

Abstract

This essay explores the pivotal role of the Nigerian judiciary in consumer protection and redress, focusing on its adjudicatory and regulatory responsibilities under laws such as the Federal Competition and Consumer Protection Act (FCCPA) 2018, the Sale of Goods Act, and common law. It examines key judicial decisions and legal frameworks from Nigeria, the UK, and the US, highlighting the courts' strengths and challenges in providing effective consumer redress through both formal and informal methods. The paper also considers the evolving nature of consumer protection law, particularly in relation to international standards and the role of regulatory agencies. The aim of this paper is to underscore the benefits to consumer redress of the courts and the regulatory agencies working in synergy. Using the doctrinal method of legal research, the paper draws from primary sources such as statutes and case law, as well as secondary sources like textbooks, journal articles, and online materials. Findings indicate that while Nigerian courts have generally interpreted consumer protection laws in favour of consumers, procedural delays and enforcement challenges hinder the effectiveness of judicial redress. The essay concludes by recommending stronger collaboration between the courts and regulatory bodies to enhance access to justice for consumers in Nigeria.

Keywords: Adjudication, Consumer Protection, Consumer Redress, the Courts, and Regulatory Role.

1. Introduction

Consumer protection is a vital component of any economy, ensuring that consumers have rights and means of redress when those rights are violated. Consumer protection laws are designed to ensure the safety and fairness of transactions between consumers and businesses, thereby maintaining public confidence in market systems. The landmark case of *Donoghue v Stevenson*¹ laid the foundation for the modern concept of product liability and consumer protection by establishing the duty of care that businesses owe to consumers. This principle has been influential in shaping consumer protection frameworks globally. The United Nations Guidelines for Consumer Protection (UNGCP) emphasize the need for states to establish comprehensive measures to protect consumers from abuses, ensure safety, and provide adequate remedies for any violations.² These guidelines have significantly influenced national consumer protection frameworks worldwide, including Nigeria.³ Consumer rights are essential for an economy's development, as they ensure a level playing field and confidence in the marketplace. In Nigeria, consumer redress mechanisms are crucial to promoting consumer confidence and fairness in the marketplace. The Federal Competition and Consumer Protection Act (FCCPA) 2018 creates a comprehensive framework for consumer redress in Nigeria. The statute empowers the Federal Competition and Consumer Protection Commission (FCCPC) to investigate complaints and seek appropriate remedies. The judiciary plays a fundamental role in enforcing consumer rights, as seen in cases like *UBA Plc v Abimbola*⁴ and *Adeniran v Intercontinental Bank*,⁵ which upheld consumers' rights to seek compensation for defective goods and fraudulent misrepresentations. It is clear that the judiciary's role in enforcing consumer protection rights is crucial. Courts provide a pathway for consumers to seek remedies for violations such as defective products, misleading advertising, or unfair contractual terms. While regulatory agencies like the FCCPC play administrative roles, the courts remain essential for the enforcement of consumer rights. For instance, Section 47(2) of the FCCPA provides for the enforcement of consumer rights through judicial orders when violations are serious, and the administrative powers of the FCCPC are insufficient.

The judiciary's functions are twofold: regulatory and adjudicatory. Courts not only interpret consumer protection laws but also act as regulators by ensuring that businesses adhere to consumer safety standards and contractual fairness. Section 36 of the Nigerian Constitution guarantees a consumer's right to a fair hearing, underscoring the judiciary's constitutional mandate to adjudicate disputes impartially and uphold consumer rights. The interplay between regulatory agencies and the judiciary is essential for effective consumer protection. While regulatory bodies like the FCCPC can issue orders and fines, the judiciary provides the final arbiter in consumer disputes, ensuring that administrative decisions are legally enforceable and that consumers have access to a robust remedy system.⁶ This complementary relationship ensures that consumer rights are protected through both administrative and judicial means. This synthesis highlights the importance of judicial oversight in maintaining a robust consumer protection framework in Nigeria. The aim of this analysis is to synthesize the necessary and relevant interplay between the courts and consumer redress, focusing on their regulatory and adjudicatory functions under key statutes and case law, with the view to ensuring that regulatory standards are met and consumers are protected from substandard products and services.

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¹ (1932) AC 562

² United Nations Guidelines for Consumer Protection, 2015, Section II

³ Kanyip, B. B. *Consumer Protection in Nigeria: Law, Theory, and Policy*, (2005). p. 43.

⁴ (2001) 12 NWLR (Pt. 726) 102

⁵ (2012) LPELR-8438(CA)

⁶ Oseme, A. C. The Role of Regulatory Agencies and the Judiciary in Consumer Protection in Nigeria. (2020) *Consumer Law Journal*, Vol. 4, p. 112.

2. Definition of Terms

Adjudication

Adjudication refers to the legal process by which a judge or an authorized adjudicator resolves disputes between parties by delivering a binding decision based on evidence and legal arguments presented during a hearing. This principle is well illustrated in the case of *United States v. A & P Trucking Co., Inc.*,⁷ which underscores the importance of due process and fair hearings in resolving disputes, particularly in regulatory matters.

