

**A
BILL
FOR A
LAW TO ESTABLISH THE CONSUMER PROTECTION AGENCY, PROVIDE
FOR THE PROTECTION OF THE INTEREST OF CONSUMERS,
SETTLEMENT OF CONSUMER DISPUTES AND FOR CONNECTED
PURPOSES.**

COMMENCEMENT { }

THE LAGOS STATE HOUSE OF ASSEMBLY enacts as follows:

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| Establishment of the Consumer Protection Agency. | 1. | <p>There is established under this Law an Agency known as the Consumer Protection Agency (referred to in this Law as “the Agency”).</p> <p>(1) The Agency shall be a body corporate with perpetual succession and a common seal.</p> <p>(2) It shall have the power to sue and be sued in its corporate name.</p> <p>(3) May acquire, hold and dispose of property whether moveable or immovable for the purpose of exercising its functions under this Law.</p> |
| Establishment and Composition of the Governing Board of the Agency. | 2. | <p>(1) There is established for the Agency a Governing Board (referred to in this Law as “the Board”) which shall be responsible for the administration of the Agency.</p> <p>(2) The Board shall consist of the following-</p> <p>(a) a Chairman who shall be:-</p> <p style="margin-left: 40px;">(i) appointed by the Governor on the recommendation of the Commissioner responsible for Commerce and Industry;</p> <p style="margin-left: 40px;">(ii) a person of proven ability, integrity and standing, having adequate knowledge and experience of at least fifteen (15) years in a relevant field or profession;</p> |

- (b) the General Manager of the Agency who shall be a legal practitioner of not less than fifteen (15) years post call;
- (c) representatives of the following Ministries not below GL. 15 –
 - (i) Health;
 - (ii) Commerce and Industry;
 - (iii) Justice; and
 - (iv) Science and Technology.
- (d) a representative of the Lagos Chamber of Commerce and Industry;
- (e) two (2) representatives of relevant non-governmental organizations or interest groups;
- (f) two (2) representatives of recognized private sector organizations; and
- (g) the Secretary to the Agency.

Object of the Agency.

3. The objects of the Agency shall be to promote and protect the rights of the consumer which includes but not limited to -

- (a) the right to be protected against marketing of goods and services which are hazardous to life;
- (b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods and services as the case may be so as to protect the consumers against unfair trade practices;
- (c) the right to be assumed, wherever possible, access to a variety of goods and services at competitive process;
- (d) the right to be heard and assumed that the interest of consumers will receive due consideration at appropriate fora;
- (e) the right to seek redress against unfair trade practices or unscrupulous exploitation of consumers;

- (f) the right to consumer education and awareness.
- Tenure of Office of Members of the Board. 4. Members of the Board shall be appointed by the Governor and shall with the exception of the ex-officio members; hold office for a period of three (3) years provided that the members may be eligible for re-appointment for a further term.
- Allowance of Members of the Board. 5. Members of the Board shall be paid such allowances as may be approved by the Governor from time to time.
- Functions of the Agency. 6. The Agency shall-
- (a) ensure speedy redress of consumer complaints through negotiation, mediation and conciliation.
 - (b) advise the State government on consumer protection policies;
 - (c) seek ways and means of removing or eliminating from the market hazardous products and causing offenders to replace such products with safer products;
 - (d) initiate investigation in its own name whether upon the receipt of a complaint or not;
 - (e) publish from time to time the list of products, the consumption and sale of which have been banned, withdrawn, restricted or not approved by the appropriate Federal or State Government Agencies;
 - (f) cause an offending company, firm, trade association or individual to protect, compensate or provide relief to injured consumers or communities as a result of adverse effects of harmful products;
 - (g) organize and undertake campaigns, lectures, seminar or other forms of activities that may lead to increased public consumer awareness;
 - (h) promote public awareness, enlightenment and conduct public information campaigns for the purpose of educating and advising consumers in relation to consumer protection and welfare;
 - (i) encourage trade, industry and professional associations to develop and enforce in their various fields, quality standards designed to safeguard the interest of consumers.
 - (j) issue guidelines in respect of the provisions of this law;

- (k) encourage the formation of voluntary consumer groups or associations for the interest of the consumers;
- (l) encourage the adoption of appropriate measures to ensure that products are safe for either interest or normal safe use;
- (m) cause where necessary quality tests to be conducted on a consumer product; and
- (n) apply to court to prevent the circulation of any product which constitutes an imminent public hazard, enforce and protect the right of consumers, or seek relief or compensation for injured consumers where negotiation, conciliation and mediation fails.

Removal of a Member of the Board.

7. A member of the Board may be removed from office if he-
- (a) has been convicted of an offence which involves moral turpitude;
 - (b) is an undischarged bankrupt;
 - (c) is of unsound mind or has been so declared by a competent Court;
 - (d) has been removed or dismissed from the service of the Government or a body corporate;
 - (e) has in the opinion of the Governor such financial or other interest as is likely to affect prejudicially the discharge of his functions as a member.
 - (f) resigns his appointment by a letter under his hand addressed to the Governor; or
 - (g) in the opinion of the Governor it is not in the interest of the State for such member to continue in office.

Proceedings of the Board.

8. The provisions of the schedule shall have effect with respect to the proceedings of the Board and other matters mentioned.

Establishment and Composition of Consumer Protection Committees.

9. (1) There shall be established in each Local Government a Consumer Protection Committee which shall subject to the general supervision of the Board-
- (a) receive and investigate complaints from consumers;

- (b) negotiate with the parties and endeavour to reach a settlement where appropriate;
- (c) make recommendation to the Agency on complaints received; and
- (d) render a report of its activities to the Agency every six (6) months.

Composition of the Committee.

10. (1) The Committee shall consist of –
- (a) the Chairman who shall be:-
 - (i) appointed by the Board on the recommendation of the Local Government Chairman; and
 - (ii) a person of proven ability, integrity and standing, having adequate knowledge and experience of at least ten (10) years in a relevant field or profession.
 - (b) two other persons of proven integrity and ability;
 - (c) a professional Officer of the Local Government who has relevant experience; and
 - (d) the Secretary of the committee who shall be a legal practitioner of not less than five (5) years post call experience.
- (2) The members of the Committee shall hold office for a period of three (3) years and shall be eligible for re-appointment for a further term of three (3) years.
- (3) The provisions of Section 7 of this Law in respect of removal of a member shall apply to members of the committee.
- (4) The allowances of members other than the ex-officio members shall be as may be determined by the Board.

Liability for Defective Products

11. (1) Where any damage is caused wholly or partly by a defect in a product, every person to whom subsection (2) below applies shall be liable for the damage.
- (2) This Section applies to –

- (a) the producer of the product;
- (b) any person who, by putting his name on the product or using a trade mark or other distinguished mark in relation to the product, has held himself out to be the producer of the product;
- (c) any person who has imported the product into the State, in the course of any business of his, in order to supply it to another.

Complaint to the Agency.

12. (1) A complaint in relation to any goods sold or Delivered, agreed to be sold or delivered or any service provided or agreed to be provided may be filed with the Agency or Committee by –
- (a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;
 - (b) any recognized consumer association whether the consumer to whom the goods are sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such Association or not; or
 - (c) one or more consumers, where there are numerous consumers having the same interest, on behalf of, or for the benefit of, all consumers so interested; or
 - (d) the State Government or Local Government as the case may be, either in its individual capacity or as a representative of the interest of the consumers in general.

Provided that nothing in this subsection shall preclude the Agency on its own motion from acting on acts contrary to the provisions of this Law.

- (2) On receipt of a complaint made under sub-section (1), of this Section the Agency or Committee may allow the complaint to be proceeded with or be rejected within seven (7) days from the date of the receipt of the complaint provided that a complaint may not be rejected under this sub-section unless an opportunity of being heard has been given to the complainant.

(3) Any complaint dealt with by the Agency or Committee may be taken to a court of Law if either of the parties is not satisfied with the decision of the Agency or Committee.

Procedure on
Receipt of Complaint.

13. (1) The Agency on receipt of a complaint, if it relates to any good shall-
- (a) refer a copy of the complaint to the person against whom the complaint is made directing him to give his version of the case within a period of fourteen (14) days or such extended period not exceeding seven (7) days as may be granted by the Agency;
 - (b) where a person complained against on receipt of the complaint referred to him under paragraph (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given, the Agency shall proceed to settle the consumer dispute in the manner specified herein;
 - (c) where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the Agency shall obtain a sample of the goods from the complainant, seal and authenticate it in the manner prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis or test which ever may be necessary, with a view to finding out whether such goods suffer from any defect and to report its findings thereon to the Agency within a period of thirty (30) days of the receipt of the reference or within such extended period as may be specified by the Agency;
 - (d) before any sample of the goods is referred to any appropriate laboratory under paragraph (c), the Agency may require the complainant to deposit to the credit of the Agency such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

- (e) the Agency shall remit the amount deposited to its credit under paragraph (d) to the appropriate laboratory to enable it carry out the analysis or test mentioned in paragraph (c), and on receipt of the report from the appropriate laboratory shall forward a copy of the report with such remarks as it may feel appropriate to the person complained against;
- (f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, the Agency shall require the person complained against or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;
- (g) the Agency shall thereafter give a reasonable opportunity to both parties of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under paragraph (f) and issue an appropriate Order under Section 14.

(2) The Agency shall, if the complaint received by it under Section 12 relates to goods in respect of which the procedure specified in sub-section (1) of this Section cannot be followed, or if the complaint relates to any service:

- (a) refer a copy of such complaint to the person complained against directing him to give his version of the case within a period of fourteen (14) days or such extended period not exceeding seven (7) days as may be granted by the Agency;
- (b) where the person complained against on receipt of a copy of the complaint referred to him under paragraph (a)
 - (i) denies or disputes the allegations contained in the complaint, or
 - (ii) fails to take any action to represent his case within the time given by the Agency. The

Agency shall proceed to settle the consumer dispute on the basis of the evidence brought to its notice by the complainant.

- (3) For purposes of this section, the Agency shall have the power to –
- (i) summon and enforce the attendance of any person complained against or witness;
 - (ii) request the production of any document or movable material or object as evidence;
 - (iii) to visit the venue of any evidence which is immovable;
 - (iv) request the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - (v) pay any commission for the examination of any witness; and
 - (vi) do such other things as may be necessary for effectively carrying out its functions under this Law.

Findings of the Agency.

14. (1) If after the proceedings conducted under Section 13, the Agency is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proven, it shall issue an Order to the person complained against directing him to do one or more of the following things, namely-
- (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
 - (b) to replace the goods with new goods of similar description which shall be free from any defect;
 - (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
 - (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due

to the negligence of the person complained against;

- (e) to remove the defects or deficiencies in the services in question;
- (f) to discontinue the unfair or restrictive trade practices and not to repeat them;
- (g) not to offer the hazardous goods for sale;
- (h) to withdraw the hazardous goods from being offered for sale;
- (i) to provide for adequate compensation to the complainant.

Transfer of Complaints.

15. On the application of the complainant or of its own motion based on Section 12(2) of this Law, the Agency may at any time in the interest of justice transfer any complaint pending before the committee to the Agency.

Appeals.

16. (1) Any person aggrieved by an Order made by a committee may appeal against such Order to the Agency within a period of fourteen (14) days from the date of the Order in such form as may be prescribed by the Agency.
- (2) Any Person aggrieved by an Order of the Agency may appeal against such Order to the High Court within fourteen (14) days from the date of the Order in such form or manner as may be prescribed by the High Court Civil Procedure Rules.

Liability for Offences by Bodies Corporate

17. (1) If an offence under this Law is committed by a body corporate and is proven to have been committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of any person being a director, manager, secretary or any other officer of the body corporate or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if that person were guilty of the first mentioned offence.
- (2) If in a prosecution for an offence against the person referred to in subsection (1), it is proven that, at the material time, the person was a director of the body corporate or an employee of it whose duties included making decisions that, to a significant extent, could have affected the management of the body corporate, or a person who purported to act in any such capacity, it shall be

presumed, proven, that the person consented to the doing of the acts or defaults that constitute the offence until the contrary is proven.

(3) Subsection (2) shall be read as placing on the person referred to in that subsection an evidential burden only with respect to the matter or matters concerned.

(4) If the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts or defaults of a member in connection with the member's functions of management as if that member were a director or manager of the body corporate.

(5) If a body corporate commits an offence under this Law, an employee, officer, director or agent of the body corporate who authorizes, permits or acquiesces in the commission of the offence also commits an offence, whether or not the body corporate is prosecuted for the offence.

(6) In a prosecution for an offence under this Law, it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant, whether or not the employee, officer, director or agent is identified or has been prosecuted for the offence.

Prohibition on
Exclusions from
Liability

18. The liability of a person by virtue of this Law to a of person who has suffered damage caused wholly or partly by a defect in a product, or to a dependant or relative of such a person, shall not be limited or excluded by any contract term, notice, or any other provision.

Compliance Notices

19. (1) An inspection officer of the Agency who is of the opinion that a person is committing or engaging in, or has committed or engaged in, a prohibited act or practice or is contravening or has contravened any provision of this Law may serve, personally or by post, a written notice on that person (a "compliance notice").

(2) A compliance notice shall be signed and dated by the authorized officer and shall –

(a) Contain a statement of the alleged contravention (identifying the provisions of this Law), the opinion

referred to in subsection (1) and the reasons for that opinion;

- (b) Direct the person to remedy the contravention or the matters occasioning that notice, including any other requirement that the authorized officer considers appropriate in order to remedy the contravention or matter (the “compliance direction and requirements”);
- (c) Specify the date by which the person is to comply with the compliance direction and requirement.

(3) A person commits an offence who, without reasonable excuse, fails to comply with compliance direction or requirement specified in a compliance notice and, on summary conviction, is liable to the fines and penalties provided under this Law;

(4) Withdrawal of a compliance notice under subsection (3) does not prevent the service of another compliance notice, whether in respect of the same matter or a different matter;

(5) If a compliance notice takes effect in accordance with this Section, the Agency may publish the compliance notice, or cause it to be published, in any form or manner the Agency considers appropriate;

(6) Nothing in this Section prevents the commencement of proceedings for an offence.

Limitation period. 20. The Agency or Committee shall not admit a complaint unless it is filed within 6 months from the date on which the cause of action has arisen unless the complainant shows sufficient cause for not filing the complaint within the stipulated period.

Appointment of General Manager and other staff Agency. 21. (1) There shall be appointed by the Board subject to the approval of the Governor a General Manager for the Agency who shall not be not less than a Deputy Director cadre in the Lagos State Civil Service and shall possess such relevant academic qualification and practical experience for the performance of his duties under this Law.

(2) The General Manager shall be-

- (a) the Chief Executive Officer of the Agency; and

(b) responsible for the execution of the policies of the Agency and the day to day running of its affairs.

(3) Subject to the provisions of this Law and the rules as to secondment of Officers within the public service the Agency may appoint other staff to assist the General Manager in the discharge of his functions under this Law.

(4) The General Manager and other staff of the Agency shall hold office on such terms and conditions as may be specified in their letter of appointment and such other condition as may from time to time be approved by the Governor.

Secretary to the Agency 22.

(1) The Secretary to the Board shall be-

(a) a legal practitioner of not less than ten (10) years post call experience to be appointed by the Governor on the recommendation of the Attorney – General;

(b) the head of the legal team of the Agency;

(c) responsible for arranging meetings and serving all notices required to be served under this Law; and

(d) performing such other duties as may be assigned to him from time to time by the Board.

Pensionable Service 23.

(1) Service in the Agency shall be pensionable under the Pensions Law and accordingly, employees of the Agency shall in respect of their services be entitled to such pensions, gratuities and other retirement benefits as are prescribed therein.

(2) Notwithstanding the provisions of subsection (1) of this Section, nothing contained in this Law shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

Administrative Control.

24. The Agency shall have administrative control over Local Government Consumer Committees in the following matters-

- (a) calling for periodic returns regarding receipt, disposal and pendency of complaints;
- (b) generally overseeing the functioning of the Committees to ensure that the objects and purposes of this Law are best served.

Inspection Officers 25. (1) The Agency may designate as an inspector such number of its staff as it deems fit who possess such qualification as may be required for performing the functions that may be prescribed by the Board.

(2) The Agency shall issue to every designated Officer a certificate of designation and identification showing his names, position and such other information that the person is a staff of the Agency.

