publication/352771459\\_Chapter\\_14\\_Historical\\_Development\\_of\\_the\\_Mass\\_Media\\_in\\_Nigeria\\_From\\_Colonial\\_Era\\_to\\_the\\_Present/links/60d77d23299bf1ea9ec3a001/Chapter-14-Historical-Development-of-the-Mass-Media-in-Nigeria-From-Colonial-Era-to-the-Present.pdf](https://www.researchgate.net/profile/Patrick-Ene-Okon/publication/352771459_Chapter_14_Historical_Development_of_the_Mass_Media_in_Nigeria_From_Colonial_Era_to_the_Present/links/60d77d23299bf1ea9ec3a001/Chapter-14-Historical-Development-of-the-Mass-Media-in-Nigeria-From-Colonial-Era-to-the-Present.pdf). accessed on January 11, 2025

<sup>29</sup> Ibid

<sup>30</sup>Nairametrics, 'Then and Now: Nigeria's Telecommunication History', available at <https://nairametrics.com/2019/10/02/then-and-now-nigerias-telecommunication-history/> accessed on January 11, 2025

<sup>31</sup> Ibid



officially commenced in 1855, when colonial administrators approved a request to establish links with London.<sup>32</sup>

During these periods, there were no specific statutes protecting consumer, but there exist *certain English laws, including those indirectly related to consumer protection. Notable examples include, the Bread Act 1836, the Adulteration of Food and Drugs Act 1872, the Sale of Goods Act 1893 and later 1979, the Weights and Measures Act 1897 and now 1985, among others; which were gradually incorporated into the Nigerian legal system through reception clauses and ordinances, such as the Interpretation Act and the Supreme Court Ordinance of 1914. These laws introduced common law and equity doctrines, which were applied domestically. The period revealed the inadequacy of the common law in protecting Nigerian consumers,<sup>33</sup> particularly in the telecommunications and it lagged behind Western developments until the 1960s and 1970s,<sup>34</sup> when Nigeria saw significant growth in telecommunications consumers, with approximately 18,724 subscribers out of a population of about 40 million.<sup>35</sup> Despite this growth, the consumers faced several challenges, ranging from; low telephone penetration, poor service quality, and systemic corruption rooted in the country's colonial legacy. The British colonial administration's primary interest was exploiting Nigeria's natural resources and search for cheap labor to sustain the British Empire.<sup>36</sup> Colonial investors exported Nigeria's raw materials to Britain, where they were transformed into finished products and sold at high prices to Nigeria consumers.<sup>37</sup> Scholars submits that some of the products supplied and sold to Nigerian consumers were substandard, thereby taking advantage of the lack of effective consumer protection laws. Maekae<sup>38</sup> opined that this unequal exchange rendered Nigerian economy very weak during the colonial period and this situation exists till today.*

Interestingly, Nigeria eventually gained independence in 1960 and several consumer-related statutes were promptly enacted between 1960 and 1970, which include the Hire-Purchase Act 1965 and the Nigeria Standard Organization Act of 1971. These laws indirectly benefitted telecommunications consumers by promoting standardization and quality control. However, Nigerian consumers continued to face challenges of limited telephone access and unreliable service quality between 1960 and 1985. Despite government's efforts to enact protective laws, consumers

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<sup>32</sup>S A Adewale, and J B Bamise, "The Legal Protection of Consumers of Telecommunications Services". Paper presented to 2005/2006 LL.M Class of Aviation and Communications Law, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Nigeria.

<sup>33</sup>History and Sources of Nigerian Criminal Law, available at <https://www.learnnigerianlaw.com/learn/criminal-law/history> accessed on January 12, 2025

<sup>34</sup> Ibid.

<sup>35</sup>A A Adegbemile, "Developments in Telecommunications in Nigeria and its Impact on National Development: Experience from around the World", (2007), 6(8), *Asian Journal of Information Technology*, pp. 554-884.

<sup>36</sup>United Nation, 'Bibliography of Corruption in Nigeria' available at, [https://www.unodc.org/conig/uploads/documents/publications/Anti-Corruption-Project-Nigeria/Bibliography\\_of\\_Corruption\\_in\\_Nigeria\\_final.pdf](https://www.unodc.org/conig/uploads/documents/publications/Anti-Corruption-Project-Nigeria/Bibliography_of_Corruption_in_Nigeria_final.pdf). See also, *Analysis of Colonialism and its Impacts in Nigeria*. Available at <https://phdessay.com/colonial-nigeria/> accessed on December 28, 2024

<sup>37</sup> S O Adewara, 'Nigerian Economy During Colonial Era: An Overview' available at [https://link.springer.com/chapter/10.1007/978-3-030-50509-7\\_12](https://link.springer.com/chapter/10.1007/978-3-030-50509-7_12) accessed on November 3, 2024

<sup>38</sup> J Maekae, "The Contribution of Colonial Rule to the Weak Foundation of Nigeria Economy", *Journal of Research in Humanities and Social Science*, Vol. 9 Issue 10 (2021) p 74.

remained vulnerable to telecommunications challenges due to the lack of direct enforcement powers and resources.<sup>39</sup>

The 1990s, specifically the period from 1990 and 1993, saw significant changes, marked by the introduction of key statutes. Notably are; the Consumer Protection Council Decree of 1992 (CPC),<sup>40</sup> and the Nigerian Communications Commission Decree of 1992<sup>41</sup> (NC Decree). The 1992 CPC was the first legislation to protect consumers who purchase products and services while the NC Decree established a comprehensive framework for regulating telecommunications services. The CPC Decree established the Consumer Protection Council and State Committees, making redress channels more accessible to consumers,<sup>42</sup> but has limitations particularly in the areas of financial services. The CPC recognized the need to provide a speedy redress to consumers' complaints, and lacks a direct right of action for civil recourse, leaving consumers without a clear means of seeking redress.<sup>43</sup>

The CPC Decree of 1992 only provides criminal sanctions for specific unfair trading practices, enforced by the regulatory agency, which also determines the type of actions that constitutes 'unfair trading practices',<sup>44</sup> and designated these actions as criminal offences. These actions are punishable by fines or imprisonment and such fines are paid directly into the court's fund, leaving the aggrieved consumers with no remedies. The Consumer Protection Decree penalized, among other things, providers of services or information that cause consumer injury or loss,<sup>45</sup> as well as making false entries or statements in any required report under the Decree.<sup>46</sup> The CPC Decree contains provisions that can be broadly interpreted to cover telecommunications consumers.

In similar vein, the NC Decree had its limitations. It did not provide for consumer protection. Instead, it established the Nigerian Communications Commission (NCC)<sup>47</sup>, outlining its powers, functions, and regulatory roles in telecommunications services. This oversight left consumers of telecommunications vulnerable.

Following the transition to democracy in 1999, Nigeria strives to keep pace with the digital age. The democratically elected government demonstrated a strong interest in fully liberalizing the telecommunications sector, especially the implementation of the policies,<sup>48</sup> promoting competition among operators in national and international long-distance services, as well as mobile services. According to Monye, the 2001 introduction of Global System for Mobile Communications (GSM) Services in Nigeria led to unprecedented demand in the telecommunications sector.<sup>49</sup> The GSM

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<sup>39</sup>H U Chilewubeze, "Consumer Protection in the Banking Sector: the Need for Reform to Protect Bank Consumers in Nigeria", available at <https://www.scribd.com/document/718327377/FulltextThesis>. Accessed on December 28, 2024.

<sup>40</sup> The Consumer Protection Council (CPC) Decree of 1992, also known as the Consumer Protection Council Act (CPCA), established the CPC as a federal government agency in Nigeria.

<sup>41</sup> The Nigerian Communications Decree was Decree number 75, which was passed by the Federal Military Government of Nigeria on November 24, 1992.

<sup>42</sup> Section 2 (e) of the Consumer Protection Code Decree No. 66 of 1992

<sup>43</sup> Ibid., Section 2

<sup>44</sup> Ibid (n. 39)

<sup>45</sup> Section 12 (b) of the Consumer Protection Council Decree, 1992

<sup>46</sup> Ibid, Section 19

<sup>47</sup> NCC., 'About the Commission' available at <https://ncc.gov.ng/the-ncc/who-we-are> accessed on December 27, 2024

<sup>48</sup> National Policy on Telecommunications (NTP) published in the year 2000

<sup>49</sup>F N Monye, "Competition Law in Nigeria Consumer" (Publication of Consumer Awareness Organisation: Chenglo Limited, 2005) PP 1-2





system has been adopted by subscribers across all income levels, ranging from the low-income earners to high-paid workers. This marked the beginning of the liberalization of telecommunications market, which presented several challenges that required regulation to protect all stakeholders or segments of the sector, including consumers. To address these challenges, the Nigerian government emphasized the need to strengthen the regulatory body's independence. In September 2001, the Commission established a full-fledged department, Consumer Affairs Bureau. The Bureau was charged with PIE (Protect, Inform and Educate) mandate, i.e., to protect, inform and educate consumers. This mandate aligns with the eight rights of Consumers International,<sup>50</sup> a framework that underpins consumer protection globally. This mandate has remained an irrevocable social contract between the Commission and telecoms consumers in Nigeria.<sup>51</sup> In a bid to protect, inform and educate consumers, the Commission organized its inaugural consumer forum at Flamingo Restaurant in Victoria Island in April 2002 and was attended by Consumers, Telecommunication operators, Regulators and Government agencies.

In response to the challenges in the liberalization of Telecommunications market, the Nigerian Communication Commission Act 2003<sup>52</sup> was signed into law by the former President Olusegun Obasanjo on July 8, 2003, repealing the Nigerian Communications Commission Decree of 1992. The NCA, focus on promoting fair competition, high quality services, and protecting consumer interests, and serves as the primary foundation for consumer protection in the Nigeria's telecommunications sector, providing a framework for consumers to lodge complaints. In other words, the NCA establishes a clear mechanism for consumers to lodge complaints, enabling them to voice their grievances and seek redress.

In August 2003, the Commission launched the monthly Telecoms Consumer Parliament (TCP), a novel initiative that earned the Commission, and Nigeria, commendations from International Telecommunications Union (ITU),<sup>53</sup> including Information and Communication Technology (ICT), Professionals and groups worldwide. The Telecom Consumer Parliament has played a vital role in educating consumers about their rights and service providers' obligations; in the resolution of their challenges. It has also enabled operators to clarify service delivery issues for the benefit of subscribers, provide public account of their stewardship, and receive valuable feedback from consumers. This feedback has informed the Commission's regulatory interventions, ensuring that consumer interests are protected.<sup>54</sup>

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<sup>50</sup> *These rights are:* the right to safety, right to be informed, right to choose, right to be heard, right to satisfaction of basic needs, right to redress, right to education, and right to a healthy environment.

<sup>51</sup> Ndukwe, E., "The Place of the Consumer in the Nigerian Telecoms Industry" available at <http://www.ncc.gov.ng/archives/speeches-pre> accessed on December 27, 2024

<sup>52</sup> Emma Okonji, "Jonathan Harps on Importance of Broadband" *Thisday Newspaper* of Thursday June 6, 2013. P.31

<sup>53</sup> The International Telecommunications Union, ITU is the United Nations specialised agency for telecommunications. It was established in 1865 as an impartial, international organisation within which governments and private sector could coordinate the operation of telecommunication network and services, and advance the development of information and communication technology (ICT). the ITU is mandated by its Constitution "to extend the benefits of the new telecommunications technologies to all the world's inhabitants". The ITU acts as a forum for governments and the private sector to coordinate technical and policy matters related to global communications network services.

<sup>54</sup> Ofcom Publishes Research on Mobile Phone call Service Quality" available at <http://media.ofcom.org.uk/news> Accessed December 27, 2024.

The Commission has proactively implemented policies and programs that benefit consumers, including price caps; within which the operators were allowed to charge consumers for services provided. It has in accordance with global best practice, introduced competition in all segments of the telecom services portfolio. This approach ensures that telecommunications consumers have access to a wide range of products and services, preventing any single service provider from exploiting them. In response to consumer feedback at the TCP, the Commission addressed the issue of charging subscribers for calls made to customer care lines to lodge complaints,<sup>55</sup> including the extension of services to rural areas. According to Ndukwe, in recognition of the need to extend services to rural and un-served remote areas of the country where operators may be unwilling to provide telecoms services due to their non-viability, the Universal Service Provision Fund (USPF) was set up to provide incentives to operators and extend services to such un-served and underserved areas in the pursuit of achieving universal access. The Commission had also defined acceptable quality of service thresholds which operators are expected to meet on the one hand, as well as sanctions in the event of failure to meet those thresholds.

To ensure compliance, regular monitoring of telecom operators across the country was conducted, with periodic reports published on the Commission's website and in newspaper.<sup>56</sup> The Commission has further made several guidelines pursuant to the provisions of the Act,<sup>57</sup> which empowered the Commission to make guidelines on such other matters as necessary for giving full effect to the provisions of the NC Act and for their due administration. In this regard, the Commission introduced various regulations, which include; Competition Practices Regulations 2007, Universal Access and Universal Service Regulations 2007, Telecommunications Networks Interconnection Regulations 2007, the Competition Practices Regulations 2007, the Numbering Regulations 2008, Numbering Regulations 2008, the MNP Regulations 2014, VAS License 2016, the Licensing Regulations 2019, National Broadband Plan 2020–2025.<sup>58</sup>

As at 2008, Nigeria's total subscriber base stood at 60, 941.343<sup>59</sup>, while in March 2013, the subscriber base hit over 182,058 million.<sup>60</sup> In 2023, Nigeria had 224,713,710 active subscribers<sup>61</sup> and following the completion of NIN-SIM linkage, subscriber number dropped to 153,323,316 as at September 2024.<sup>62</sup> This increase, including the advancement in technology have no doubt thrown up lot of challenges, requiring urgent regulatory attention to project the surging subscriber base in particular and the industry at large. In this regard, the Nigerian Communications Commission (NCC) has introduced Regulations, including the Nigerian Communications (Consumer Code of Practice) Regulations 2024, the Nigerian Communications (Quality of Service) Regulations 2024 (the "QoS Regulations"), the Nigerian Communications (Type Approval) Regulations, 2024 (the "TA Regulations"). The Type Approval Regulations 2024 was

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<sup>55</sup> Ibid

<sup>56</sup> Ibid

<sup>57</sup> Section 70 (2) NCA 2003.