Consumer Protection

Consumer protection encompasses the set of laws and regulations aimed at ensuring the rights of consumers, promoting fair trade practices, and fostering transparency and accountability in the marketplace. It seeks to safeguard consumers from deceptive and unfair practices that could result in harm or loss. The case of *Consumer Federation of America v. Federal Trade Commission*⁸ highlights the role of regulatory agencies, such as the FTC, in ensuring fairness in advertising practices and protecting consumer interests. The term ‘consumer’ is specifically defined under Nigerian law. According to the Federal Competition and Consumer Protection Act (FCCPA) 2018, a consumer ‘includes any person who purchases or offers to purchase goods otherwise than for the purpose of resale but does not include the person who purchases any goods for the purpose of using them in the production or manufacture of any other goods or articles for sale, or to whom a service is rendered’.⁹ Despite its inclusive phrasing, this definition is somewhat restrictive, as it predominantly links the concept of a consumer to a purchase or contractual relationship. However, consumer rights extend beyond mere commercial transactions to include ultimate users of goods and services, as recognized by statutory provisions and case law. For example, the Consumer Protection Act of India defines a consumer comprehensively in Section 2(7) of the 2019 Act,¹⁰ encompassing individuals who:

‘Buy goods for a consideration (paid, promised, or deferred) and include users of such goods with the purchaser’s approval, excluding those purchasing for resale or commercial purposes. Hire or avail themselves of services for consideration, including beneficiaries of those services with the consent of the person availing them, excluding usage for commercial purposes’. This broader definition reflects modern consumer practices, such as online shopping and multi-level marketing.¹¹ Judicial interpretation further broadens the concept of a consumer. In *Medical Association v V.P. Shantha*,¹² the Indian Supreme Court established that medical professionals are service providers under the Consumer Protection Act, 1986, enabling patients to seek redress for negligence as consumers. Therefore, a consumer is anyone who patronises, purchases, consumes, or pays for goods and services and includes those harmed by such goods and services.

Consumer Protection Laws

Consumer protection laws are a body of regulations designed to shield consumers from unfair trade practices, defective products, and misleading advertisements. These laws grant consumers the right to accurate product information and mechanisms for redress. For instance, the Indian Supreme Court, in *Laxmi Engineering Works v. P.S.G. Industrial Institute*,¹³ reinforced consumer rights by allowing claims for compensation due to defective goods. In Nigeria, the FCCPA 2018 is the principal legislation governing consumer protection, promoting fair competition and ensuring consumer interests are safeguarded. It establishes various mechanisms for consumer redress and enforcement of consumer rights.¹⁴ Key cases, such as *FCMB v. Consumer Protection Council*,¹⁵ have emphasised the obligation of service providers to comply with consumer protection standards, while *Federal Competition and Consumer Protection Commission v MRS Oil Nigeria Plc*¹⁶ underscored the importance of truthful marketing practices and the regulatory authority’s enforcement role. Consumer protection laws encompass several dimensions, including product safety, fair pricing, and privacy. Their overarching aim is to protect consumers from exploitative practices and ensure a fair marketplace. As noted by Cornell Law School,¹⁷ these laws act as a shield against corporate greed, offering mechanisms for enforcement and redress.

Consumer Redress

Consumer redress refers to the remedies available to consumers when their rights are violated. These remedies include restitution, damages, replacement of goods, and enforcement of consumer contracts. It ensures that consumers have accessible avenues to seek compensation for losses caused by unfair business practices. The principle of effective consumer remedies is illustrated in *Cohen v BNY Mellon*,¹⁸ emphasising the need for accessible and efficient mechanisms for redress. While consumer protection aims to prevent harm, consumer redress focuses on providing remedies after harm has occurred. Together, they form an integral framework that upholds consumer rights and ensures equitable treatment in transactions.

⁷ 358 U.S. 121 (1958)

⁸ 2000 U.S. App. LEXIS 20837 (D.C. Cir. 2000)

⁹ See Section 167 (1) thereof.

¹⁰ The Consumer Protection Act of India, (Act No. 35) of 2019, Section 2(7)

¹¹ <https://prsindia.org/billtrack/the-consumer-protection-bill-2019> accessed 03/10/24

¹² (1996) 6 SCC 651

¹³ (1995) 3 SCC 583

¹⁴ See Sections 17, 47, and 153 thereof.

¹⁵ LPELR-55804(CA) (2021)

¹⁶ Suit No. FHC/L/CS/108/2020

¹⁷ www.law.cornell.edu/wex/consumer accessed on 13th/3/2024

¹⁸ 2015 U.S. Dist. LEXIS 130926 (S.D.N.Y. 2015)

The Regulatory Role

Regulatory bodies are tasked with overseeing and enforcing laws across various sectors to ensure compliance, protect public interests, and maintain market integrity. The principle of 'Chevron deference,' established in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*,¹⁹ affirms the authority of regulatory agencies to interpret ambiguous statutes within their jurisdiction, highlighting their pivotal role in regulation. In Nigeria, the FCCPC plays a significant regulatory role in enforcing compliance and safeguarding consumer interests, as demonstrated in *Federal Competition and Consumer Protection Commission v. MRS Oil Nigeria Plc.*²⁰ Regulatory authorities ensure adherence to fair practices and consumer protection standards, fostering trust in the marketplace.

The Courts

Courts in Nigeria are established under the Constitution of the Federal Republic of Nigeria 1999 (as amended) to administer justice, interpret laws, and resolve disputes. Section 6 of the Constitution recognizes courts of record, including the Supreme Court, Court of Appeal, and High Courts, among others. The Courts Act²¹ further regulates the establishment, jurisdiction, and procedures of Nigerian courts. Judicially, courts have been described in various cases. In *Huddart, Parker & Co. v Moore*,²² the Privy Council defined a court as 'a place where justice is administered.' Similarly, in *R. v Sussex Justices*,²³ the Court of Appeal characterized a court as 'a tribunal established for the administration of justice.' Nigerian courts possess jurisdiction to interpret laws, adjudicate civil and criminal cases, grant remedies, review administrative decisions, and enforce judgments.

3. Legal Framework for Consumer Protection

Nigerian Laws

Consumer protection in Nigeria is supported by a robust legal framework that ensures fair trade practices and protects consumers from exploitation. This framework includes constitutional provisions, specific consumer protection legislation, and regulatory bodies.

Constitutional Provisions

The Constitution of the Federal Republic of Nigeria, 1999 (As Amended), plays a crucial role in consumer protection. Section 6 (1), (5), and (6) establish the courts and provide the judiciary's power to interpret laws and ensure justice. Section 36 guarantees fair hearing and access to courts, which is essential for consumers seeking redress for violations of their rights. This was upheld in *Adeogun v AG Ogun State*,²⁴ where the court emphasised the consumers' right to fair hearing.

Consumer Protection Legislation

The primary legislation governing consumer protection in Nigeria is the Federal Competition and Consumer Protection Act (FCCPA) 2018. This Act consolidates competition and consumer protection laws and establishes the Federal Competition and Consumer Protection Commission (FCCPC). Key provisions include: Section 17 - Provides for consumer rights, including the right to return goods and demand a refund; Section 47 - Enables consumers to seek compensation for defective products; Section 153 - Establishes penalties for violations, including orders to cease and desist from harmful practices; Sections 96-99 - Provide for damages, refunds or replacements, injunctions, and compensation for loss or damage. These rights have been upheld in court decisions such as *Union Bank of Nigeria Plc v Ozi*,²⁵ which affirmed consumers' right to damages, and *CPC v Nigerian Breweries Plc*,²⁶ which established the investigative powers of the Consumer Protection Council (now FCCPC). In addition to the FCCPA, other laws and regulatory bodies play significant roles in consumer protection: Nigerian Communications Act 2003 (Regulates telecommunications services); Electricity Act 2023 (Oversees the electricity sector); National Agency for Food and Drug Administration and Control (NAFDAC) (Ensures the safety of food and drugs); Standards Organisation of Nigeria (SON) (Enforces product safety standards); Central Bank of Nigeria (CBN) (Regulates financial services).

Laws of United Kingdom

In the United Kingdom (UK), consumer rights are primarily codified in the Consumer Rights Act 2015. This Act provides clear rights regarding goods, services, and digital content: Section 9 - Goods must be of satisfactory quality; Section 19 - Consumers can reject faulty goods within 30 days for a full refund; Section 23 - Allows consumers to request repairs or replacements for defective goods. The Competition and Markets Authority (CMA) is responsible for enforcing consumer protection laws. Other relevant legislation includes the Unfair Contract Terms Act 1977 and the Sale of Goods Act 1979.

Laws of United States

Consumer protection in the US is primarily governed by the Federal Trade Commission (FTC) Act 1914, with the FTC responsible for enforcement. Key statutes include: Section 5 of the FTC Act - Prohibits 'unfair or deceptive acts or practices.' The Magnuson-Moss Warranty Act governs warranties on consumer products, and the Consumer Product Safety Act (CPSA) ensures products meet safety standards.

¹⁹ 467 U.S. 837 (1984)

²⁰ Suit No. FHC/L/CS/108/2020

²¹ Cap C41, Laws of the Federation of Nigeria 2004

²² (1900) AC 404

²³ (1924) 1 KB 256

²⁴ (2013) 14 NWLR (Pt. 1373) 211

²⁵ (2011) 18 NWLR (Pt. 1279) 221

²⁶ (2011) 12 NWLR (Pt. 1261) 321

International Instruments

United Nations Guidelines for Consumer Protection (1985)

The United Nations Guidelines for Consumer Protection (UNGCP) were adopted in 1985 to provide a comprehensive policy framework for promoting consumer protection. These guidelines cover eight key areas include: Basic Needs, Safety, Information, Choice, Representation, Redress, Consumer Education, and Healthy Environment. The UNGCP aims to assist countries in achieving adequate consumer protection, promoting ethical business practices, and ensuring responsive production and distribution patterns.

African Consumer Protection Framework (2013)

The African Consumer Protection Framework was adopted by the African Union in 2013 to harmonize consumer protection policies across the continent. It focuses on ensuring consumers have access to safe products, accurate information, and effective redress mechanisms.

4. Consumer Remedies and Consumer Protection

Writing on the importance of consumer trust and market regulation, Philip Kotler emphasises that effective consumer protection laws foster trust in the marketplace and promote economic stability. He argues that consumer redress should be swift, accessible, and enforceable to prevent erosion of market confidence. Kotler stresses that in developing economies like Nigeria, establishing stronger consumer redress mechanisms can attract foreign investment and foster consumer trust. This viewpoint underscores the nexus between consumer protection and remedies, as discussed below.²⁷

Consumer Redress

Under the Federal Competition and Consumer Protection Act (FCCPA) in Nigeria, consumers have access to several remedies, including compensation for injury or loss due to defective goods or services, replacement or repair of defective goods, and refunds for goods that fail to meet contractual terms.²⁸ The case of *FCCPC v Multichoice Nigeria Ltd* highlights the agency's role in enforcing consumer rights and penalizing non-compliant companies.²⁹ For professional services, remedies fall under contract law, which requires service providers to exercise reasonable care and skill. For example, in *Amadi v Essien*, the court emphasised adherence to contractual terms.³⁰ In the UK, the Consumer Rights Act 2015 provides remedies such as full refunds within 30 days for faulty goods, repairs or replacements, and price reductions for services that fail to meet standards.³¹ In *Rogers v Parish (Scarborough) Ltd*, minor defects justified rejection and refund, reinforcing strict liability for retailers.³² For the US, consumers may seek damages under the FTC Act for unfair practices, refunds or repairs under the Magnuson-Moss Warranty Act, and strict liability for defective products under the Second Restatement of Torts. In *Greenman v Yuba Power Products, Inc.*, strict liability was affirmed for defective products.³³

Formal and Informal Mechanisms for Consumer Redress

Consumer redress involves mechanisms for restitution or compensation when consumers suffer harm from goods or services. These mechanisms include formal and informal options, each with advantages and challenges.

Formal Mechanisms

Formal mechanisms involve structured legal avenues, such as litigation, where decisions are based on statutory laws, regulations, and precedents. In Nigeria, formal consumer redress is governed by the Constitution, FCCPA 2018, Sale of Goods Act 1893, Nigerian Communications Act 2003, Central Bank of Nigeria Act 2007, and Electricity Act 2023. The FCCPC, empowered by Sections 17 and 18 of the FCCPA, investigates complaints, imposes fines, and compels redress. Courts also offer avenues for breach of contract or tort claims, as in *Aminu v Armah*.³⁴ In the UK, the Competition and Markets Authority investigates violations under the Enterprise Act 2002. Consumers can pursue claims under the Consumer Rights Act 2015, as in *OFT v Abbey National PLC*, which case set a precedent for financial services redress.³⁵ In the US, the FTC and Consumer Financial Protection Bureau (CFPB) secure redress for consumers. See *CFPB v Navient Corp*, where the loan provider was held accountable for deceptive practices. Types of Formal Mechanisms include:

Litigation (Civil Action): Consumers can file lawsuits for breach of contract or negligence. In *Okwejinor v Gbakeji*, damages were awarded for negligent acts.³⁶ Similarly, in *British Airways v Atoyebi*, significant damages were awarded for wrongful denial of boarding.³⁷

²⁷ Philip Kotler, *Marketing Management* (2017) (15th edition Pearson Education Limited), pp. 748-754

²⁸ See section 46, Section 48, and Section 49 thereof.

²⁹ Tribunal Suit No. CCPT/OP/02/2024.

³⁰ (1994) 7 NWLR (Pt. 354) 91.

³¹ See Sections 19, 23, and 55-56 thereof.

³² (1987) 2 All ER 232.

³³ 59 Cal.2d 57 (1963).

³⁴ [2000] FWLR (Pt. 1) 95.

³⁵ [2009] UKSC 6.

³⁶ (2008) 5 NWLR (Pt. 1079) 172.

³⁷ (2014) 13 NWLR (Pt. 1424) 253.

Criminal Prosecution: The FCCPA criminalizes unfair practices, false advertising, and hazardous goods. In *Federal Republic of Nigeria v Boniface Emenka*, penalties were imposed for selling expired food products.³⁸

Regulatory Adjudication: Regulatory bodies like the FCCPC and NCC adjudicates complaints. In the case of *MTN Nigeria Communications Ltd v Barr. Godfrey Eneye*, the NCC ordered compensation for unfair billing practices.³⁹

Administrative Tribunals: Specialized forums like the Investment and Securities Tribunal resolve disputes, as in *Nigerian Deposit Insurance Corporation v Okem Enterprises Ltd*, where compensation was awarded for financial losses.

Class Actions: Collective lawsuits address widespread harm, as in *Chukwuma v Shell Petroleum Development Company*, where damages were awarded for environmental damage.⁴⁰

Formal mechanisms face challenges such as high costs, lengthy delays, and procedural complexity. These barriers often deter consumers from pursuing redress.

Informal Mechanisms

Informal mechanisms, such as mediation, conciliation, negotiation, and arbitration, offer flexible, cost-effective alternatives to litigation. Though the FCCPA lacks explicit ADR provisions, agencies like the FCCPC facilitate informal resolution processes. Types of Informal Mechanisms include:

Mediation and Conciliation: Neutral third parties facilitate negotiations. The FCCPC mediates disputes under Section 17(h) of the FCCPA. Judicial support for mediation was upheld in *Nwafor & Ors. v All Progressives Grand Alliance*.⁴¹

Negotiation: Direct engagement between consumers and businesses fosters resolution. In *Mobil Producing Nigeria Unlimited v LASEPA & Ors*, negotiation led to settlement without judicial intervention.⁴²

Arbitration: Structured informal mechanisms like arbitration resolve disputes through binding decisions. Arbitration is prevalent in sectors like banking and insurance. The Arbitration and Conciliation Act 2023 governs such processes in Nigeria.

Countries like the UK and the US offer integrated ADR systems. Geraint Howells advocates balancing formal and informal mechanisms, suggesting Nigeria adopt structured ADR approaches to enhance consumer redress efficiency.⁴³

5. International Consumer Protection

In a globalised world, protecting consumers across borders is increasingly important. The international legal landscape includes treaties and conventions that countries adopt to align consumer protection standards. Nigeria is a signatory to several international frameworks, such as the United Nations Guidelines for Consumer Protection (UNGCP),⁴⁴ which provides non-binding guidelines for consumer redress. However, the enforcement of these standards through local law remains a challenge due to weak infrastructure. The UK adheres to international consumer protection standards post-Brexit, working with organizations like the Organisation for Economic Co-operation and Development (OECD)⁴⁵ and participating in the International Consumer Protection Enforcement Network (ICPEN).⁴⁶ The UK's Consumer Protection (Distance Selling) Regulations 2000, which implemented an EU Directive, continues to influence cross-border transactions. The US participates in various international consumer protection initiatives, including the OECD and ICPEN, and has enacted several cross-border enforcement agreements under the SAFE WEB Act. In *FTC v SmartBot*,⁴⁷ the FTC collaborated with international regulators to address fraudulent activities by a foreign company.

6. The Role of the Courts

The role of the courts in consumer redress in Nigeria is both adjudicatory and regulatory, ensuring that consumer rights are protected and that businesses adhere to legal standards.

Adjudicatory Role

The courts in Nigeria have played a significant role in interpreting and applying consumer protection laws. They act as the final arbiter in disputes arising from consumer complaints, ensuring businesses comply with legal standards. The judiciary's role in upholding consumer rights is illustrated by various case laws. Both at the state and federal levels, the courts have historically adjudicated on cases involving consumer protection. In *UBA Plc v Abimbola*⁴⁸ the Supreme Court ruled that consumers can

³⁸ (2020) LPELR-49762

³⁹ (2014) LPELR-22687

⁴⁰ (1993) 4 NWLR (Pt. 289) 512

⁴¹ (2018) 2 NWLR (Pt. 1603) 154

⁴² (2002) 18 NWLR (Pt. 798) 1

⁴³ Geraint Howells, *Consumer Protection Law* (2017) (2nd ed. Routledge), pp. 150-160

⁴⁴ United Nations Guidelines for Consumer Protection (UNGCP) Adopted in 1985, revised in 2015. This document provides a comprehensive framework for consumer protection worldwide. It promotes sustainable consumption, provides for consumer access to essential goods and services, and offers guidance on improving national consumer protection systems. Citation: United Nations General Assembly, United Nations Guidelines for Consumer Protection, A/RES/70/186, 2015.

⁴⁵ Organisation for Economic Co-operation and Development (OECD) Guidelines for Consumer Protection in the Context of Electronic Commerce. Year Adopted in 1999, revised in 2016: These guidelines focus on consumer protection in e-commerce, covering transparency, disclosure, and dispute resolution, especially cross-border transactions. Citation: OECD, OECD Guidelines for Consumer Protection in the Context of Electronic Commerce, 2016.

⁴⁶ International Consumer Protection and Enforcement Network (ICPEN) Established in 1992 General Reference: This international organization facilitates cooperation between consumer protection agencies to combat cross-border unfair trading practices. Citation: International Consumer Protection and Enforcement Network, Consumer Protection Cooperation Network Overview, 1992

⁴⁷ (2019)

⁴⁸ (2001) 12 NWLR (Pt. 726) 102

claim damages for breach of contractual duty by service providers. Similarly, in *Adeniran v Intercontinental Bank*⁴⁹ the Court of Appeal emphasized the necessity of compensating consumers for losses due to negligence or breach of service. Whilst in *Nigeria Bottling Co. Plc v Ngonadi*⁵⁰ the Supreme Court ruled in favour of the consumer who discovered foreign objects in a bottle of Coca-Cola, holding that manufacturers have a duty to ensure the safety of their products. These cases highlight the courts' ability to adjudicate and enforce strict liability in cases involving defective products. See also the case of *T.C. v Pamotei*⁵¹ where, the awarded damages for breach of implied warranties in a sale of goods contract, reiterating that the failure of a product to meet reasonable expectations entitles a consumer to redress.

Regulatory Role

Apart from adjudicating individual cases, courts in Nigeria also perform a regulatory function by interpreting statutes that govern consumer protection. By doing so, they set legal precedents that shape future consumer protection practices. For instance, courts have clarified the extent of consumer rights under the FCCPA, giving broad interpretations to provisions that favour consumer welfare. In the case of *D. T. Tiger Motors Ltd v F. M. W. & H. A*⁵² the Court of Appeal emphasised the importance of statutory interpretation in ensuring effective consumer protection. The court held that consumer protection statutes must be interpreted liberally to achieve their objectives. The interpretation of consumer statutes by the courts as in the case of the FCCPA has revealed gaps and strengths. For instance, while Section 55 (1) of the FCCPA empowers the courts to review the decisions of the Competition and Consumer Tribunal (CCT) established by virtue of section 39 (1) thereof and make consequential orders thereby, there have been debates on the adequacy of the remedies provided in comparison with international standards. Thus, in *Nestlé Nigeria Plc v ABC*,⁵³ the court considered the scope of liability under the FCCPA and ruled that consumer redress mechanisms should be interpreted broadly to protect consumers' rights.

Impact of the Courts on Consumer Redress

As can be inferred from paragraph 3.1 (legal frameworks), and by virtue of the constitution⁵⁴ as well as laid down judicial principles, the courts have blazed the frontiers of consumer protection and consumer redress in Nigeria. Starting from the iconic and celebrated case of *Donoghue v Stevenson*⁵⁵ which decided that, 'You must take reasonable care to avoid acts or omissions which you can reasonably foresee would injure your neighbour'⁵⁶ thereby establishing the duty of care principle (the law), and that you are to love your neighbour, you must not injure your neighbour. You must take reasonable care to avoid acts or omissions which you can reasonably foresee would injure persons who are so closely and directly affected by your acts or omissions.'⁵⁷ To the case of *Grant v Australian Knitting Mills*⁵⁸ which closely followed *Donoghue v Stevenson*. Here the court applied the duty of care principle to consumer contracts by stating that, 'The duty of the manufacturer is not confined to the immediate purchaser, but extends to any person who, in the natural course of events, may be expected to use the article.'⁵⁹ This case had particular implications for consumer protection in the sense that 'The manufacturer's duty is not merely to ensure that the article is reasonably fit for its purpose, but also to ensure that it is reasonably safe for use.'⁶⁰ Historically, It was the case of *Vogel v MH Cohen & Co Ltd*,⁶¹ (decided before both *Donoghue v Stevenson* and *Grant v Australian Knitting Mills*) that introduced implied terms in consumer contracts. This case decided that, 'there is an implied warranty that the goods are reasonably fit for the purpose for which they are sold.'⁶² This greatly expanded the frontiers for consumer protection especially the holding that, 'the seller's obligation is not merely to supply goods which correspond with the description, but also to ensure that they are reasonably fit for the purpose for which they are required.'⁶³

The Nigerian courts, like their counterparts in other common law jurisdictions have closely followed the lead of these iconic cases by applying the principles established in *Donoghue v Stevenson*.⁶⁴ Ruling in the case of *Adeogun v AG Ogun State*⁶⁵, Ogunbiyi JCA as he then was, stated that 'the duty of care owed by a manufacturer to a consumer is a fundamental principle of the law of torts... the respondent's failure to ensure the safety of the product constitutes a breach of this duty'. Another great Nigerian jurist, Mohammed J utilised the established principles of *Grant v Australian Knitting Mills*⁶⁶ in the case of *CPC v. Nigerian Breweries Plc*⁶⁷ where he stated that, 'the manufacturer's duty to ensure the safety of its products extends beyond the immediate purchaser to any person who may reasonably be expected to use the product.' See particularly page 331 of that judgement. These pronouncements are in agreement and consistent with our understanding and definition of who is a consumer

⁴⁹ (2012) LPELR-8438(CA),

⁵⁰ (1985) 1 NWLR (Pt. 4) 739

⁵¹ (1989) 2 NWLR (Pt. 103) 244

⁵² (2013) LPELR-21180 (CA)

⁵³ (2020) 6 NWLR (Pt. 1735) 1

⁵⁴ See sections 6 (1) & (5) of the Constitution 1999 (as amended)

⁵⁵ [1932] AC 562

⁵⁶ Ibid Per Lord Atkin at p. 580

⁵⁷ Ibid p. 581.

⁵⁸ (1936) AC 85

⁵⁹ Per Lord Wright at p. 105.

⁶⁰ Ibid at p. 106.

⁶¹ (1907) 2 KB 475

⁶² Per Lord Collins MR at p. 483.

⁶³ Ibid at p. 484.