Power to enter, search and seize. 26. (1) An inspection officer may in the cause of his duty at any reasonable time and upon the production of the certificate of designation if required –

- (a) enter any premises for the purposes of conducting an investigation;
- (b) examine or take samples or specimen of any good or product;
- (c) open and examine, whilst on the premises, any container or package which he reasonably believes may assist him in his investigation;
- (d) examine any book, document or other records found on the premises which he reasonably believes may contain an information relevant to the enforcement of this Law or any regulation made there under and make copies thereof;
- (e) seize and detain for such time as may be necessary for the purposes of this Law, any article or goods which he reasonably believes may assist his investigation.

(2) The owner or person in charge of any premises entered into by an inspection Officer pursuant to this section and every other person found therein shall give all reasonable assistance to the inspection officer.

Emergency Order affecting supply of a product

27. (1) If the Governor is of the opinion that abnormal, harmful or hazardous circumstances prevail or are likely to prevail in relation to the supply of a product, the Governor may be an emergency Order -
- (a) declare that a state-wide emergency affecting the supply of a product exists; and
 - (b) direct the trader and the public as to the treatment of that product during the life of the emergency Order;
 - (c) direct the Commissioner in charge of Health to take such steps as are appropriate in the circumstances.
- (2) An emergency Order may relate to one or more products and may define the products in such manner as the Governor thinks fit.
- (3) Unless the term of an emergency Order is extended under subsection (4) or (5) or the Order is revoked, an emergency Order –
- (a) remains in force for such term, not exceeding six (6) months from the date that the Order is made or for a term specified in the Order; and
 - (b) expires at the end of the last day of the term specified.
- (4) Subject to subsection (5), if an emergency Order is in force (“principal Order”) and the Governor is of the opinion that abnormal circumstances continue to prevail in relation to the supply of a product to which the Order relates, the Governor may make an extension Order in relation to that product extending the term of the principal Order as it relates to that product for a period not exceeding six (6) months from the date that the extension Order is made.
- (5) If during the extended term under subsection (4), the Governor is of the opinion that abnormal circumstances continue to prevail in relation to the supply of the product to which the extension Order relates, the Governor may make only one more Order, a final extension Order, in relation to that product extending the term of the principal Order as it relates to that product for a period not exceeding six (6) months from the date that the final extension Order is made.

- Return of Goods. 28. Goods seized shall be Kept or stored in a place designated by the Agency and shall be returned to the owner or the person from whom it was sized if the article or goods upon analysis or examination is found not to have contravened the provisions of this Law or any other Law.
- Enforcement of Orders of the Agency, Committee etc.. 29. Where an Order of the Agency or Committee set up for the purposes of this Law is not complied with the Agency may apply to the High Court to enforce such Order.
- (2) Any person aggrieved by an Order made by the Agency or any of its committees may prefer an appeal against such Order to the High Court within thirty (30) days from the date of the Order; provided that an appeal filed out of time may be entertained if the court is satisfied there is sufficient cause for filing out of time.
- (3) The rules of Civil Procedure applicable in the High Court shall apply to all applications or proceedings brought pursuant to the provisions of this Section.
- (4) For the purposes of this Section, the Governor may direct the Chief Judge of the State to designate such number of courts as he may deem fit, as Consumer Courts.
- Service of Notices. 30. (1) The service of notices may be made by delivery or transmitting a copy by registered post duly addressed to the opposite party against whom complaint is made or by such courier service as approved by the Agency.
- (2) A notice shall be deemed to have been duly served where an acknowledgement or any receipt purporting to be signed by the opposite party or his agent or the complainant is received by the Agency or the committee or a postal article containing the notice received with an endorsement purporting to have been made by a postal employee or by any person authorized by the courier service to the effect that the opposite party or his agent or complainant has refused to take delivery of the postal article containing the notice.
- (3) All notices required to be served on an opposite party or to the complainant shall be deemed to be

sufficiently served. If addressed in the case of the opposite party to the place where business or profession is carried out or in the case of the complainant, the place where such person actually resides.

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| Protection of action taken in Good faith. | 31. No suit, prosecution or other legal proceedings shall lie against the members of the Agency or Committee or sub committee or any Officer or person acting under the direction of the Agency or Committee or any of its sub committees for any act done or intended to be done in good faith for the purposes of executing the provisions of this Law or of any rule or Order made there under. |
| Vacancy or defect in appointment not to invalidate proceeding etc. | 32. No act or proceeding of the Agency or Committee shall be invalidated by reason only of the existence of any vacancy among its members or any defect in the appointments thereof. |
| Power to Co-pt. | 33. The Agency shall have power to co-opt from amongst the professional staff of the Agency and or the Civil Service or any other person into any Committee for the purposes of carrying out its functions under the provisions of this Law. |
| Power to Make Regulations. | 34. (1) The Commissioner for Commerce and Industry subject to the approval of the House of Assembly may make regulations, not inconsistent with this Law, to provide for all matters which is necessary or expedient for the purpose of giving effect to the provisions of this Law.

(2) Without prejudice to the generality of the foregoing such regulation may provide for-

(a) forms to be used;
(b) fees to be paid; and
(c) procedure to be followed in disposing complaints pursuant to this Law. |
| Power to Give Directives. | 35. The Governor may give to the Agency directives of a general nature with regard to the exercise of its functions under this Law and the Agency shall comply with such directives. |
| Right of Action | 36. The Agency or any person authorized by him may institute on behalf of consumers or a class of consumers a civil action for remedies with respect to an act or practice prohibited |

under this Law or for any damage suffered by such consumers or class of consumers arising from any defect in a product under the provisions of this Law.

- Fines and Penalties 37. (1) A person guilty of an offence under this Law is liable on conviction to the following fines and penalties:
- (a) on a first conviction to a fine not exceeding Five Hundred Thousand Naira (#500,000.00) or imprisonment for a term not exceeding three (3) months or both; and
 - (b) on any subsequent conviction for the same offence or any other offence under this Law, to a fine not exceeding Seven Hundred and Fifty Thousand Naira (#750,000.00) or imprisonment for a term not exceeding six (6) months or both.
- (2) If after being convicted of an offence, the person referred to in subsection (1) continues to contravene the requirement or prohibition to which the offence relates, the person is guilty of a further offence on each day that the contravention continues and shall be liable to pay a fine of Twenty Thousand Naira (#20,000.00) for each day the offence is committed.
- (3) In considering an appropriate penalty under this Section for a trader convicted of an offence under this Law with respect to any prohibition act or commercial practice, the court may take into consideration any advertisement published by or on behalf of the trader containing corrective statements to remedy the prohibited act or practice in respect of which the trader is convicted.
- Convicted persons 38. (1) On convicting a person of an offence under this Law, the court shall, unless satisfied that there are special and substantial reasons for not so doing, order the person liable for costs and expenses of proceedings and investigation. to pay to the Agency the costs and expenses, measured by the court, incurred by the Agency in relation to the investigation, detection and prosecution of the offence.
- (2) An Order for costs and expenses under subsection (1) is in addition to and not instead of any fine or penalty the court may impose.
- Convicted traders 39. (1) If a trader is convicted of an offence under this Law liable to compensate the Agency may, on behalf of an aggrieved consumer who

consumers for loss
or damage

consents to the application, apply to the court for an Order (a “compensation Order”) requiring the trader concerned to pay an amount of money the court considers as appropriate compensation in respect of any loss or damage to that consumer resulting from that offence.

(2) A compensation Order may be made instead of or in addition to any fine or penalty the court may impose on the trader concerned.

(3) The compensation payable under a compensation Order –

(a) shall be of such amount as the court considers appropriate (though not exceeding the amount set by Law as the limit of the court’s jurisdiction in tort, if payable), having regard to any evidence and to any submissions made by or on behalf of the trader concerned, the aggrieved consumer, the Agency or the prosecutor; and

(b) shall not exceed the amount of the damages that, in the opinion of the court, the aggrieved consumer would be entitled to cover in an action with respect to a consumer’s right of action for damages in relation to the same prohibited act or practice.

(4) An application shall not be made under subsection (1) if the aggrieved consumer has brought an action under Section 36 of this Law against the trader concerned and the action is in respect of the same prohibited act or practice for which the trader concerned is convicted.

(5) If the amount of compensation payable under a compensation Order is paid to the aggrieved consumer under this Section and the consumer subsequently commences an action under Section 36 and is awarded damages by the court in respect of the same prohibited act or practice, the compensation Order is deemed to be in satisfaction of so much of the awarded damages as is equal to the first-mentioned amount.

(6) If the trader concerned does not comply with a compensation Order –

(a) within the time Ordered by the court; or

- (b) within thirty (30) days after the Order is made, if no time is specified in the Order, the aggrieved consumer may thereafter enforce the compensation Order against the trader concerned in the same manner as if it were a judgment rendered in that court in civil proceedings.
- Court may Order convicted person to publish corrective Statement 40. (1) This Section applies to a person convicted of an offence under this Law relating to a prohibited act or commercial practice.
- (2) On conviction of the person to whom this Section applies and on application of the Agency, the Court may, in addition to any fine or penalty imposed, order the person to publish, at the person's expense and in any manner the court considers appropriate, the facts relating to the commission of the offence and a corrective statement in respect of those facts.
- (3) The Court may, based on the submissions of the Agency in the application and as the court considers appropriate, specify the form and content of the corrective statement in respect of those facts.
- Summary Trial of persons indicted 41. (1) A person charged with an offence under this Law may be tried summarily as provided under the Administration of Criminal Justice Law of Lagos State (2011).
- (2) On conviction by the Court for any offence that is tried summarily under subsection (1), the defendant shall be liable to –
- (a) pay the fines and penalties described in Section 37;
- (b) pay costs and expenses of proceedings and investigation stipulated in Section 38; or
- (c) publish a corrective statement as stated in Section 40.
- Financial Provisions. 42. (1) The Agency shall establish and maintain a fund which shall consist of –
- (a) such sums as may from time to time be provided by the State Government for running the expenses of the Agency;

- (b) other sums as may accrue to the Agency in the execution of its functions under the Law or in respect of any property vested in the Agency; and
 - (c) donations from international, national and other donor agencies.
- (2) The Agency may apply the proceeds of the fund established pursuant to subsection (1) of this Section for-
- (a) the cost of administration of the Agency;
 - (b) reimbursing members of the Agency for expenses expressly authorized by the Agency in accordance with such rates as may be approved by the State Government;
 - (c) payment of the salaries or other remunerations and pension payable to the employees of the Agency;
 - (d) the maintenance of any property acquired or vested in the Agency;
 - (e) all other expenses connected with any of the functions of the Agency under this Law.

Agency may publish 43.
information concerning
certain persons

- (1) The Agency shall keep and maintain a list the (“consumer protection list”) of names and addresses of the following persons, together with a description of their trade, business or profession and the particulars described in subsection (2) –
- (a) any person on whom a fine or other penalty was imposed by a court under the relevant statutory provisions or who was required, by an Order under Section 37, to pay an amount of money to a consumer;
 - (b) any person against whom a prohibition Order is made under Section 29;
 - (c) any person who gives an undertaking to the Agency under Section 44;
 - (d) any person against whom a compliance notice takes effect under Section 19
- (2) The consumer protection list shall specify, in relation to each person named in the list, and particulars of the Agency considers appropriate in respect of the following

- (a) the matter occasioning any fine or penalty imposed on the person by the court and the amount or nature of that fine or penalty;
 - (b) the matter occasioning any Order made by the court against the person and the nature of that Order;
 - (c) the matter occasioning any undertaking given to the Agency by the person under this Law;
 - (d) the matter occasioning any compliance notice served on the person under this Law;
 - (e) the matter occasioning any fixed payment notice under this Law.
- (3) The Agency may, at any time and in any form or manner the Agency considers appropriate, publish or cause to be published all or any part of the consumer protection list.

Undertakings with the Agency.

44. (1) If the agency has reason to believe that a trader –
- (a) is committing or engaging in a prohibited act or policies;
 - (b) is about to commit or engage in a prohibited act or practice;
 - (c) has committed or engaged in a prohibited act or practice;

the Agency may accept from the trader a written undertaking that is signed by the trader in the form and which contains the terms and conditions the Agency determines are appropriate in the circumstance.

(2) If the Agency accepts an undertaking from a trader under this Section, the Agency shall publish the undertaking, or cause it to be published in any form or manner the Agency considers appropriate.

(3) Without limiting subsection (1), the undertaking may include one or more of the following terms and conditions:

- (a) an undertaking to comply with the relevant provisions of this Law or regulations under this Law;
- (b) an undertaking to refrain from committing or engaging in any act or practice;

- (c) an undertaking to compensate consumers or a class of consumers, including reimbursing any money or returning any other property or thing received from consumers in connection with a consumer transactions;
- (d) An undertaking or publish or cause to be published, at the trader's expense, an advertisement containing a corrective statement relating to the prohibited act or practice.

(4) If the trader under subsection (1) is a body corporate, the undertaking shall be signed by a director, manager, secretary or other senior officer of the trader.

(5) Proceedings may terminate against a trader under Section 39 of this Law on the acceptance of an undertaking from the trader.

(6) Despite subsection (5), the court may make an order against a trader under Section 39 if the trader fails to comply with the terms and conditions of an undertaking under this Section.

(7) Subsections (1) and (4) shall, with any other necessary modifications, apply in respect of any trader the Agency has reason to believe is contravening, is about to contravene or has contravened any provisions contained in this Law.

(8) If compensation is paid to a consumer pursuant to an undertaking referred to in subsection (3)(c) and the consumer subsequently commences an action under Section 36 of this Law and is awarded damages by the court in respect of the same prohibited act or practice, the compensation paid under the undertaking deemed to be in satisfaction of so much of the awarded damages as is equal to the amount paid to the consumer under that undertaking.

Power to Accept Gifts.

45. (1) The Agency may with the approval of the Governor, accept gifts upon such terms and conditions as may be specified by the person or organization making the gift;

(2) The Agency shall not accept any gift if the conditions attached by the person or organization making the gift are incompatible with the functions of the Agency.

Account and Audit. 46. The Agency shall keep proper account and proper records in relation thereto and shall cause same to be audited annually by a qualified Auditor appointed from the list and in accordance with the guidelines supplied by the Auditor - General of the State.

Annual Reports and Estimates. 47. (1) The Agency shall prepare and submit to the Governor through the Commissioner not later than the 30th June in each year a report in such form as he may direct on the activities of the Agency during the immediate preceeding year and shall include in such report a copy of its audited account for that year and the State's Auditor – General's report thereon.

(2) The Agency shall not later than 30th June in each year submit to the Commissioner for approval its estimate of income and expenditure for the next succeeding year.

Savings for other rights of the Consumer 48. This Law shall not affect any right which a consumer may have under any other law.

Repeal. 49. The Lagos State Consumer Protection Committee Law Cap. L15, Laws of Lagos State 2003 is repealed.

Interpretation. 50. In this Law unless the context otherwise requires –

“authorized laboratory” means any laboratory or organization established by or under any law for the time being in force which is maintained, financed and aided by the State Government or Federal Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

“Complainant” means a Consumer or any voluntary Consumer association registered under the Companies and Allied matters Act or under any other Law for the time being in force or any State Government or the Federal Government who or which makes a complaint, or one or more consumers where there are numerous consumers having the same interest or in the case of death of a consumer, his legal heir or representative;

“Complaint” means any allegation in writing made by a Consumer or generated by the Agency or its committees.

“Consumer complainant” means any

(i) person who buys any goods for a consideration which has been paid or provided or partly paid and partly promised or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised or under any system of deferred payment when such use is made with the approval of such person but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the persons who (hires or avails of) the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when services are availed of with the approval of the first mentioned person (but does not include a person who avails of such services for any commercial purpose);

“commercial purpose” does not include use by a consumer of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood, by means of self – employment;

“Person” includes any body or person, Corporate or incorporate;

“Goods” means goods as defined in the sale of Goods Law Cap. 52 LLS 2003.

“Consumer dispute” means a dispute where the person against whom a complaint has been made denies or disputes the allegation contained in the complaints;

“Commissioner” means the Commissioner for Commerce and Industry in Lagos State;

“damage” means death, personal injury, any loss of or damage to any property and includes economic loss;

“High Court” means the High Court of Lagos State;

“Trader” in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof and where such goods are sold or distributed in package term includes the packaging firm or company.

“State” means Lagos State of Nigeria.

“Unfair trade practice” means – a trade practice which, for the purpose of promoting sale, supply of any goods or for the provision of any service adopts any unfair method or deceptive practice.

Citation and 51.
Commencement.

This Law may be cited as the Consumer Protection Agency Law 2012 and shall come into force on the _____ day of _____ 2012.