<sup>58</sup> ICLG., 'Telecoms, Media and Internet Laws and Regulations Nigeria 2025' available at <https://iclg.com/practice-areas/telecoms-media-and-internet-laws-and-regulations/nigeria> accessed December 22, 2024

<sup>59</sup> Chikodi Okereocha, "One Revolution a Thousand Gains" (2008) Tell Magazines No. 27, July 2008

<sup>60</sup> Available at [www.ncc.gov.ng=Home>industryinformation](http://www.ncc.gov.ng=Home>industryinformation). Accessed December 22, 2024.

<sup>61</sup> Telecoms Data: Active Voice and Internet per State, Porting and Tariff Information (Q4 2023), retrieved from <https://www.nigerianstat.gov.ng/elibrary/read/1241461#:~:text=The%20total%20number%20of%20active,a%20growth%20rate%20of%200.96%25>. Accessed on December 27, 2024

<sup>62</sup> ThisDay, 'Telecoms Subscriber Numbers Slide from 219m in March to 153m in September' available at <https://www.thisdaylive.com/index.php/2024/10/26/telecoms-subscriber-numbers-slide-from-219m-in-march-to-153m-in-september/?amp>



signed in July 2024 and in August 2024, the Type Approval Business Rules 2024 (the “Business Rules”) issued pursuant to the Type Approval Regulations 2024 was published as a supplement to the TA Regulations 2024. The introduction of these Regulations demonstrates the NCC’s commitment in protecting consumer rights and promoting a more responsive telecommunications industry in Nigeria.

#### 4.0 A Critique of Nigerian Communication Commission’s Consumer Satisfaction

The hallmark of the relationship between the consumer and the service provider is the quality-of-service delivery. An analysis of the results of the survey conducted by Adeyinka indicates that in all parameters, the results were positive. All the percentages show that 98% percent were positive about their recharge services, 55% said the voice quality was good, 49% of internet users agreed that the rates charged aligned with those advertised.<sup>63</sup> However, the survey result on consumer satisfaction is rated low as the customers’ expectations were not met. The actual happenings in the industry are that service quality is on a downward trend. A subscriber captured his experience which is the general experience of Nigerian subscribers as stated below:

*I could not make nor receive calls. Worst still, all the text messages I sent were not delivered, but I paid for each message twice. The first deduction is made as soon as the screen of the handset displays “message sending” while another is deducted when the phone displays “message sent”. If it is on net, that will translate to N10 for one message instead of N5 while if it is off net, it will translate to N20 for one message instead of N10.<sup>64</sup>*

On December 2024, The *Nation* captured the views of a subscriber wherein, Mr Arinze Igboeli summarized the feelings of subscribers as follows:

*‘For the average Nigerian, the gory and ugly experiences of using mobile services have become a daily ordeal. Network congestion, particularly during peak hours, renders smooth communication whether it be voice or voice over internet protocol communication nearly impossible in major cities. More subscribers often find themselves redialing multiple times to complete a single call, while those fortunate enough to connect must contend with poor audio quality and abrupt disconnections. In commercial hubs such as Lagos, Onitsha, Kano and others, subscribers have reportedly complained about such occurrences due to dropped calls and unreliable networks. This has led to subscribers purchasing multiple SIMs of different networks, still such measures yet fail to guarantee the subscriber the desire for reliable communication. This, I have witnessed firsthand.<sup>65</sup>’*

Again, Tochukwu Amadi, a subscriber of 9Mobile (formerly Etisalat) based in Lagos told Daily Sun that subscribers are grappling with the persistent issue of poor network quality and the rapid depletion of data.<sup>66</sup> It was additionally gathered by Daily Sun that many complain of frequent call

<sup>63</sup> O Adeyinka, “Topic on the Relationship Between Telecom Operator and Consumer in Nigeria” Handbook

<sup>64</sup> Lucas Ajanaku, “Quality of Service still a Mirage” *The Nation Newspapers* “Tuesday, February 7<sup>th</sup>, 2013.

<sup>65</sup> The Nation, ‘NCC: A tale of regulatory failure’ (December 21 2024) available at <https://thenationonlineeng.net/ncc-a-tale-of-regulatory-failure/> accessed on 30<sup>th</sup> December 2024.

<sup>66</sup> The Sun, ‘Subscribers groan over poor service, repeated SIM card registration, data depletion ( available at <https://thesun.ng/subscribers-groan-over-poor-service-repeated-sim-card-registration-data-depletion/?amp> accessed on 30<sup>th</sup> December 2024’

drops, slow internet speeds, poor data coverage, especially in rural areas and data allowances seem to vanish inexplicably.<sup>67</sup>

From when The Nation News Paper and Daily Sun captured the views of these subscribers in the year 2013 and 2024, service quality has degenerated further and was evidently captured by the Vice Chairman of NCC - Dr. Aminu Maida while speaking at the 93<sup>rd</sup> Telecom Consumer Parliament in Abuja. The Commission acknowledge the state of poor quality of services render to consumer of telecommunication and according to Punch News, the commission's effort to address the consumer challenges was reported thus:

*'He further outlined the NCC's plans to empower consumers further, including the development of detailed network coverage maps. These maps, expected to be publicly available soon, will indicate operators' network strength, service quality, and coverage gaps, enabling consumers to make informed decisions. Also, the NCC is finalizing its Major incident Reporting Guidelines, which will require operators to notify consumers of incidents affecting their networks.'*<sup>68</sup>

It is therefore, correct that the rating of the consumer satisfaction is low. This is amidst a robust legal and regulatory regime for the protection of consumers of telecommunications services. In fact, consumer rights have been included amongst fundamental constitutionally guaranteed rights.<sup>69</sup> The Freedom of Information Act,<sup>70</sup> which has guaranteed consumers' right of access to information, signed into law in 2011. The Consumer Protection Council Act<sup>71</sup> has additionally established the Consumer Protection Council with a specific mandate to protect consumers.

Findings from researchers are that there is a positive relationship between service quality and customer satisfaction.<sup>72</sup> Obtaining customer satisfaction depends to a large extent on ensuring that the Telecom operators maintain high service quality standards. Putting in place quality mechanisms has significant effect on the level of customer satisfaction. Although, The NCC, the sector specific regulator, has made substantive and procedural provisions for the protection of consumers, by introducing the Consumer Code of Practice Regulations which are guideposts for licensees in handling consumer issues. The Commission further introduced Quality of Service Regulations 2024.

However, the question to be answered in the circumstance of the challenges facing consumer is that; how adequate are these Regulations in the protection of consumers? Among the service quality variables that significantly affect customer satisfaction are, reliability, billing and payment, responsiveness, network quality, and customer support<sup>73</sup> including assurance, as well as empathy. Service quality is, therefore, the dominant route to customer satisfaction.

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<sup>67</sup> Ibid

<sup>68</sup>Punch News, 'NCC Working to Address Telecoms Sector Challenges - Chairman' available at <https://www.punchng.com/ncc-working-to-address-telecoms-sector-challenges-chairman/> accessed on 31<sup>st</sup> December 2024

<sup>69</sup> Section 37, Constitution of Federal Republic of Nigeria 1999 (as amended).

<sup>70</sup> The Freedom of Information Act, 2011.

<sup>71</sup> The Consumer Protection Council Act, Cap C25 Laws of Nigeria, 2004.

<sup>72</sup> Gloria K Q Agyapong, "The Effect of Service Quality on Customer Satisfaction in the Utility Industry. A Case of Vodafone (Ghana)" [www.ccsnet.org/7460](http://www.ccsnet.org/7460), Accessed on 29<sup>th</sup> December, 2024.

<sup>73</sup> F O Adeyeye, 'Service Quality and Customer Satisfaction in the Nigerian Telecommunication Industry', *International Journal of Business and Management*, 10:10 (2015), 108.



## 5.0 Discussion on Key Aspects of the Nigerian Communication Commission (NCC) Regulations 2024

### 5.1 The Nigerian Communications (Quality of Service) Regulation 2024 (The "QoS Regulation")

Under the Nigerian Communications Act, quality of service regulation in the telecommunications industry is designed to ensure that the consumer gets value for money by prescribing minimum and acceptable quality of service thresholds which operators/service providers must comply with. The QoS Regulations 2024 took effect on July 29, 2024 and revoked the Quality-of-Service Regulations, 2013<sup>74</sup> While the overall QoS framework remains largely unchanged, its objectives continue to prioritize protecting and promoting consumer interests against unfair practices.<sup>75</sup> These regulations establish minimum quality and standards of service, measurements, reporting, and record-keeping tasks for licensees.<sup>76</sup> Notable provisions to this paper are:

- a. Service Measurement Reporting: Parameters defining the applicable quality of service standards for specific services;<sup>77</sup>
- b. The methods of taking measurements that measure service performance against prescribed parameters described as measurement methods.<sup>78</sup>
- c. Any applicable target or key performance for the prescribed parameters identified in schedule 1 of these regulations or in the Business Rules.<sup>79</sup>

**5.1.1 Expanded Definition of Licensee:** To include individual holding licenses or undertakes activities which are subject to class licenses under the NCA.<sup>80</sup>

**5.1.2 Monthly Reporting Periods:** The reporting periods are the periods of time within which measurement is taken and recorded. The regulation established from the 1<sup>st</sup> to last day of each month or as determined by the Commission.<sup>81</sup> The Commission is empowered to use any method, including drive test, mobile station probes test, and consumer survey to carry out measurement and data acquisition.<sup>82</sup>

**5.2 Key Performance Indicator (KPI):** KPI measurement may be carried out at all network segments including BTS, Cell, BSC or MSC levels.<sup>83</sup>

**5.3 Resolution of Consumers' Complaint:** Licensees are required to resolve consumer complaint within the specified resolution timeframe outlined in the Regulations, Business Rules, or as determined by the Commission. Failure to do so will result in the licensee;

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<sup>74</sup> Rule 20 of the Nigerian Communications (Quality of Service) Regulations 2024. See also Explanatory Note to the Nigerian Communications (Quality of Service) Regulations 2024

<sup>75</sup> Part 1, Rule 1 and 2 of the Nigerian Communications (Quality of Service) Regulations 2024.

<sup>76</sup> Ibid

<sup>77</sup> Part II, Rule 3 (1), (a), (b), (c), (2) (a) and (b) of the Nigerian Communications (Quality of Service) Regulations 2024.

<sup>78</sup> Ibid

<sup>79</sup> Ibid

<sup>80</sup> Rule 21 (1) of the Nigerian Communications (Quality of Service) Regulations 2024

<sup>81</sup> Rule 4 (1) of the Nigerian Communications (Quality of Service) Regulations 2024

<sup>82</sup> Ibid (2)

<sup>83</sup> Ibid, Rule 4 (4)

compensating the consumer and additionally pay any fines imposed by the Commission.<sup>84</sup> It additionally makes provision for consumer to be compensated for poor quality of services.<sup>85</sup>

**5.4 QoS Ranking System:** Assess licensees' performance against set thresholds and parameters. It establishes a QoS ranking system, assessing licensees' performance against set thresholds and parameters.<sup>86</sup> The QoS Regulations reflect a balance between promoting innovation, ensuring fair competition, and safeguarding consumer interests. However, telecommunications service providers exhibit inconsistent performance to provisions of the QoS Regulations, thereby giving room for numerous challenges to persist. These challenges are not limited to high tariff charges, poor customer care service, call jamming, network congestion, unsolicited messages, automatic billing for unwanted services, echoing and poor audio quality, unnecessary billings for calls that do not go, Complaints of drop calls and call interference, call routing or wrong connection; recurring in the industry.

Specifically, the Service providers often breach quality parameters without consequences, effectively turning the entire regulatory framework into a "paper tiger".<sup>87</sup> It is submitted that nothing can replace quality service; quality of service as perceived by the consumer has an effect on the perceived value of the service rendered.<sup>88</sup> The success or failure of generating value is jointly determined by relationship between the service events; the customer's prior and post perceptions, and perceived, including the actual quality of delivered service.<sup>89</sup> The telecommunications industry is faced with acute poor services, which can be below world standards. Azeez,<sup>90</sup> commenting on the quality of service in Nigeria, has this to say:

*More than a decade after the advent of the Global System for Mobile communications, subscribers in Nigeria are still far from getting world standard service. They are bogged down with erratic, epileptic and inefficient services for which they pay what is known to be one of the highest tariffs in the world. Indeed, GSM operators were recently fined N1.17bn by the Nigerian Communications Commission over their failure to meet the key performance indicators on quality of service. Added to these are many hiccups associated with the much-publicised SIM registration exercise. Embattled phone users therefore have many questions for their GSM service providers and the regulating body.*

It is submitted that the Nigerian telecoms consumer is the most traumatized. The Nigerian Communications Commission confirmed that Nigerian subscribers have been badly treated by the networks with poor services resulting in the Commission handing down fines on the telecom operators.<sup>91</sup> Many telecommunication consumers have voiced their concerns about the poor quality

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<sup>84</sup> Rule 7 (1) and (2) of the Nigerian Communications (Quality of Service) Regulations 2024

<sup>85</sup> Rule 13 (b)

<sup>86</sup> Rule 18 of the Nigerian Communications (Quality of Service) Regulations 2024

<sup>87</sup>The Nation, 'NCC: A tale of regulatory failure' (December 21 2024) available at <https://thenationonlineeng.net/ncc-a-tale-of-regulatory-failure/> accessed on 30<sup>th</sup> December 2024

<sup>88</sup>Oyeniyi Omotayo, *et al* "Customer Service in the Retention of Mobile Phone Users in Nigeria" *African Journal of Business Management* Vol. II (2008) 221

<sup>89</sup> Kunle Azeez et al, "Nigeria and GSM, Poor Services Meet Sim Card Registration" *Mirror Newspapers* Saturday 19 May 2012

<sup>90</sup> Kunle Azeez, "Power Reforms: Telecoms May Save N178bn Annually" *National Mirror Newspapers* Tuesday, 11 September 2012

<sup>91</sup> *National Mirror* "NCC Gains, Subscribers Lose," *National Mirror Newspapers* of Friday May 18<sup>th</sup>, 2012 P. 26.



of services. Notably is Mr. Tom Iseghohi, former CEO of Transcorp, shared his thoughts and stated as follows:

*Telecommunications in Nigeria is terrible. The consumer has a terrible experience. The price is too high, the quality too low and, as a result, any consumer who is paying too much for poor quality, anybody can come in anytime and take them.*<sup>92</sup>

In 2008, Nigeria's regulatory agency conducted a quality-of-service assessment, resulting in MTN NIGERIA and Zain. (now Airtel) scoring below the pass mark. Consequently, they were mandated to compensate active consumers on their networks totaling approximately N4.7 billion per month.<sup>93</sup> Despite this compensation, the plight of Nigerian telecommunications consumers remain unchanged, with persistent complaints about poor service quality, leaving consumers frustrated and financially drained, and the telecommunications service providers continue to activate SIM card without proportionate infrastructural upgrades.

This issue of fines further exposed the helplessness and hopelessness of consumers. While hoping that the NCC would have ordered an outright refund of airtime to subscribers, it offered to make the telecom operators pay fines, and mostly within the range of billions<sup>94</sup> and over N1trillion<sup>95</sup> to the coffers of the NCC. Since the fines were handed down by the Commission, the big question is; of what importance are the fines to the subscribers whose interest NCC claims to be serving? The consumer does not matter in the circumstance.

## 6.0 Consumer Code of Practice Regulations 2024

In furtherance of consumer protection, the Commission also issued out Consumer Code of Practice Regulations.<sup>96</sup> Nigerian Communications (herein after referred to as 'Code') Regulations 2024 revoked the 2007 Consumer Code of Practice<sup>97</sup> and took effect on July 29, 2024. The Code is a comprehensive framework that protects consumers' rights and outlines the responsibilities of telecommunications service providers in Nigeria. It also makes provision for the procedures for developing consumer codes to govern the provision of services by licensed telecommunications operators in Nigeria and related-consumer practices.<sup>98</sup> The Code requires licensees to prepare individual consumer codes for their respective customers and such consumer code shall be subject to the prior approval of and ratification by the Commission.<sup>99</sup> The licensees are, therefore,

<sup>92</sup> Nigerian Communications Commission, *the Telecoms Revolution*, Special publication of *Tell Magazine (Lagos)*, October, 2007, pp 34

<sup>93</sup> B Nwankwo, "Telecommunications: No Respite Yet for Subscribers", *Leadership Newspaper*, (Abuja), Tuesday 15<sup>th</sup> September, 2009, p 26

<sup>94</sup> The most recent fine imposed on a telecom operator over the issue of QoS was in 2020 when the Commission fined Airtel N2.3 billion for disconnecting Exchange Telecommunications Limited without regulatory approval. Available at <https://nairametrics.com/2024/09/02/ncc-issues-fresh-quality-of-service-kpis-for-nigerian-telcos-to-impose-fines/>. See also 'Nigeria: Regulator imposes \$7.3 million fine on wireless carriers', available at <https://www.thehabarinetwork.com/nigeria-regulator-imposes-7-3-million-fine-on-wireless-carriers.>, and 'MTN Nigeria fined \$5.2 billion for failing to register users' available at <https://www.spa.gov.sa/1412608>

<sup>95</sup> In 2015, MTN got a fine of N1.04tr for not deactivating 5.1 million unregistered lines. Available at <https://www.thecable.ng/just-fined-mobile-networks-says-ncc/>. See also, MTN Nigeria hit with record high NGN1 trillion fine, available at <https://itweb.africa/content/4r1lyMRbbzaMpmnda> accessed on December 29, 2024.

<sup>96</sup> Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>97</sup> Rule 11 (1) of the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>98</sup> Rule 1 (1) (a), and (b) of the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>99</sup> *Ibid*, Part II, Rule 4

mandated to develop and implement the respective codes which must be approved by the Commission.

The Consumer Code of Practice made pursuant to the provisions of the Act above have provided in graphic detail matters covering service tariff,<sup>100</sup> charging and billing accuracy,<sup>101</sup> billing period,<sup>102</sup> publication of consumer code of practice,<sup>103</sup> compliance and enforcement,<sup>104</sup> obligation to provide information to consumers,<sup>105</sup> service subscription,<sup>106</sup> pricing information,<sup>107</sup> services for consumers with disability and special need,<sup>108</sup> consumer obligations,<sup>109</sup> and protection of consumer information.<sup>110</sup>

It is therefore, doubtful whether the Code has been implemented. As elegant as it appears, it is a mere paper work which is begging for implementation.

### **7.0 Challenges to the Implementation of the Regulations**

While the introduced Regulations are fairly adequate, their effectiveness is compromised by several challenges. These include:

- i. **Resource Constraints:** The NCC and telecommunication operators face limited resources, including inadequate technical expertise on the part of NCC, and poor infrastructure (e.g., road, electricity) on the part of the telecom operators. These hampers the NCC's ability to enforce regulations effectively, particularly in resolving complex consumer complaint that require specialized knowledge.
- ii. **Insufficient Penalties:** The current regulations, which primarily rely on fines as a sanction, inadvertently encourage telecom operators to prioritize profits over regulatory compliance. This is because fines are often viewed as a negligible operational expense. To address this issue, there is a need to shift from the traditional approach of imposing fines to adopting more stringent sanctions, such as revocation or suspension of operating licenses.
- iii. **Consumer Disempowerment:** Consumers face numerous barriers, including lack of awareness, socioeconomic barriers, social and cultural pressures, power imbalance between consumers and telecom operator, limited access to dispute resolution, limited digital literacy, and inadequate redress mechanisms.

### **8.0 Conclusion**

Nigeria's telecommunications sector has made significant progress in addressing challenges of consumer protection rooted in the colonial era. The Commission does not just theorize about empowering the consumer in the industry, it has given practical expression to this phenomenon through actions, policies and programmes which have venerated, empowered, protected and

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<sup>100</sup> Ibid (n.100) (b)

<sup>101</sup> Part IV, Rule 30 Schedule of the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>102</sup> Ibid. Rule 35 of the Schedule

<sup>103</sup> Rule 6 of the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>104</sup> Part III, Rule 7 and 8 of the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>105</sup> Part II of the Schedule to the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>106</sup> Ibid, Schedule 9

<sup>107</sup> Ibid, Schedule 10

<sup>108</sup> Ibid. Schedule 16

<sup>109</sup> Part V, Schedule to the Nigerian Communications (Consumer Code of Practice) Regulations 2024

<sup>110</sup> Ibid, Part VI





uplifted it in the comity of stake-holders in the industry. The Commission, in exercise of its powers under the Nigerian Communication Act 2003, introduced various regulations, including the Consumer Code of Practice Regulations 2024 and Quality of Service Regulations 2024. However, enforcement and consumer awareness of telecommunications protection in Nigeria remains limited, while legislations aimed at protecting consumers are oblivious of the fact that telecommunications will take a new trend and there is the need for the NC Act to be amended and the Regulations revised in order to meet the current reality.

### **8.0 Recommendations**

To bridge these gaps and to better protect Nigerian consumers, this article recommends the following:

First, the Nigerian Communications Act 2003 as well as Consumer Code of Practice Regulation 2024 and Quality of Service Regulation 2024 require amendments and replacement to incorporate the following provisions:

- i. To facilitate flexible and dynamic adjudication of novel consumer protection cases. This amendment will enhance judicial discretion in complex consumer disputes, particularly given the unique nature of telecommunications services, which increasingly rely on internet-based transactions and from time to time; require specialized expertise for effective resolution.
- ii. The NCC should be granted explicit authority to suspend, and in cases of persistent non-compliance, revoke licenses of telecom operators that fail to demonstrate transparency and sincerity in their quality of service. This will provide a clear legal framework for holding service providers accountable for any shortcomings, thereby safeguarding consumer interests and promoting improved service delivery.

Second, to prevent network congestion and ensure optimal service quality, regulatory penalties should be imposed against service providers that activate SIM cards without proportionate infrastructure upgrades. This measure would discourage service providers from prioritizing subscriber growth over service quality, thereby addressing the disparity between the growing number of active SIM cards and the declining quality of service.

Lastly, the Commission should broaden consumer education initiatives, transitioning from urban-focused programs to inclusive, rural-centric campaigns conducted in local languages and dialects including through periodic enlightenment campaigns, multilingual publications and targeted outreach. This will empower consumers of telecommunication services to stand for their rights at the appropriate quarters, compel the service providers to comply with the Act and the provisions of Regulations.