⁶⁴ Ibid (n.10)

⁶⁵ (2013) 14 NWLR (Pt. 1373) 211 at p. 221

⁶⁶ Ibid (n.58)

⁶⁷ (2011) 12 NWLR (Pt. 1261) 321

in Nigeria.⁶⁸ Other Nigerian cases that have continued to expand the scope of consumer redress include, the case of *Union Bank of Nigeria Plc v. Ozigi*⁶⁹ where Rhodes-Vivour JSC adopted the principles from *Vogel v MH Cohen & Co Ltd* by stating that 'there is an implied term in every contract for the sale of goods, that the goods are reasonably fit for the purpose for which they are required.' In the case of *Premiere Academy Limited v. Federal Competition and Consumer Protection Commission*,⁷⁰ the Federal High Court affirmed the Commission's powers to investigate consumer protection issues, even when criminal investigations are ongoing, thus underscoring the importance of courts in protecting consumer rights and promoting accountability in business practices.

It is commendable that the Nigerian courts have not flinched from applying their power to resolve disputes between consumers and businesses thereby ensuring that consumers receive fair compensation for any harm or losses incurred, a good example is the case of *CPC v. Nigerian Breweries Plc*⁷¹. The case of *Adeogun v. AG Ogun State*.⁷² is also relevant in this regard. In the same spirit, the Nigerian courts have continued to hold businesses accountable for their actions, ensuring that they comply with consumer protection laws and regulations, a good example is the case of *Union Bank of Nigeria Plc v Ozigi*⁷³ where the court awarded innovative remedies, such as compensatory damages and injunctive relief to the plaintiffs.⁷⁴

Restriction and/or Limitation of Consumer Rights

Whilst the courts have generally and admirably expanded the frontiers of consumer redress, the picture has not been all rosy. Some courts have rather restricted the rights of the consumers with narrow interpretation of consumer protection laws, thus limiting their applicability. A good example is the case of *Nigeria Airways Ltd v Afolabi*.⁷⁵ Where, the respondent, Mr. Afolabi, had booked a flight with Nigeria Airways but the flight got delayed. He sued for damages for breach of contract due to the delay but the Supreme Court took a restrictive view, holding that Nigeria Airways was not liable for the delay as per the terms and conditions on the ticket, which exempted the airline from certain liabilities, including delays caused by operational issues. The court's interpretation of the limiting terms in this case had the effect of limiting the protection consumers expect under general consumer protection laws. In the case of *First Bank of Nigeria Plc v Onyekwere*⁷⁶, Mrs. Onyekwere sued First Bank for wrongful withdrawal from her account. The court had to determine whether the withdrawal was authorized and if First Bank was liable for the unauthorized debit. The judgement involved technicalities surrounding banking practices and evidence. This case highlighted how courts struggle with complex consumer disputes, particularly where financial expertise and detailed knowledge of banking operations are required, leading to inconsistent outcomes in consumer protection cases.

Lengthy and protracted litigation has also denied consumers of timely redress as in the case of *UACN Property Development Company Ltd v African Alliance Insurance Company Ltd*.⁷⁷ which dealt with a property insurance claim made by UACN against African Alliance Insurance. The dispute arose over a delayed insurance payout, with UACN seeking redress for what it claimed was an undue delay by the insurance company in settling its claim. The case was drawn out over many years, with the protracted litigation resulting in a delay in justice for the consumer (UACN). Thus, effectively denying the consumer timely redress, even when they had legitimate claims.

7. Challenges Faced by the Courts

Despite significant advancements in consumer protection laws, such as the (FCCPA), the Nigerian judiciary faces numerous challenges in effectively addressing consumer disputes. These challenges include overburdened dockets. The courts are often inundated with cases, leading to delays in hearing consumer disputes. This backlog can deter consumers from seeking redress, as lengthy processes may discourage them from pursuing their claims. The court was cognisant of this fact in the case of *Oyidiobu v. Okechukwu* which emphasised the judiciary's role in upholding consumer rights but also reflects on the broader systemic issues within the judicial process that can delay redress for consumers.⁷⁸ Many judges may not possess specialized knowledge in areas such as e-commerce and digital transactions, which are increasingly relevant in today's marketplace. This lack of expertise can hinder their ability to adjudicate complex consumer disputes effectively. And, High legal costs and procedural complexities further alienate consumers from accessing justice, particularly those from lower socio-economic backgrounds. The case of *FCMB v. Consumer Protection Council*,⁷⁹ highlighted the enforcement of consumer rights under the FCCPA but also underscored the difficulties faced by consumers in navigating the legal system due to procedural complexities and potential delays. Another challenge is with regard to the enforcement of Judgements. Even where courts make favourable rulings for consumers, enforcing those judgements, especially against large corporations, remains a challenge.⁸⁰

This study is in agreement with Iain Ramsay that, consumer redress is crucial in safeguarding consumer rights, but its effectiveness depends on the legal framework, the efficiency of enforcement agencies, and the availability of remedies. Ramsay

⁶⁸ See paragraph 2.0 (1) above.

⁶⁹ (2011) 18 NWLR (Pt. 1279) P.221 at p. 233

⁷⁰ (2023) 18 NWLR (Pt. 1586) 1 at 5-10

⁷¹ (2011) 12 NWLR (Pt. 1261) 321

⁷² Ibid (n.54)

⁷³ (2011) 18 NWLR (Pt. 1279) 221

⁷⁴ *Premiere Academy Limited v FCCPC* (2023) 18 NWLR (Pt. 1586) 1

⁷⁵ (2003) 12 NWLR (Pt. 835) 357

⁷⁶ (2016) 10 NWLR (Pt. 1517) 1

⁷⁷ (2018) 16 NWLR (Pt. 1643) 221

⁷⁸ Ibid; (1972) 5 S.C. 191;

⁷⁹ (2021) LPELR-55804(CA)

⁸⁰ Ibid.

asserts that while the US's decentralized approach allows states to be responsive to consumer needs, it may also lead to inconsistent protections, he therefore advocates for greater harmonization of laws across jurisdictions, particularly in cross-border consumer transactions.⁸¹

8. Conclusion and Recommendations

This study has shown that, whilst consumer protection aims to create a fair marketplace by preventing harm before it occurs, consumer redress focuses on providing remedies after harm has been done. Both are essential components of consumer rights and work together to ensure that consumers are treated fairly and justly in their transactions with businesses. Specifically, the paper finds as follows. The study finds that Nigerian courts play a key role in providing redress to consumers, with generally favourable rulings. However, procedural issues like delays, enforcement challenges, and access limitations, such as high costs and litigation complexity, hinder the effectiveness of judicial redress.⁸² It also discovers that Nigerian courts have increasingly recognized and expanded consumer rights through landmark judgements. While these interventions have generally been positive, structural inefficiencies, such as an overburdened judicial system, weaken the potential impact of such rulings.⁸³ The study sees the need for stronger collaboration between the judiciary and regulatory agencies like the FCCPC to improve consumer redress. Regulatory bodies offer administrative remedies, but their effectiveness is diminished by the lack of seamless interaction with judicial mechanisms.⁸⁴ Although Nigeria's consumer protection laws (FCCPA 2018) are progressive, it is observed that enforcement is hindered by logistical and infrastructural challenges. In contrast, the US and UK have more robust enforcement mechanisms that ensure the effective application of consumer remedies such as compensation and refunds.⁸⁵ The study equally reveals that Nigeria is increasingly adopting Alternative Dispute Resolution (ADR) as a less adversarial and quicker method of resolving consumer disputes. While the integration of ADR is more advanced in the US and UK, Nigeria's growing reliance on informal mechanisms like mediation and arbitration reflects a positive trend toward more accessible and efficient consumer redress.⁸⁶ This paper hereby recommends as follows:

Judicial Training and Specialization: That Nigeria establishes specialised consumer protection divisions within courts, while providing ongoing training for judges on consumer rights issues, especially in relation to technological advancements and digital services.

Strengthen Small Claims Courts: The number of small claims courts to be expanded to handle consumer disputes, alleviating the burden on higher courts and enabling faster resolution of simpler cases.

Improve Public Awareness and Legal Aid: Extensive consumer education programs to raise awareness of legal rights and court remedies be implemented at the same time simultaneously enhancing legal aid services to help lower-income consumers access justice more easily.

Enhance Regulatory and Judicial Collaboration: Strengthen collaboration between regulatory bodies (such as FCCPC, CBN, NAFDAC, NCC etc) and the judiciary to ensure prompt enforcement of judicial decisions and regulatory penalties. This synergy will enhance the efficiency of consumer redress mechanisms in Nigeria.

Develop ADR and Expand International Cooperation: Further develop Alternative Dispute Resolution (ADR) mechanisms by introducing industry-specific ombudsman schemes for sectors like telecommunications and banking. Also, boost Nigeria's participation in international consumer protection networks, aligning domestic laws with global best practices to ensure better protection in cross-border transactions and attract foreign investment.

The role of the courts in Nigeria's consumer redress system is both adjudicatory and regulatory, safeguarding consumer rights and holding businesses accountable to legal standards. While significant progress has been made with the FCCPA and other legal frameworks, challenges persist, particularly in areas such as access to justice, judicial efficiency, and consumer awareness. Effective consumer redress mechanisms are essential for maintaining market trust and protecting consumers from exploitation. Although the US, UK, and Nigeria have developed comprehensive frameworks to address consumer grievances, Nigeria faces greater enforcement challenges due to underdeveloped infrastructure. Strengthening both formal and informal enforcement mechanisms, alongside increased international cooperation, is key to enhancing consumer protection. By improving enforcement capabilities and advancing alternative dispute resolution systems, Nigeria can better protect its consumers and ensure a fairer marketplace.

⁸¹ Iain Ramsay, *Consumer Law and Policy: Text and Materials on Regulating Consumer Markets* (2012) (3rd ed.) Hart Publishing Pp. 198-205 - on the harmonization of consumer laws and international consumer protection.

⁸² See paragraph 6.5 above

⁸³ See generally discussions in paragraph 6.3 and 6.5 above

⁸⁴ See discussions in 4.0 generally.

⁸⁵ See particularly paragraph 4.2.2.1 above

⁸⁶ Ibid