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**ADVERTISING PRACTITIONERS (REGISTRATION, ETC.) ACT
CAP. 7 LFN 1990 ACT CAP. A7 LFN 2004**

THE NIGERIAN CODE OF ADVERTISING PRACTICE
SALES PROMOTION AND OTHER RIGHTS/RESTRICTIONS ON PRACTICE
AND
ADVERTISING PRACTITIONERS (REGISTRATION, ETC.) (AMENDMENT) DECREE NO. 116, 1993
SUBSIDIARY LEGISLATION : ADVERTISING PRACTITIONERS (DISCIPLINARY COMMITTEE) RULES
S.I. 2, 1998



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THE INDIAN CONTRACTS ACT, 1872

20.12.1988



ARRANGEMENT OF SECTIONS

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- 99. Prohibition of advertisement for sale of other valuable articles.
- 100. Prohibition of advertisement for sale of other goods.

Articulating the conditions generally stated in the APCON Act under which any advertising practitioner, should seek to register and thereby permitted to practice advertising in Nigeria whether individually or in/ with any related agency or company in Nigeria in line with the practice in other recognized professions.

Authorizing the Council of APCON to recognise and categorise the scope of services of firm of practitioners through a periodical licensing regime and review same from time to time.

Recognizing and developing a policy promoting development of cultural integrity, local content and use of indigenous skills as an important element in advertising services offered in Nigeria and or directed at the Nigerian market.

Providing for the powers of the Council of APCON to formulate guidelines on industry credit policy from time to time, and

Generally promoting professionalism and local interests and bringing Nigerian advertising at par with global practice.

**ADVERTISING PRACTITIONERS COUNCIL OF NIGERIA'S
REGULATION ON CODE OF ADVERTISING PRACTICE, SALES
PROMOTIONS AND OTHER RIGHTS/RESTRICTIONS ON PRACTICE**

WHEREAS—

Preamble.

Having regard to the establishment and statutorily defined regulatory role assigned by law to the Advertising Practitioners Council of Nigeria (APCON) under sections 1, 3 (1) and 7 of the APCON Act No. 55 of 1988, as amended by Act No. 93 of 1992 and Act No. 116 of 1993.

Having regard to the directive of the Honourable Minister of Information by virtue of Section 6 APCON Act, mandating the Council to address several pertinent issues including reform and update of the Code of Advertising Practice and Sales Promotions, who may practice advertising, conditions of practice (Rights and Restrictions of Advertising Practitioners), categories of practice, etc ;

Having further regard to the report of the Council of APCON to the Honourable Minister with respect to several stakeholders interactive consultations via the submission of memoranda from various segments of the advertising industry, seminars and workshops ;

It has become imperative to review the existing code and regulation in the Nigerian Advertising Industry with a view to addressing control of standards of knowledge and skills and conditions of registration to practice for Nigerian and Non-Nigerian participants in the Nigerian Advertising Market, promoting a fair level playing field for competition whilst ensuring development of local content and skills, and preserving Nigerian cultural identity in advertising products and services directed at the Nigerian Advertising Market, for the benefit of the Industry, Profession, the general public, consumers, employment and the economy at large.

The Minister of Information pursuant to S.29(1) APCON Act as amended has power :

(a) to make subsidiary legislation (regulations, rules) ; and

(b) to make different provisions for different circumstances to meet the changing needs of the advertising industry and our society and in consultation with the Council has deemed it fit to update, amplify, clarify, amend as the case may be the entirety of the provisions to the Code of Advertising Practice and Sales Promotion to achieve a more efficient administration by the Council, the primary administrator of the APCON Act, in order to give full effect to the provisions and intendment of the legislation, including but not limited to—

Establishing standard of knowledge required from Advertising Practitioners of Nigerian or Non-Nigerian origin whose advertising services are directed to the Nigerian Advertising market.

rules provided for by recognized sectoral associations in various sectors of advertising and or negotiated with government institutions and agencies provided that all such rules and agreements are consistent and conform to the general principles laid down by this Code and differ only in detail where the individual sectoral needs are to be met.

Objective of
The Code.

0.3 This Code is designed to promote good advertising at the highest ethical standard, consistent with Nigerian indigenous morals, diverse culture and community life. It also seeks efficient regulation of all aspects of advertising directed at the Nigerian advertising market and to complement existing Federal legislative enactments aimed at regulating and controlling advertisements. Advertising Practitioners whose advertising services are directed to the Nigerian Advertising market are to comply with the Code both in the spirit and in the letters.

Citation.

0.4 This Code shall be cited as the Nigerian Code of Advertising Practice and Sales Promotion, and other Rights/Restrictions on Practice (5th Edition) effective December 1, 2012. (*Revised on November 9, 2011*).

Scope and
Applica-
tion.

0.5 The provisions of APCON Act and the provisions of this Code are applicable to Non-Nigerian individuals and corporate persons in so far as they offer advertising services directed at the Nigerian Advertising market or are sponsored by a company doing business in Nigeria.

In particular, this Code applies to :

- (i) All persons whether corporate or natural, firm, agency, company or any other corporate entity registered as Advertising Practitioners whether of indigenous or foreign origin, including all persons which engage in advertising practice for gain directed at the Nigerian market and who ought to comply with all the requirement of qualification, standard of knowledge, registration as advertising practitioner as envisaged under the APCON Act ;
- (ii) All sectoral associations recognized by APCON and their members ;
- (iii) All organizations, corporate bodies and individuals which/who use advertising services.

This Code applies to the entire content of an advertisement whether physical or electronic, including words and numbers (spoken or written), visual presentations, mark, smells, music and sound effects or any representation of those in marks, signs or symbols. It applies to the spirit as well as the letter.

This Code operates in conjunction with all relevant laws in Nigeria, as well as the existing rules and regulations of APCON.

The Minister authorizes APCON to fully implement the provisions of this Code and to apply necessary sanctions for non-compliance thereof.

Guiding
Principal of
Advertising.

0.6 All advertisements in Nigeria or directed at the Nigerian market shall be legal, decent, honest, truthful, respectful, and mindful of Nigeria's culture, constitutional tenets and relevant lawful enactments. They shall be prepared

**ADVERTISING PRACTITIONERS COUNCIL OF NIGERIA'S
REGULATION ON CODE OF ADVERTISING PRACTICE, SALES
PROMOTIONS AND OTHER RIGHTS/RESTRICTIONS ON PRACTICE**

And in the exercise of the powers conferred upon the Minister of Information by S.29 of the APCON Act, Cap.7 LFN. 1990 Act CAP.A7 LFN 2004 Laws of the Federation and other enabling powers in that regard, I, LADARAN MAKU, Minister of Information hereby make and authorizes this Regulation being a reform and amendment of the scope of the Code of Advertising Practice and Sales Promotions—

[1st of December, 2012]

Commence-
ment.

Save as otherwise herein provided, the provisions of this Regulation shall come into effect on the December 1, 2012 at the expiration of a moratorium period of 12 months aimed at allowing all stakeholders to align with this Regulation.

The previous Nigerian Code of Advertising Practice and Sales Promotion, subject of this update and reform is hereby repealed from the above date.

0.2 The Advertising Practitioners Council of Nigeria (APCON) was established by Act No. 55 of 1988, as amended by Act No. 93 of 1992, and is charged with the responsibilities of :

Introduction.

- (a) Determining who are qualified advertising practitioners ;
- (b) Setting the standard of knowledge and skills required of such practitioners ;
- (c) Compiling, maintaining, and keeping the register of practitioners ;
- (d) