NAVIGATING THE ADVERTISING INDUSTRY STANDARDS IN NIGERIA AS A CONSUMER'S SHIELD*

Abstract
One of the key aspects of any business is creating awareness about its product or service to its target audience and advertising as a form of communication, has been widely employed by businesses to communicate their product's existence and its offerings. With the increasing blur between traditional and digital media advertising, changing market and evolving consumer behaviours and needs, the drive to regulate the advertising space in Nigeria could be attributed to several factors including, the need to curb the display of unvetted advertisements which are often misleading, harmful or offensive; protect consumer's welfare; and overall, develop a robust regulatory framework for advertising and advertising business in Nigeria. Findings show that the Advertising Regulatory Council of Nigeria Act 2022, which is the apex law regulating the practice and business of advertising in Nigeria aims to establish these possibilities. However, some of the provisions of the ARCON Act such as, the requirement to vet all advertisements on both traditional and digital platforms before publication, the imposition of penalties on defaulters, as well as the alleged unconstitutionality of some of the provisions of the ARCON Act has been the subject of neck-breaking criticism by industry players. This paper which is doctrinal, concludes that the ARCON Act, 2022 represents a significant shift in the Nigeria advertising landscape. The ARCON Act strikes a balance between prioritizing consumer's welfare and fostering a thriving advertising industry in Nigeria. However, it is recommended amongst others, that ARCON should invest in digital technologies that will aid and/or ensure proactive monitoring of all offline and online platforms for non-compliant advertisements in real-time. ARCON should also employ technology for faster vetting of submitted advertisement materials and monitoring to keep pace with digital advertising as this will reduce delays in approval of applications for publications and encourage innovation and creativity.

Keywords: Advertising, Consumer Welfare, Regulatory Framework, Nigeria

1. Introduction

Advertising, which is one of the promotional tools for the marketing of a product, is a powerful tool and medium, businesses employ to communicate with their target audience the existence of their products and its offering, thereto, shaping perceptions and influencing purchasing decisions.[1] Advertising in Nigeria dates back to the mid-19th century with traditional media practices like door-to-door marketing, newspaper, radio, television, cable, and satellite broadcast. However, in recent times, the media space is evolving, embracing the digital world to produce new ways of reaching audiences — digital advertising.[2] With the evolving advertising landscape where businesses are utilizing both the traditional and digital advertising channels -influencer marketing, artificial intelligence promotional tools like deepfakes,[3] social media platforms, pop-ups, amongst others, to build brand awareness, influence consumer behaviour and drive sales, concerns regarding the truthfulness and veracity of advertising claims have become increasingly prevalent as the regulation of advertising intersects with balancing consumer protection, while adhering to legal standards and regulatory frameworks.[4] Thus, effective regulation of advertising is crucial to balance the interests of various stakeholders, such as the consumers, investors, businesses, and the society as a whole.[5]

In Nigeria, the practice of advertising is regulated by the Advertising Regulatory Council of Nigeria (ARCON) Act, 2022. The ARCON Act repealed the Advertising Practitioners Council of Nigeria (APCON) Act, 1983. The ARCON Act applies to individuals, corporate organizations, government institutions at federal, state and local levels, and all entities involved in advertising, marketing communications, or related activities. It also applies to

By Ekaobong Akan THOMAS, Legal Practitioner and Doctoral Candidate at the University of Uyo, Akwa Ibom State, Nigeria; Lecturer at the Akwa Ibom State Polytechnic, Department of Crime Management, Ikot Osurua, Ikot Ekpene, Akwa Ibom State.

[1] Olaide Awwal-Bolanta, 'Legal Implications of Misleading Advertisement in Nigeria' (September 29, 2024) <https://www.linkedin.com> accessed 15 December 2025.

[2] Christian Aniukwu and Ibitola Akanbi, 'Impact of consumer goods advertising laws on sales, patronage and demand' (August 3 2023) <https://www.businessday.ng> accessed 10 November 2025.

[3] Abdullahi Suleiman, 'This is why organizations are against the New ARCON Law' (2023) <https://www.highstreet.ng> accessed 10 November 2025.

[4] Awwal-Bolanta (n 1).

[5] Rasheed Ademola Adebiyi, Olayinka Abimbola Egbokhare and Shukurat Opeyemi Olajire, 'Regulatory and Ethical Challenges in Nigerian Advertising: A Critical Analysis of ARCON's Digital Enforcement Strategies' (2025) 6(1) 66,77 <https://www.socialdigitalmediadiscourse.com> accessed 12 November 2025.

any party sponsoring or benefitting from advertising services within Nigeria.[6] The ARCON Act while expanding the regulatory framework for advertising, aims to establish a more comprehensive and unified system for overseeing advertising practices.[7] Thus, the ARCON Act and its Code sets out standards that are grounded in the responsibility of businesses to promote their product or services truthfully, avoid manipulation of product testimonials, and respect the dignity of the consumer.[8] The ARCON demands transparency and accuracy in the communication of product attributes, benefits and limitations. It requires a conscious decision to refrain from exaggeration in claims about a product's features, omission of important details, or any form of misleading information that could lead consumers to make uninformed or detrimental choices.[9]

The Nigeria's advertising practice is also regulated by other sector-specific legislations, such as the Nigerian Broadcasting Commission Act, the Federal Competition and Consumer Protection Act, 2018, the Standard Organisation of Nigeria Act 2015, amongst others, as well as by sector-specific regulations like the National Agency for Food and Drug Administration and Control (NAFDAC) Act for food and drug products advertising, *et cetera*. Multiple regulatory bodies such as the Association of Advertising Agencies of Nigeria (AAAN), the Advertisers Association of Nigeria (ADVAN), the Broadcasting Organization of Nigeria (BON) amongst others also play a crucial role in regulating advertising practices in Nigeria.[10]

The goal of regulating the practice of advertising is to safeguard consumers against advertisements that do not conform with acceptable standards, help them make informed purchase decisions, and promote fair competition amongst businesses in the industry.[11] More so, by adhering to the standards contained in the ARCON Act, businesses can maintain a positive brand image, engender loyalty, and contribute to a marketplace where consumer welfare is prioritized alongside profitability.[12] However, to Adeniyi,[13] the regulation of advertising in Nigeria is 'ridiculous and dangerous' as some requirements of the Advertising Regulatory Council of Nigeria (ARCON) Act, 2022 seeks to stifle entrepreneurship and creativity through its insistence on the mandatory requirement of pre-vetting advertising messages before exposure to the public, with the Advertising Standards Panel Certificate of Approval as evidence, as well as the issuance of mandatory permits for media advertisements. For example, a Restaurateur who attracted the attention of ARCON by publishing a message about her restaurant ('call this place for food') on Instagram without the mandatory pre-vetting approval certificate from the Advertising Standards Panel, as provided for in the ARCON Act, received a letter demanding the payment of ₦1 million penalty within seven days as such a message should have been communicated to ARCON before publication. ARCON considered the message, a piece of advertising. Furthermore, a TikToker without any affiliation to the restaurant owner, was also asked to pay ₦1million within seven days for publishing a message advertising the same restaurant. Thus, to Adeniyi, the exercise of such powers by ARCON suffocates entrepreneurs and stifles creativity.[14]

However, in order not to stifle creativity and/or suffocate entrepreneurship, should advertising be left un-controlled? Should businesses not adhere to laid down standards? Should consumers rights (ultimately to make an informed purchase decision) be sacrificed by allowing some businesses make false and unsubstantiated claims about their product's offering? Should consumers be exposed to advertising that undermines compliance with the advertising standards?[15] Should consumers be exposed to fraud and rip-offs in the marketplace? The United State Special Committee on Retail Installment Sales, Consumer Credit, Small Loans and Usury's Report[16] in pursuing the question it framed for itself, said:

---

[6] The ARCON ACT 2022, section 54.
[7] The ARCON Act 2022.
[8] Ekaobong Akan Thomas and Amanim Ndisa Akpabio, 'Interrogating the Legal Landscape of Influencer Marketing and Consumer Rights in Nigeria' (2025) 4(3) 417,443.
[9] Thomas and Akpabio (n 8).
[10] Omowale, A. and Sunday, A. A. 'Regulating Online Advertising in the Internet Age: A Study of Advertising Practitioner's Council of Nigeria (APCON)' (2022) 10 IJSRR 848.
[11] Christian Aniukwu and Ibitola Akanbi, 'Impact of Consumer goods advertising laws on sales, patronage and demand' (2023) <https://www.businessday.ng> accessed 12 November 2025.
[12] -- 'Navigating Nigeria's Digital Ad Space: A Deep Dive into ARCON's Vetting Mandate' (June 11, 2025) <https://www.lawpavillion.com> accessed 9 December 2025.
[13] Segun Adeniyi was a columnist and media adviser to the late President Shehu Yar'Adua. In his weekly column in ThisDay Magazine of 6 February,2025, he re-invited the public's attention to the issue of advertising regulation.
[14] Adebiyi et al (n 5).
[15] Olubodede, E. O., Igyuve, A. I., & Kente, J. S., 'Notions of ARCON -based advertising standards and relative adherence tendency by ARCON members in Lagos State' (2024) 7(5) International Journal of Social Sciences and Management Review 220,233.
[16] M. J. Trebilcock, 'Consumer Protection in the affluent society' (1970) 16(2) McGill Law Journal 263 <https://www.lawjournal.mcgill.ca> assessed 22 December 2025.

> It is fair to ask precisely what it is that the consumer is to be protected from. Must he be protected from his own lack of knowledge or discipline which leads him to take advantage of easy credit to buy things he does not need or cannot afford? Is he to be protected from the 'fringe' operator who may take advantage of the ignorance and gullibility of the consumer to cause him to overbuy or pay too much.

Accordingly, with the rise of digital advertising blurring the boundaries between traditional and digital advertising, and raising new challenges,[17] the need to regulate the advertising landscape and prioritize consumers welfare remains at the forefront and is thus premised on a number of grounds, including; economic efficiency, individual rights, distributive justice, right to development amongst others.[18] On economic efficiency, businesses are expected to engage in fair competition by disclosing to consumers full information about their product offerings with evidence substantiating the claims, observe all laws regarding safety and quality standards of product manufactured and compensate consumers in the event of any defect in the product. On individual rights, consumer protection is designed to protect individuals in the pursuit of considerate treatment and dignity. It aims at achieving bargaining equality between consumers and producers, alleviating the problems of consumers who are vulnerable in the marketplace, especially the children, the poor and illiterates, and those with peculiar needs such as persons with disabilities. The inequality in bargaining power exists in most areas involving the manufacturers' terms and conditions of sale; the quantum of information given about a product; as well as the truthfulness or otherwise of the information given. Distributive justice, takes into account how the poor spend their earned income since consumers often receive sub-standard products on onerous information circulated and are often denied the benefit of their earning power, consequently being forced to live in a world of higher cost and great scarcity.[19]

Thus, the inequality of bargaining power, the inadequate disclosure of information about a product's offering, as well as the level of economic efficiency of a system have severally or jointly culminated in the justification of the Public Interest Theory, Paternalism Theory and the Free Market Theory as the theoretical foundation for this work. These theories justify the judicial, institutional and legislative intervention in regulating advertisement content and consumer transactions *vis-a-vis* the need for consumers to be protected. This article therefore seeks to appraise the functionality of the Advertising Regulatory Council of Nigeria Act, 2022 and its regulatory body, the Advertising Regulatory Council of Nigeria (ARCON) in regulating Nigeria's evolving advertising landscape, particularly for food and drug products advertisements. The role and functions of the Advertising Regulatory Council of Nigeria (ARCON) will be examined. The findings will contribute to the efforts aimed at strengthening ethical advertising practices in food and drug product advertising in Nigeria.

2. The Concept of Advertisement

The term advertising is derived from the Latin word '*advertere*' meaning 'to turn the minds of towards.'[20] As a promotional strategy, advertising serves as a major tool in creating product awareness in the mind of a potential consumer.[21] According to Philip Kotler,[22] 'Advertising is any paid form of nonpersonal presentation & promotion of ideas, goods, or services by an identified sponsor'. For Frank Presbrey,[23] 'advertising is a printed, written, oral and illustrated art of selling. Its objective is to encourage sales of the advertiser's products and to create in the mind of people, individually or collectively, an impression in favour of the advertiser's interest'. The American Marketing Association (AMA),[24] defines advertising as 'any paid form of non-personal presentation and promotion of ideas, goods, or services by an identified sponsor.' Under the ARCON Act, advertisement is defined to include any sponsored message intended to influence someone's opinion or action towards a product, service, idea, or person, regardless of the format or platform used.[25]

---

[17] Such as the quick and easy proliferation of misleading advertising, issue of targeted advertising, artificial intelligence deep fakes and so forth.

[18] Robert Haveman and Kenyon Knopf, *The Market System: An Introduction to Microeconomics* (4th edn John Wiley and Sons, New York 1981) 39.

[19] *Ibid.*

[20] Social Clinic, 'What's the origin of the word "Advertising"?' (April 2, 2025) <https://www.socialclinic.sa> accessed 19 December 2025.

[21] Zain Ul-Abideen and Salman Saleem, 'Effective advertising and its influence on consumer buying Behavior' 3 (3) European Journal of Business and Management 55, 65 <https://www.iiste.org> accessed 10 November 2025.

[22] Philip Kotler, *Marketing Management: Analysis, Planning Implementation and Control* (7th edn Prentice Hall, Illinois 1991) 123.

[23] Frank Presby, *The History and Development of Advertising* (Doubleday, New York 1929) 390-391.

[24] The American Marketing Association, 'Marketing vs. Advertising' <https://www.ama.org> accessed 12 December, 2025.

[25] The ARCON Act 2022, section 63. Advertisement is defined to mean "a notice, announcement, exposure, publication, broadcast, statement, announcorial, infomercial, commercial, hype, display, town cry, show, event, logo, payoff or trademark to promote, advocate, solicit, showcase, endorse, vote or support a product, service, cause, idea, person or organisation to

There are various kinds of advertisement resources or media channels, to wit: the broadcast media, print media, support media, internet and social media. The broadcast media comprises the television and radio. The television and radio are two traditional broadcast media long used in advertising.[26] Television offers creative opportunities; a dynamic message and wide audience reach. It is however, the most expensive medium to advertise through, while radio is relatively affordable for small businesses and allows for repetition and frequency. Magazines and newspapers are the print media. Magazines offer a highly selective audience as advertisements are closely related to the topic of the magazine, and the visual imagery is also stronger in magazines, while Newspapers are affordable for local businesses, allowing them target a geographic segment and Newspapers are also viewed as a credible medium, which enhances ad acceptance. The support media adds to campaigns delivered through more traditional media. Billboards, transits, bus benches, aerial, directories and trade publications are common support media. They offer ways to reach a wider audience in a local or regional market or to increase frequency of message exposure to targeted market segments. The Internet is used by online and offline companies to promote products or services. Banner ads, pop up ads, text ads and paid search placements are forms of internet advertisement and are ways to present an image or message on a publisher's website or on a number of websites through a third-party platform like Google's program.[27]

The objective of an advertisement is to inform, persuade and remind consumers of a product's existence and features.[28] According to Bell and Emery,[29] businesses are to balance three considerations in setting their marketing policies, to wit; Society (human welfare), Consumers (who want satisfaction) and the company (who desire to maximise profit). Thus, businesses have a variety of more specific goals in employing advertisements such as increasing brand awareness, developing more favorable customer attitudes, overcoming negative publicity, driving revenue, expanding her customer base and increasing sales volume amongst others.[30] Accordingly, advertising carries various economic and social advantage for businesses, to wit: advertising creates demand for new products introduced in the market by the producers; it helps the producers to maintain the existing market as well as expand the market reach for their goods; it helps businesses to overcome competition by clearly emphasizing distinct features of their products, as well as warn the public against imitation of their product by others through precise description of the special features of their product. Also, consistent advertisement popularizes a product and builds up reputation and goodwill for the producers.[31]

For Consumers, an advertisement creates awareness of the advertised products and its offerings; it stimulates the consumer's desire for a variety of new products; provides protection against deception, because advertised products are held out as of good quality; it saves time, effort and money of the consumers in obtaining information about the product. By providing information about the relative merits of the various goods available in the market, advertising helps the consumer make informed purchase decision. Furthermore, prices of advertised goods are made known to the consumers, thereby preventing rip-offs at the point of purchase.[32] To the society, advertisements raise the standard of living of the people by stimulating their desire for a variety of new products; the information published in an advertisement helps members of the society to improve their knowledge. It also stabilizes national production, the price level of products and avoids or minimizes fluctuations in product prices.[33]

3. The Theories of Regulation and its Applicability in the Advertising Landscape for Consumer Protection

The following theories are directed at the need for regulating the practice of advertising and advertising messages, whilst offering a measure of security to consumers in the marketplace. The theories are; the Public Interest Theory, Paternalism Theory and the Free Market Theory.

---

influence, sway, actuate, impress, arouse, patronise, entice or attract a person, people or organisation by an identified sponsor irrespective of media, medium or platform".

[26] Masuma Eram, 'Importance and Efficacious of Advertisement' (2020) 7(2) JETIR 285, 291 <https://www.jetir.org> accessed 8 November 2025.

[27] Eram (n 26).

[28] Philip Kotler, *Marketing Management: Analysis, Planning Implementation and Control* (7th edn Prentice Hall, Illinois 1991) 123.

[29] Martin Bell and William Emery, 'The Faltering Marketing Concept' (1989) Journal of Marketing 24,31.

[30] John Fahy and David Jobber, *Foundations of Marketing* (5th edn McGraw Hill, Berkshire 2003) 26.

[31] Ayanwale, A. B., Alimi, T. & Ayanbimipe, M. A., 'The Influence of Advertising on Consumer Brand Preference' (2005) 10(1) JSS 9-16.

[32] George Fisk, 'Criteria for a Theory of Responsible Consumption' (1979) *JM* 24,30. Zain-Ul-Abideen and Salman Saleem, 'Effective Advertising and its Effect on Consumer Buying Behaviour' (2024) 3 (3) *EJBM* 17.

[33] Matthew Osimen Ighalo, 'The Changing Concept of Advertising and Promotional Technology' (2014) 5(1) J Communication 63, 67 <https://www. Krepublishers.com> accessed 9 November 2025.

Public Interest Theory

The theory posits that unregulated markets can lead to suboptimal outcomes, for example, information asymmetry, creation of needs where none existed, et cetera which causes market failures and impacts negatively on the welfare of the society as a whole. The Public Interest Theory when applied in the advertising industry, serves to protect and benefit the general welfare of the public-such as promoting public health, safety. The term ‘Public Interest’ has been used to justify democracy, authoritarianism, egalitarianism and government regulation to ameliorate identified market failures (Monopoly, information asymmetry and consumerism externalities).[34] Traditionally, the concept of ‘public interest’ justifies the argument that regulation seeks to protect and serve the public needs. Thus, the Public Interest theory of regulation stems from the school of thought that regulations need to be established to counter the conflict between private profit-making institutions and the general welfare of the society.[35] Decrees, Government policies, Acts and the various regulatory agencies were created to protect the interest and welfare of the public. However, the idea of public interest theory of regulation as a panacea to market failures has faced stern criticism. For example, Goran and Hagg explain that market mechanism offers alternative to deal with harmful economic effect, such as boycott of product. For Posner,[36] enforcing government regulation, though effective nonetheless it comes with transactional costs (that is, personnel, buildings, and so forth). In spite of the criticism, the public interest theory supplies the judiciary with the basis to resolve disputes which are of public benefit. Hence, in developing countries like Nigeria, government regulation has become an increasingly important factor in the economy.

Paternalism Theory

The Paternalism Theory although interferes with investor choice, always seeks to protect consumers when they suffer from ignorance, impairment or incompetence that affects rational decision-making such as the information asymmetry that exists between businesses and consumers. The Paternalistic Theory recognizes that people’s bounded rationality and bounded willpower consistently affect their ability to make sound, prudent decision-making. These psychological biases cause people unknowingly to make decisions that harm their own interests.[37] Furthermore, the Paternalistic theory reflects an ethic of care, concern and empathy for the person whose ill-judged choices will harm his own welfare. Thus, paternalistic rules that prevent investors from taking unwise actions may help to avoid such results. More so, society has an interest in restraining people’s actions when they adversely affect third parties. In this regard, the Paternalistic intervention is justified to prevent harm to others.[38]The Paternalism theory is subject to criticism. From a political point of view, paternalism is objectionable because it suggests that the politically elite and powerful are superior decision makers and therefore make paternalistic rules that the weak and impaired consumer must obey. Thus, for critics, markets should be allowed to operate freely without undue regulatory interference in the guise of protecting vulnerable consumers.[39]

Free Market Theory of Regulation

The Free Market Theory of Regulation posits that the ideal system involves minimal government intervention relying instead on self-regulation through supply and demand, and the government’s role should be limited to enforcing the ‘rules of the game’ such as protecting property rights, enforcing contracts and maintaining a stable legal framework. The markets should self-regulate itself as driven by the forces of demand and supply and transactions should be based on voluntary exchange between buyers and sellers where each party freely chooses to trade goods or services.[40] The Free-Market theory has been subject to criticism. For example, real world markets often have imperfections like monopoly, lack of disclosures that market alone cannot effectively solve, hence a need for government intervention.[41]

[34]Michael Hantke-Domas, ‘The Public Interest Theory of Regulation: Non-Existence or Misrepresentation?’ (2003) 75(2) European JLE 165, 194. Barry Bozeman, *Public Values and Public Interest: Counterbalancing Economic Individualism* (Washington DC, Georgetown University Press 2007).

[35] Peter Golding and Graham Murdock, Theories of Regulation in P. Golding and G. Murdock (Eds) The Political Economy of the Media (Edward Elgar Publishing, London 1997).

[36] Richard Allen Posner, ‘Theories of Economic Regulation’ (1974) 5(2) BJEMS 335, 338.

[37] Susanna Kim Ripken, ‘Legal Paternalism in the Securities Market: The Need for More (or Less) Paternalistic Regulation to protect investors’ (2018) <https://www.usbluesky.law.columbia.edu> accessed 19 November, 2025.

[38] Susanna Kim Ripken, ‘Paternalism and Securities Regulation’ (2015) 21 *SJLBF* 1.

[39] James R. Rogers, ‘Free Markets are Ruthless Regulators’ (November 6, 2000) <https://www.lawliberty.org> accessed 19 November, 2025.

[40] Richard A. Posner, ‘Theories of Economic Regulation’ (1974) <https://www.nber.org> accessed 21 November 2025.

[41] Robert J. Shriller, ‘Faith in an Unregulated Free Market? Don’t Fall for it (October 9, 2015) <https://www.nytimes.com> accessed 20 November 2025.

4. The Legal Framework Regulating Advertising in Nigeria

Before the ARCON Act

Prior to the passing of the Advertising Regulatory Council of Nigeria (ARCON) Act, 2022 (the 'ARCON Act'), the Advertising Practitioners (Registration etc.) Act 1988 (the 'APCON Act') was Nigeria's foremost advertising law. The APCON Act established the Advertising Practitioners Council of Nigeria (APCON) as the advertising regulator. The scope of APCON's regulatory powers as well as the applicability of the APCON Act and its accompanying regulations was largely limited to advertising practitioners.[42] This position was strengthened by the decision of the Court of Appeal in *MIC Royal Limited v. APCON*[43]reinforcing its earlier decision in *APCON v. The Registered Trustees of International Covenant Ministerial Council & Ors.*[44] In *MIC Royal*, the court considered the applicability of the APCON Act and the Nigerian Code of Advertising Practice & Sales Promotion (the 'APCON Code') to persons / companies that are not advertising practitioners. The Court held that the APCON Act applied only to advertising practitioners, that is, persons who are registered with the APCON as advertising practitioners. The implication of the judgement was that APCON could only regulate advertising practitioners and by extension, their practice of advertising, and as such, not all advertising businesses were subject to the regulatory purview of vetting and approvals of the APCON, although they remained subject to the various sector specific guidelines and state laws on advertising including the Federal Competition and Consumer Protection Act (FCCPA). It was on this premise that the need arose to amend or enact a law to effectively bring all advertising businesses under the regulatory purview of one body.[45]

The New Act - The Advertising Regulatory Council of Nigeria Act, 2022 (ARCON Act)

The ARCON Act establishes a framework for regulating all forms of advertising in Nigeria, encompassing traditional mediums like print and television to the ever-evolving digital advertising space. The Act serves as the cornerstone for regulating advertising practices within the Nigerian market. Under the Act, an advertisement is defined to mean 'a notice, announcement, exposure, publication, broadcast, statement, announcorial, infomercial, commercial, hype, display, town cry, show, event, logo, payoff or trademark to promote, advocate, solicit, showcase, endorse, vote or support a product, service, cause, idea, person or organisation to influence, sway, actuate, impress, arouse, patronise, entice or attract a person, people or organisation by an identified sponsor irrespective of media, medium or platform'.[46] Also, the Act empowers ARCON to oversee and control all forms of advertising, advertisements, and marketing communications directed at or exposed to the Nigerian audience.[47]This includes traditional media channels like television, radio, print publications, as well as digital advertising on social media platforms and online platforms.[48]The Act grants ARCON comprehensive regulatory authority over all facets of advertising and communications aimed at the Nigerian market.[49]

The Federal High Court reaffirmed the powers of the Advertising Regulatory Council of Nigeria as contained in the ARCON Act to regulate all forms of advertising including those on social media and by private individuals, not just registered practitioners in *Digi Bay Limited (trading under the name and style of Betway Nigeria), Super Group Limited, and Otunba Kunle Olamuyiwa v. The Attorney General of the Federation and Advertising Registration Council of Nigeria (ARCON),*[50] the Plaintiffs sought a judicial determination of ARCON's powers, especially as it relates to advertising content published on digital platforms and by individuals not registered as advertising practitioners. The Court held that ARCON possesses the statutory authority to regulate all forms of advertising, regardless of the platform on which they appear. The judgment stated unequivocally that ARCON's regulatory mandate extends beyond registered advertising agencies to include private individuals who engage in advertising activities. The judge emphasised that the determining factor is the nature of the activity, which is advertising, not the status of the individual or entity as a practitioner or non-practitioner.

---

[42] Faruk Abbas, 'The Powers of the Advertising Regulatory Council of Nigeria to Regulate Social Media Posts: A Review of the Federal High Court's Decision in Digi Bay Limited & 2 Others-v-Attorney General of the Federation & Anor (Unreported Suit No. FHC/L/CS/1262/2024, judgement delivered on 29 April 2025)' (18 December 2025) <https://www.abdu-salaamabbasandco.com> accessed 18 December 2025.
[43] (2018) LCN/11854(CA)
[44] (2010) LPELR (CA) 3630
[45]Ijeoma Uju and Others, 'Advertising in Nigeria: A Synopsis of Recent Regulatory Developments' (2022) <https://www.templars-law.com> accessed 10 November 2025.
[46] ARCON Act 2022, section 63.
[47] ARCON Act 2022, section 1(d)
[48] ARCON Act 2022, section 2
[49] ARCON Act 2022, section 8
[50]'Unreported Suit No. FHC/L/CS/1262/2024, judgement delivered on 29 April 2025' (18 December 2025) <https://www.abdu-salaamabbasandco.com> accessed 18 December 2025.

Accordingly, the regulatory objective of the ARCON Act is geared towards creating a comprehensive legal framework that is wide enough to bring all forms of Advertising businesses and channels under the regulatory umbrella of Nigeria's Advertising regulator – the Advertising Regulatory Council of Nigeria (ARCON). The implication of the judgement is that businesses, skit makers or content creators, influencer marketers who advertise products online and offline are required to submit their advertisement materials to ARCON for vetting before release. The Act prioritizes ethical advertising practices and consumer protection, ensuring a level playing field for all.

By section 34(3) of the ARCON Act, it is an offense for any person involved in the advertising process, from advertisers and agencies to media houses to expose any material that has not been 'vetted and approved' by the Advertising Standards Panel (ASP) established under the Act. To Elias *et al,*[51] the ARCON Act introduces significant changes to the practice and regulation of advertising, such as the requirement for mandatory permits for media advertisements as well as pre-publication approvals for social media ads targeting Nigerian audiences. These regulatory functions are executed through ARCON's statutory bodies, such as the Advertising Standards Panel (ASP). The ARCON also provides a comprehensive code of conduct that sets ethical standards required in advertising, to wit; all advertising must be decent, honest, truthful, and maintain respect for the Nigerian culture. Also, all advertisements must be prepared responsibly, must not exploit sex or promote harmful myths or supernatural beliefs, must ensure that all endorsements are accurate.[52]

The pre-vetting process acts as a safeguard, ensuring advertisements comply with ARCON's Advertising Code of Practice and other regulations. It also shields consumers from misleading, offensive, or harmful advertising content; promotes fair, honest, and truthful advertising practices, and safeguards the reputation of the advertising industry in Nigeria.[53] Section 54 of the ARCON Act outlines potential penalties for various offenses, to wit; fines, imprisonment, seizure of materials and public sanction. Thus, ignoring or overreaching the pre-vetting requirement can hold significant repercussions for those involved.

5. Criticism of the Advertising Registration Council of Nigeria Act 2022

The ARCON Act has been criticized for regulating the private posts or social media posts of businesses. For example, in *Betway v ARCON*,[54] Betway commenced action against ARCON requesting the Federal High Court to declare the provisions of the ARCON Act, particularly section 54 of the Act unconstitutional for seeking to regulate the private posts or social media posts of Betway. Section 54 of the Act provides thus; 'any person including a sponsor or beneficiary of an advertisement, body corporate, organisation or agency which creates or places for publication or exposure of an advertisement in any medium directed at or targeting the Nigerian Market without the prior approval of Standards Panel commits an offence and is liable to such fine as stated in the Nigerian Code of Advertising Practice.' While the Court held that ARCON had the power to regulate social media posts because it has a duty to protect Nigerian citizens from unregulated and 'potentially dangerous commercial messaging', however, ARCON lacked the power to impose a fine on the Claimant for breaching the provisions of the ARCON Act because an award of a fine was a judicial act, which could only be imposed by a competent court or a tribunal upon conviction. The Court declared the fine as unconstitutional and void. To the Meditteranean Practice, the Court's ruling that ARCON cannot directly impose a fine is a crucial check on the agency's power as it upholds the principle of the separation of powers and ensures that the power to levy, remains with a court of competent jurisdiction or a specially constituted tribunal.

The Unprecise Definition of a 'Private Post' and a 'Public Post': The Federal High Court's attempt to distinguish between 'Private' and 'Public' social media posts is unclear. The Court's judgement suggests that a social media post is public if it is not set to private, allowing anyone (including ARCON) to view it. However, for the Mediterranean Practice,[55] a post can be viewable by the public, but its content and intent may not be commercial, or promotional. Hence, a more robust legal definition is needed to differentiate between genuine commercial advertising and personal, non-commercial content, regardless of the user's privacy setting as the Court's definition risks over-regulation of non-commercial content.

[51] Elias, G., Jikenghan, E., & Nkwor, L. 'Advertising Law: 2022 Federal Legislation and Social Media' (2023) SSRN Electronic Journal <https://doi.org/10.2139/ssrn.4431940> accessed 10 December 2025.
[52] Chudi, N. F. & Osakwe, S. O., 'Impact of Advertising Ethics and Regulations in Nigeria' (2020) 1 (1) IJASS.
[53] Nwosu, I. 'Regulatory issues in Nigerian online advertising' (2020) 3(1) JMAR 8-10.
[54] The Mediterranean Practice, Advertising Regulatory Council of Nigeria) (ARCON) Act and the Digital Age: Analyzing a Landmark Judgement on Social Media Advertising (2025) <https://www.themediterraneanpracticepractice.com> accessed 10 December 2025.
[55] The Mediterranean Practice (n 54).

The Unconstitutionality of some provisions of the ARCON Act 2022: The Nigerian Constitution guarantees freedom of expression, to hold opinions and to receive and impart ideas and information without interference,[56] and these includes the right to advertise. However, this right is not absolute and can be restricted by laws that are necessary in a democratic society – for instance, to protect public order, morality, or the rights and freedoms of others. The ARCON Act arguably falls under these justifications, aiming to protect consumers from misleading or harmful advertising and promote a healthy advertising environment. However, ARCON's regulation of social media posts (public and private posts) has been regarded as infringing, as users are unable to be creative with their social media post. In *Realhouse Communications Limited v. the Advertising Regulatory Council of Nigeria (ARCON),*[57] *the* Plaintiffs, publishers of Castles Lifestyle and Highbrow Living magazines, seeks the enforcement of its fundamental human rights, arguing that certain provisions of the ARCON Act 2022, violate its constitutional rights to fair hearing and freedom of expression. The Applicant sought the following relief : a) A declaration that sections 37 and 54 of the ARCON Act, 2022, violates its constitutional rights and are therefore null and void; b) A declaration that the company is not bound by Section 54 of the Act which criminalises the publication of advertisements targeting the Nigerian market without prior vetting and approval by the Advertising Standards Panel, as it directly undermines the freedom of expression and press guaranteed to it under Nigerian law; c) A declaration that the imposition of the N500,000 fine amounts to a denial of fair hearing; d) An order compelling ARCON to issue a public apology for the alleged harassment and embarrassment; e) An order of perpetual injunction restraining ARCON from further interference with its business or issuing violation notices to its clients; f) An award of N50 million as general damages.' In its originating summons, which emanates from a series of violation notices and fines issued by ARCON to Realhouse Communications and, notably, to some of its clients who advertise in the magazine, Realhouse Communications is challenging Sections 37 and 54 of the ARCON Act, 2022, which it contends empower ARCON to impose sanctions and fines on media and advertising practitioners without due process and seeks the court to declare those sections null, void, and unconstitutional. According to the Applicant, ARCON's conduct, particularly the imposition of fines without trial or hearing, amounts to a gross infringement of its constitutional right to fair hearing as guaranteed under Section 36 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

The Applicant further alleges that ARCON's regulatory clampdown which it had extended to its clients, is jeopardising its reputation and business relationships. Exhibits attached to the court documents include violation notices sent to property firms such as Terra Developers, Megamound Investment Limited, and Urag Real Estate, each demanding a fine of N1 million per violation for publishing 'unapproved advertisements' in Castles Lifestyle and Highbrow Living. The notices cited Section 54 of the ARCON Act as justification and required immediate payment within seven days, threatening further sanctions for non-compliance. Realhouse Communications argued that such actions have shaken the confidence of its advertisers and could cripple its operations if not restrained. The company maintained that the ARCON Act, 2022, as presently enforced, gives the regulatory agency sweeping powers that contradict the spirit of the Nigerian Constitution, particularly concerning press freedom and administrative justice.[58]

Administrative Bottlenecks: With high numbers of advertisements being launched daily by businesses and influencers, can ARCON realistically vet all ads within the allotted time as delays can stifle innovation and growth especially among Small and Medium Enterprises (SMEs) and startups relying on real time promotions? More so, these SMEs and start-ups may not be financially buoyant to request an emergency meeting for the vetting of their advertisement materials before publication.[59] Lanre, recognised that ARCON is contending with the realities of today's fast-paced industry, noted that the current vetting system is not agile enough for the pace of digital marketing and delays in approvals can lead to missed campaign windows, affecting client trust and return on investment.[60]Hence, the need for a more pragmatic method of vetting and issuance of approvals to businesses is required.

A call for the repeal of some sections of the ARCON Act, particularly section 54: Section 54 of the ARCON Act mandates prior approval from the Advertising Standards Panel for all advertisements of products and services across all media.[61]Section 54 of the ARCON Act serves to safeguard consumers from false and misleading

---

[56] The 1999 Constitution of the Federal Republic of Nigeria, section 39

[57]Francis Iwuchukwu, 'ARCON faces N50m damages suit over alleged violation' (October 5, 2025) <https://www.tribuneonlineng.com> accessed 19 December 2025.

[58] Iwuchukwu (n 57).

[59] Ojo, A. & Hassan, R. 'Young Creatives and advertising regulation in Nigeria: Perception and practice' (2022) 14 (2) *JMS* 62-78.

[60]Daniel Obi, 'Over 300 firms charged for alleged contravention of advertising laws' (June 23, 2025) <https://www.businessday.ng> accessed 9 November 2025.

[61] Quite interestingly, section 54 of the ARCON Act, 2022 was part of the repealed APCON Act.

advertisements[62] and maintain advertising integrity. In the United Kingdom, the Advertising Standards Authority (ASA) enforces strict guidelines on advertisements ensuring that all claims are truthful, legal, and not misleading. In China, the Advertising Law requires that all claims made in an advertisement are truthful, legal, mindful of its culture and not misleading. The State Administrator Market Regulator (SAMR) further requires that its Certificate of Approval be published alongside the advertisement. Thus, although ARCON's policies are aligned with international best practices, designed to protect consumers and ensure ethical advertising, advertisers, businesses view the provision as stifling and aimed at frustrating creative innovation owing to ARCON's inadequate technological and manpower infrastructure. [63]

6. ARCON's Reaction

In spite of the criticisms, the Advertising Regulatory Council of Nigeria (ARCON) revealed that over 300 firms have been charged by the Advertising Offences Tribunal (AOT) for contravening various sections of the advertising laws.[64] According to Odenigbo, a lot of companies have been charged and summoned to appear before the Advertising Offences Tribunal and a lot of bench warrants have been issued against those who have not appeared. The high number of alleged offenders may underscore the lack of awareness about advertising laws. However, 'Compliance and adherence are mandatory at all times'. Those who practice without being licensed, without being registered, companies that engage in advertising without being licensed by ARCON, members of the public that engage in any form of advertising without getting materials for vetting and approval, will be penalised under the law. Hence, he advises individuals and corporate organisations to be abreast of the law, as a violation of the provisions of the Act attracts penalties, for example, the practice of advertising without registration and non-vetting of advertisements before publication, range from ₦500,000 or imprisonment for individuals and a minimum of ₦ 1, 000,000 against a body corporate. In the same vein, Fadolapo,[65]insists that both traditional and social media advertising targeted at the Nigerian audience must comply with advertising regulatory rules to ensure sanity in the system.

7. ARCON's Mode of Operation

Before any advertisement is published or aired in Nigeria, an advertiser must obtain a Certificate of Approval to advertise from ARCON.[66] The Certificate of Approval is a mandatory pre-exposure clearance for all advertisements. The goal of this process is to ensure that advertisements comply with ethical standards (advertisements are truthful, decent et cetera), are not misleading and do not offend public decency. The advertisement requirement approval applies to: a) Traditional Media (Television, radio, newspapers, magazines); b) Outdoor Media (Billboards, Banners, Vehicular branding); c) Digital and social media (Websites, social platforms, influencer content). One of the fundamental principles enshrined in the ARCON Act is the mandatory registration requirement, which encompasses advertisers, agencies, and media operators. The procedure for obtaining the ARCON's Certificate of Approval include;

1. *The Submission of Applicant's document to the Director-General of ARCON at the registered address*: This entails that the Applicant must
   a. Submit a formal application letter addressed to the Director-General of the ARCON, stating the request, for example, vetting of advertisement.
   b. Submit a completed Standard's Panel Form 001. The form must be completed and signed by a registered advertising practitioner, including their registration number.
   c. Submit a letter from the advertiser authorizing the agency or organization to apply for vetting on their behalf.
   d. Submit a copy of the exact concept or version of advertisement material (physical or digital) to be advertised (television, radio, print, outdoor, digital etcetera).
   e. Submit evidence of regulatory approvals for products like food, beverages, or drugs *et cetera* from relevant agencies must be attached to the application.
   f. Submit any additional supporting document required by ARCON for the specific category of advertisement must be attached to the application.
2. *Payment of vetting fees*: The vetting fees receipt is to be attached to the Applicant's application document.
3. *Vetting by Standards Panel*: The ARCON Standards Panel (ASP) meets once every month to evaluate submitted advertisement materials for compliance with its Code of Advertising. If urgent approval is

[62] Section 54 of the ARCON Act, 2022 serves to protect consumers from the imbalance of power – knowledge, information and negotiating skills about a product's functionality, amongst others that exists between businesses and consumers.
[63] Chudi, N. F., & Osakwe, S. O., 'Impact of Advertising Ethics and Regulations in Nigeria' (2020) 1(1) *IJASS* 25-33.
[64]Daniel Obi, 'Over 300 firms charged for alleged contravention of advertising laws' (June 23, 2025) <https://www.businessday.ng> accessed 9 November 2025.
[65] Lekan Fadolapo, Director General of the Advertising Regulatory Council of Nigeria
[66] Advertising Regulatory Council of Nigeria Act 2022, section 54

required, applicants may request accelerated vetting by taking responsibility for the emergency meeting and paying the applicable fees.

4. *Review and Assessment*: The ASP evaluates the advertisement material submitted for compliance with regulatory and ethical standards, including: truthfulness and substantiation of claims (no misleading claims or spurious testimonials); avoidance of offensive, indecent or exploitative content; avoidance of exaggerations and superlatives, unauthorized use of trademarks or personalities; compliance with Sector-Specific Regulations (for example, food, drugs *et cetera*); and appropriateness for the intended audience.
5. *Issuance of Certificate of Approval*: If the advertisement meets all requirements and comply with regulatory and ethical standards, ARCON issues a Certificate of Approval to advertise. The Certificate of Approval must be signed and stamped by the Director-General. The certificate must be attached to all media orders and retained as proof of compliance.
6. *Appeal Process*: If an application is denied or advertisement refused, the applicant may appeal to the ARCON governing Council through the Director-General stating the grounds of appeal.[67]

Thus, ARCON's registration requirement transcends mere administrative formalities, assuming the critical role of ensuring adherence to a professional code of conduct within the industry. The registration process serves to uphold the industry's integrity and forestall unlicensed or unethical operators from exploiting the system or deceiving consumers. It also aligns with ARCON's objective of protecting the general public and consumers from harmful or misleading advertisements, the promotion of local content, and the entrenchment of international best practices within the Nigerian advertising space, thereto promoting fair competition and encouraging both local and foreign investments in the advertising industry, but also digital advertising and social media, ensuring comprehensive control in the evolving industry.[68]

8. ARCON's Compliance Mechanism

With the need to strike a balance between creative freedom and legal responsibility, ARCON monitors compliance with its approval and may investigate and issue withdrawal notices, recommend legal actions and sanction violations through the Advertising Offences Tribunal (AOT).[69] The Advertising Offences Tribunal is set-up to tackle issues in the industry like gaps in jurisdiction, lengthy legal battles, and a lack of specialized knowledge in resolving disputes related to advertising. According to Kehinde,[70] the tribunal has played a key role in enhancing the culture of compliance, encouraging fair competition and discouraging misleading advertisements that could negatively impact consumers. Furthermore, the ARCON Act criminalizes the practice of advertising or marketing communications by unregistered individuals or organizations.[71] Hence anyone who engages in advertising activities without being registered under the Act commits an offence. The penalties for first time offenders (Individuals) include fines up to ₦500,000.00 or six months imprisonment, while organisations can be fined at least ₦1,000,000.00. Repeat offences carry harsher penalties.[72] Unregistered individuals or entities are also prohibited from recovering any remuneration through legal proceedings for advertising services performed. ARCON also holds accountable any corporate bodies or their officers (directors, managers, et cetera) if offences are committed due to their neglect or connivance, ensuring that the law is enforced at both individual and organizational level.[73] More so, the ARCON collaborates with other stakeholders like the Nigerian Bar Association (NBA), to deepen its commitment to protecting the public interest and consumers. ARCON is also empowered to initiate legal proceedings, impose administrative penalties, or suspend advertising campaigns that breach its rules and vetting guidelines. It can also blacklist agencies or advertisers that repeatedly violate its code or operate without proper authorization.[74]

9. Conclusion and Recommendations

The ARCON Act, 2022 represents a significant shift in the Nigeria advertising landscape. The Act strikes a balance between prioritizing consumer's welfare and fostering a thriving advertising industry in Nigeria. By adhering to the pre-vetting requirement as provided in section 54 of the ARCON Act and the broader regulatory

---

[67] Oyetola M. Atoyebi and Betseabasi Asuquo, 'An Assessment of Registration Requirements Under the ARCON Act 2022' (November 7 2024) <https: www.//www.omaplex.com.ng> accessed 18 December 2025.
[68] Atoyebi and Asuquo (n 67).
[69] Advertising Regulatory Council of Nigeria Act 2022, section 37.
[70] Akinlolu Kehinde, SAN in his Keynote Address in an ARCON- NBA Town- Hall Stakeholders' Forum held in Ikeja, Lagos by Tunji Faleye, 'ARCON, NBA partner to boost ethics, compliance in Nigeria's Ad sector' (October 15, 2025) <https://www.mediaconsurtiumng.com> accessed 16 December 2025.
[71] Advertising Regulatory Council of Nigeria, section 32.
[72] *Ibid.*
[73] Advertising Regulatory Council of Nigeria, section 33.
[74] Kingsley Ani, 'Navigating Nigerian Advertising Laws: What Foreign Companies Must Know About ARCON Compliance' (2025) <https://www. Kabbizlegal.com> accessed 16 December 2025.

framework, advertisers can achieve their marketing goals while ensuring compliance with the law and protecting consumer interests. Thus, while the pre-vetting requirement may seem like an additional hurdle, it ultimately benefits consumers, businesses and society by promoting responsible advertising practices and fostering a more level playing field. By understanding the intricacies of the Act and adopting a culture of responsible advertising, businesses can ensure their marketing efforts are effective, compliant, and contribute to a thriving advertising environment in Nigeria.

In light of the above, it is recommended as follows: ARCON should invest in digital technologies that will aid and/or ensure proactive monitoring of all online and offline platforms (social media, online) for non-compliant advertisements in real-time and to ensure the removal of non-compliant content as well as foster stronger partnerships with media platforms. In the same vein, employ technology for faster vetting of submitted advertisement materials and monitoring to keep pace with digital advertising. This will reduce delays in approval of applications for publication of advertisements and encourage innovation and creativity.[75] ARCON must ensure the strict adherence of its provisions as contained in the ARCON Act, particularly section 54 of the Act which requires the pre-vetting by ARCON of all advertisement materials and obtain a certificate of approval for all advertisements with clear identification codes on approved materials. In the same vein, impose significant fines and disciplinary actions on media houses, agencies, and advertisers who bypass the vetting process. To this end, ARCON can partner with other regulatory bodies like the Nigerian Broadcasting Commission, National Agency for Food and Drug Administration and Control (NAFDAC) and the Standard Organisation n of Nigeria (SON) to implement policies and enforce standards.[76] There should be organization of regular training. It is the responsibility of ARCON to host workshops, seminars and training sessions for advertising practitioners, placing emphasis on the regulations, educating on best practices for consumer welfare, and the use of compliance technology as ultimately, education is power.[77] There is necessity for empowerment of consumers. It is ARCON's responsibility to host public awareness campaigns to educate consumers about their rights, how to spot misleading or harmful advertisements, and how to report deceptive practices to ARCON as education is a consumer's basic right and a source of power.[78]

[75] Ayomikunle Daramola, 'ARCON threatens sanctions over 'unauthorised' AI advert featuring Tinibu' (September 23, 2025) <https://www.thecable.ng> accessed 28 December, 2025.

[76] Saheed Akinola, 'ARCON Act Section 54: A new threat to business growth in Nigeria' (October 23, 2024) <https://www.thenationonlineng.net> accessed 28 December, 2025.

[77] Nkoyo A. Thomas and Ekaobong A. Thomas, 'Administrative Intelligence (AI) and Administrators' Job Productivity in Public Secondary Schools in North East Education District Akwa Ibom State, Nigeria. (2025) 16 (1) *AJERD*. Nkoyo A. Thomas and Ekaobong A. Thomas, 'Kakistocracy and Administrators' Professional Development in the 21st Century in Secondary Schools in North West Senatorial District, Akwa Ibom State, Nigeria' (2025) 1(1) *AKSUIJRE*.

[78] Ekaobong Akan Thomas and Amanim Ndisa Akpabio, 'Interrogating the Legal Landscape of Influencer Marketing and Consumer Rights in Nigeria' (2025) 4(3) *IJHRLR Law Journal* 417,443. Udo Moffat, Nkoyo Thomas and Felicia Umanah, 'Media Devices and Student's Academic Achievements in Biology among Educational Secondary Schools in Eket Local Government Area, Akwa Ibom State, Nigeria' (2023) 14 (2) *Journal of Research in Education and Society* 71-79.