



Socio-cultural Inhibitions to Consumer Protection Laws in Northwestern Nigeria: A Case Study on Sokoto Metropolis

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ABSTRACT

Consumer protection is a matter of national, regional and global concern. This is because one of the functions of any state is protecting the citizens against consumption of substandard product or patronizing unsatisfactory services. However, government effort in this regard is inhibited by a number of factors that vary from one jurisdiction to another. Consequently this paper focuses primarily on Sokoto metropolis in the north western geo-political zone of Nigeria. This is with a view to examining some of the inhibition factors prevalent in the area and proper suggestions on how to arrest the situation for the interest of all.

Keywords: Consumer, Inhibition, suggestions, Sokoto.

1.0 INTRODUCTION

The thrust of this paper is a critical examination of some socio-cultural factors that constitute Inhibition to the realization of the goals that consumer protection is set to achieve. In so doing the paper highlights on local and foreign legal instruments on consumer protections. There after examine the level of enforceability vis-à-vis the consumer's initiative.

Thereafter, the paper proper some suggestions as a humble contribution towards increased awareness and proper understanding with a view to improving the level of consumer protection among the inhabitant of Sokoto metropolis. Consequently, the paper is structured as follows:

Part (1) General Introduction which spells out the direction/focus of the paper. Part (2) speaks of some key concepts that are central to the paper. Part (3) discusses history and rationale behind consumer protection generally. Part (4) Focuses on the inhibition factors and grouped them as appropriate. Part (5) Marks the concluding part of the paper, consequently it comprises of findings, recommendations and conclusion.

2.0 Conceptual Clarification

At this juncture, concepts that are key and central to the paper are highlighted as follows:

2.1 Who is a Consumer?

A consumer, like many other concepts in various discipline cannot be defined in a single and universally accepted definition due to a number of reasons. Consequently, the paper restrict itself to only two (2) statutory definitions and an attempted definition by the author as follows:

The Nigerian Legislation: A consumer is defined as any individual who purchases, uses, maintains or disposes a product or services.

Indian Legislation: a consumer has been defined as:

- Any Person who buys goods for consideration any person who uses goods with approval of the purchaser.
- Any person who hires any services for consideration or any beneficiaries of such services provided the service is availed with the approval of the person who has lived the services for a consideration.

However, this paper is of the view that a consumer simply means any person (natural or juristic) who purchases goods or services for his personal use.

2.2 What is Consumer Protection?

Consumer protection is about the provision of appropriate and effective mechanism to protect the pecuniary, health, safety and security interest of all legal persons against misleading, fraudulent and harmful business practices including manufacturing, trading, packaging advertising, distributing and selling of products and services to ultimate consumer. Consumer protection has further been elaborated to mean not only the liability of the manufacturers/producers of goods and services but also retailers, distributors and other suppliers of goods and services to persons who use or consume them. It follows from the above that consumer protection also means legislative instruments and regulatory enforcement mechanisms that are put in place by the state for the purpose of protecting consumers against some fraudulent and other shady business practices associated with day to day transactions. The protection usually comes into effect in two different ways:

- (a) Ensuring that consumers at market places get good value for their money i.e. they are supplied with products that conforms to the quality and description made to them by the suppliers and also fit for the purpose.
- (b) Provision of expedient and inexpensive process with a view to compensating the aggrieved consumer who suffers financial or health injury consequential to the defects in quality or quantity or hazardous nature of the goods he purchased.

2.3 Sokoto State

Sokoto the seat of the caliphate is one of the federated units that formed the Nigerian entity as its today. The constitution provides thus Nigeria shall be a federation consisting of states and the Federal Capital Territory. The constitution further clarifies the number of states as follows:

There shall be thirty-six states (Sokoto inclusive) in Nigeria they are listed under Section 3(1) of the constitution of the federal republic of Nigeria 1999(as amended).

3.0 The Rationale behind consumer protection

In consumer transaction unfair practices are widespread. The existing law is still founded on the principle of “Caveat emptor” (The buyers beware) that principle may have been appropriate for transactions conducted in village markets. It has ceased to be appropriate as a general rule. Now the marketing of goods and services is conducted on an organized basis and by trained business executives. The untrained consumer is no March for the businessman who attempts to persuade the consumer to buy goods or services on terms and conditions suitable to the vendor. The consumer needs protection by law. Another reason why consumer needs protection is the vulnerability of the Nigerian consumer resulting essentially from the inequality of bargaining power between himself and the producer or supplier of the goods or services he wishes to buy or use calls for maximum consideration and protection.

The producer, supplier companies and businesses with their skilled technocrats and superior expertise in their production and marketing process often manipulate demand and supply and shoot up the prices to the detriment of Nigerian consumers. Even for the literate, the general lack of information prevalent in trade practices that diminish the consumers’ ability to make any prudent decision is a contributory factor. In any transaction, therefore, a consumer appears to hold his own and to be his own best guide and judge. Note that in the past, business transactions were conducted on interpersonal contact between the producer and the consumer. Thus, disputes could easily be resolved. Again, the goods by then were not as complex as products of today’s technological advancement. However, today the producers and consumers are thousands of kilometers apart and personal contact is replaced by middle men and E-interactions in some cases. Furthermore, the goods are complex and alien consequently, settlement of disputes as a result is more compounded. Thus, Duro Ja’iye stresses that Nigerian consumers need protection against the sale of substandard goods such as automobile parts and expired drugs are imported into Nigeria from countries such as Taiwan and Europe are sold to importers and passed to unsuspecting consumers (in Nigeria).

In the light of the two assertion above and the potentiality of the financial and health injuries that may crop up as a result, the state must come to the aid helpless consumers by putting in place adequate mechanisms of speedy and inexpensive procedures at his disposal.

3.1 Historical Evolution of Consumer Protection

Consumer protection has passed through different stages of development before ripping to its present stage. This paper has therefore classified the stages into two distinct periods as follows:

3.1.a Consumer Protection from 1962

A historical land mark on consumer protection was recorded in 1962 through the presentation of the bill to the congress by the then U.S president J.F Kennedy. The bill identified four rights which each consumer must enjoy. The rights are: The right to safety, the right to be informed, the right to choose and the right to be heard. Similarly, in 1975, Richard Nixon (another U.S president proposed on additional right i.e. the right to consumer education). Likewise, Gerald Ford came up with the right to redress. Finally, Anwer Fazal, president of international organization of consumer union (1978-84) proposed two different rights to consumer namely: The right to basic need and the right to healthy environment thereby making the total number of rights of the consumer eight. A point of interest as per this paper is that the eight classes of rights listed above are equally embodied on pages 12 and 13 of a Document produced by the consumer protection council of Nigeria. This serves as a pointer that consumer protection is a matter of global concern.

3.1.b Consumer Protection in Pre 1962

Prior to 1962 a consumer was not mentioned by name, yet there were some enactments in place for dis-protection. The enactments are found under different branches of private law which are briefly highlighted below.

Commercial Law Provision:

The English sale of goods act provides: A seller of any commodity is under a duty imposed by law to:

- Supply goods in the right quantity
Where the seller delivers to the buyer a quantity of goods less than he contracted the buyer may reject them.
- Supply of goods of the right quality

The above provisions were corroborated by a bill known as the sale and supply of goods Act which was passed in 1994. The Act laid down three primary terms under section 13, section 14 (2) and section 15 (3). The combine effect of these sections is to give buyers substantial degree of protection against the risk of goods proving to have defects of quantity or fitness for the purpose. In whatever way constructed, the buyer in this context equals to the consumers as referred to under the 1962 and other relevant provisions that follow.

- Law of contract Provisions

The law of contract was traditionally concerned only with existence of and the simple regulation of bargains made between individuals, during that period the Maxim Caveat Emptor (let the buyer beware) was influential throughout the law. However, in the twentieth century, there was a great increase in spending power, consumer groups began to emerge and press for fairer treatment and protection. Consequently, consumer protection becomes a significant area of law in its own right, and the area as whole must be seen to include both Tort and Criminal Law.

- Law of Tort Provisions

The Law of Tort is one of the branches of Private Law and its primary concern is that situation under which the conduct of one party causes or threatens to harm the interest of other parties. Accordingly, the aim of the Law of Tort is to define the obligations imposed on one member of the society (seller or service provider) to his or her fellow, (consumer/ buyer) and to adjust once it is decided that some adjustment are to be made. The adjustment is made by providing compensation for the harm suffered by those (consumers) whose interests have been invaded consequential to the conduct of others.

4.0 Inhibition Factors

The factors that constitute inhibition to the appreciable realization of the goals of consumer protection can be grouped into 2 classes as follows:

- i) Socio cultural
- ii) Inadequacies in regulatory and enforcement mechanisms.

4.1 Socio cultural inhibition factors

Some of these factors are peculiar to consumers, other are peculiar to suppliers or service providers with possibility of overlapping in both cases.

Consumers are the principal actors and at the same time they are the victims in whose protection governments not only in Nigeria but the World over are committing human and material resources. However, sometimes the consumers contribute to their woes owing to a number of factors some of which are:

4.1a Lack of Consumer Education

In today's business transaction, consumer education is necessary, because one needs full information about the nature and the characteristics of the goods, he is buying in order to avoid unintended injuries consequential to using such goods. According to Igweke, the Nigerian consuming public is largely semilliterate or uninformed, some of the producers and suppliers capitalize and take advantage of that. Consequently, the Nigerian consumer does not get good value for his money and more importantly he is exposed to personal injury, loss or damage arising from the use or consumption of such product.

Igweke is speaking of his environment i.e. Southern part of Nigeria where the white man spent some years before moving to the hinterland. This development created a gap in terms of Western education to the advantage of the Southerners, and yet they lack the basic consumer education. So, one can imagine what the situation looks like in the Northwestern political zone.

4.1b Religious Misconception

This is a factor that plays a significant role on the attitude of consumers in the area covered by the study. A survey conducted preparatory to writing this paper revealed that semi perished tomatoes (*Gwalagwaji*) and other vegetables are freely and willingly purchased at "Ramin Kura market" in Sokoto metropolis. Worse than all this is that some animals that are apparently unfit for human consumption are cornered by some unscrupulous meat suppliers out of the public vicinity slaughtered and then offered for sale to teaming and specialized consumers. When cautioned about the impending risk from consuming such meat, some consumers usually respond as follows "we are true believers and nothing will happen to us except what Allah destined for us". They are apparently referring to the following verse of the Holy Qur'an "Say nothing can befall us except what God has ordained for us, he is our supreme Lord, in God let the faithful put their trust". However, some scholars warned that believers must draw a demarcation between destiny (*Qaddara*) and negligence. In the former case, a person must first of all take the necessary possible precautionary measures before submitting to destiny, otherwise it is negligence for which one should blame nobody but himself. This very juristic opinion is also based on a Qur'anic verse which reads "Spend for God's cause do not cast yourselves into destruction by your own hands".

4.2a Suppliers and Service Providers

The relationship between suppliers and their clients (consumers) is purely contractual. Therefore, they are the principal actors in the entire process. Both suppliers and service providers have a common platform which is exploiting the consumer. They are in most cases motivated by the following:

4.2b Get Rich Quick Syndrome

Some Nigerians businessmen are always in a haste to get rich quicker than usual. As a result, some of them e.g. cement sellers, they developed a system by which they exploit their consumers in the following ways:

(bi) *Rebage* (Re-bagging), under this arrangement, cement from the company are emptied and then rebagged in such a way that every ten bags will now be at least thirteen bags. It is then sold to an unpolished consumer at the price of an untampered bag. In the process, they make unjustified profit.

(bii) *Sambage* (i.e. not tampered) here they may tamper with it in quality only i.e. They empty the bags mix it with other substances, thereby presenting the bags as full as bagged in the company. Sell at higher price than rebadge. In both situations the consumer is exploited.

Sharp and unholy business practices are also common at grains and other products market.

4.2.c Disregarding some tenants of their religion

The inhabitants of Sokoto metropolis are mostly Muslims. The Holy Qur'an which is the main source of Islamic legislation and other teachings warns the adherents against the exploitation of man by man not only in business transaction but in all other dealings. Consider the following:

Woe to those who give short measures, who demand of other people full measure for themselves, but when they give measurement weight to others, they give them less... Yet some businessmen in the area derive pleasure in exploiting their fellow being in many ways.

4.3.0 Inadequacies in the Judiciary and the Law Enforcement Agencies

Judiciary and Law enforcement Agencies are central to the determination and enforcement of not only consumer rights but human rights in all its ramifications. However, their inadequacies in the consumer protection regime are basically legislative provisions that sometimes limit their powers. For example, the relationship between the consumer and supplier is basically civil in nature in which case the aggrieved consumer has to initiate litigation in his own name, and by so doing rendering the law enforcement agent impotent due to (privity of contract).

Furthermore, many consumers around Sokoto metropolis are not educated enough to understand the intricacies of litigation, even those who understand are scared away by the cost and time factors so they simply leave everything to God (Allah).

4.3. A Law Enforcement Agencies

In criminal proceeding, were Law enforcement agencies are the prosecutors the litigation is initiated in the name of the state in which case the public prosecutor plays a central role. Nevertheless, the level of awareness on the part of weak consumers and the financial implication of hiring a lawyer and the usual delay in disposing off matters before courts in Nigeria induce some consumers to opt for criminal rather than civil proceedings. On the other hand, a critical Examination of Food and Drug Act (Cap F 32 LFN 2004) creates five main offences relating to the manufacturer, labeling, advertising, importation, storage and distribution of food, drugs, cosmetics and medical devices. Section 17 of the same Act provides that upon conviction for an offence under the Act (food and drugs) a fine not exceeding one thousand Naira (N1, 000.00) or imprisonment for a term not exceeding two years or both should be imposed. Neither of these prescribed punishments is of any benefit to the injured consumer. Furthermore, the presiding judge cannot provide any additional remedy simply because judges only apply the law in accordance with laid down procedures. This also keeps aggrieved consumers away from seeking any redress because it is not forth coming under such a situation.

5.0 FINDINGS

This is the last lap of the paper; therefore, the findings will be enumerated, followed by some recommendation with a view to addressing the inhibition factors identified above in order to not only sustain but also promote the level of consumer protection in the Sokoto metropolis and by extension in the state at large. The paper will finally be capped up with some concluding remarks.

5.1a In the course of writing this paper it became clear that consumer protection is highly desirable owing to the fact that consumers are comparatively weaker than the marketers, producers and suppliers in terms of sophistication, marketing technics and above all the economic power. These place the consumers at disadvantage position and at the mercy of the parasites capitalists. Another finding is that agitation for consumer rights and protection at global level is over sixty years old, and yet the desired result has not been fully actualized at global level. What has been actualized so far is proportionate to the level of developments (educational, industrial e.tc) in the area under review. Consequently, it varies from one jurisdiction to another.

Furthermore, the fight for consumer rights and protection transcend geographical, racial, ethnic and other primordial barriers. This is demonstrated by the fact that the fight started in the United states in 1962 moved to Australia in 1973 and eventually came down to Nigeria in 1992.

5.1.b Another finding of serious concern is that most suppliers and consumers in Sokoto metropolis profess the same faith i.e. Islam. The religion of Islam on its part propagates just and fair treatment to all irrespective of their religious convictions, yet both the suppliers and consumers either ignorantly or mischievously violate the tenants of their religion on business transaction as ordained by their books of guidance. Suppliers for their own selfish interest exploit the consumers knowing unmindful of the consequences that awaits them on the Day of Judgment. Consumers on their part voluntarily submit to the dictates of suppliers without question. They equally voluntarily patronize hazardous product and shield behind destiny. I.e. one cannot escape whatever Allah destined for him. However sometimes consumers are responding to the economics reality i.e they only purchase within the limit of their purchasing powers.

5.1.c The last and by no means the least of the findings is legislative inadequacies e.g. section 17 of the food and drugs Act (Cap. F 32 LFN 2004) that provides for a fine not exceeding one thousand naira (N1, 000.00) or imprisonment not exceeding two year term for violating the Act. This act is not of any benefit to the aggrieved consumer.

5.2.a RECOMMENDATIONS

The following recommendation are put forward as humble contribution towards surmounting the challenges that constitute an inhibition to the realization of consumer protection not only in Sokoto metropolis but also Sokoto state and the Northwest geopolitical zone of Nigeria as well.

5.2.b Since consumer rights and protection is a matter of global concern, countries at regional and international levels should work together ensure that substandard products are neither produced in their respective countries nor transited *en route* other countries. This is with a view to restricting the circulation of substandard products within and across national boundaries.

5.2.c Consumer Protection Agencies should establish a synergy with recognized religious bodies for the purpose of achieving common objective by enlighten both the consumers and suppliers on their rights and responsibilities.

5.2.d The religious instructors should continue warning their followers of the consequences of exploiting man by man as well as against voluntary submitting oneself to danger under the guise of destiny (*Qaddara*).

5.2.e The punishment provided for under section 17 of Food and Drug Act (CAF 32 LFN 2004). Should be subjected to amendments as follows:

(a)The one thousand naira fine should be reviewed upward in order to conform to current economic reality otherwise it will not serve any deterrence.

(b) The same section should also include a reasonable compensation payable to an injured consumer. This is because fine goes to government coffers but compensation is given directly to the victim.

5.3 CONCLUSION

Finally, consumer protection is a global problem therefore mankind/ humanity generally should behave as members of one family by putting all hands-on deck for the attainment and sustenance of satisfactory level of consumer protection the world over.

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