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A Review Of The Federal Competition And Consumer Protection Bill, 2016

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1. INTRODUCTION

The existence of a comprehensive legal regime for the regulation of competition is extremely important to the growth of any advanced economy. Nigeria's competition laws have been grossly inadequate when viewed against the size and complexity of its economy. Hitherto, the laws regulating competition in Nigeria have been embedded in various pieces of legislation relating to the regulation of different sectors of the economy. A few prominent examples are the Investments and Securities Act 2007; the Nigerian Communications Act 2003; the Electric Power Sector Reform Act 2005 amongst other laws. These laws all contain provisions that deal with competition as it relates to the specific sector they regulate. The passing of the Federal Competition and Consumer Protection Bill, 2016 "Competition Bill" or "the Bill" or "the proposed Act") by the National Assembly [3] brings Nigeria closer to having a codified set of laws governing competition in the market place. [4]

1.1 Objectives of the Proposed Act

The Competition Bill seeks to repeal the Consumer Protection Act; [5] and establish a Federal Competition and Consumer Protection Commission for market regulation and protection of small businesses. It seeks to avoid monopolies and abuse of dominant market positions [6] ; and to establish a Federal Competition and Consumer Protection Tribunal ("the Tribunal") for the development and promotion of fair, efficient and competitive Markets in the Nigerian economy. Lastly, it seeks to facilitate access by all citizens to safe products; secure the protection of consumers' rights in Nigeria; and other related matters.

1.2 Scope of Application

The proposed Act when passed into law will apply to all undertakings and all commercial activities within Nigeria. [7]

2. REVIEW OF THE PROPOSED ACT

2.1 Establishment of the Federal Competition and Consumer Protection Commission

Section 3 of the Bill creates the Federal Competition and Consumer Protection Commission whose functions range from the administration and enforcement of the proposed Act to

developing rules, guidelines and regulations that would ensure its effective implementation. The functions and powers of the Commission provided for in sections 17 and 18 of the Bill are wide and far-reaching, giving the Commission a free hand to carry out its functions. The Commission will have a broad discretion in carrying out its duties. It will be empowered to make regulations: prohibiting anti-competitive agreements, misleading, unfair, deceptive or unconscionable marketing, trading and business practices; [8] authorizing, with or without conditions, prohibiting or approving of mergers of which notice is received. [9] Other powers conferred upon the commission include; the power to make regulations relating to the charging and collection of fees, levies, fines and the imposition of administrative penalties; [10] as well as the power to prohibit the making or carrying out of an agreement or arrangement which relates to the Act in appropriate cases. [11]

Footnotes

1 Senior Associate IP and Technology Law department, SPA Ajibade & Co., Lagos, Nigeria.

2 Associate Corporate Finance & Capital Markets department, S P A Ajibade & Co., Lagos, Nigeria.

3 See PWC Tax Matters Blog, Federal Competition and Consumer Protection Bill.

http://pwcnigeria.typepad.com/tax_matters_nigeria/2018/02/federal-competition-and-consumer-protection-bill.html

4 See Leadership Newspaper, "Senate passes Federal Competition and Consumer Protection Bill", June 8, 2017 available at http://leadership.ng/2017/06/08/%E2%80%8Esenate-passes-federal-competition-consumer-protection-bill/ accessed on 9th August 2017.

5 CAP C25, LFN, 2004.

6 Section 3 1 of the bill.

7 Section 2 1 of the Bill.

8 Section 17 1 (g).

9 Section 17 1 (k).

10 Section 18 1 (i).

11 Section 18 3 (a).

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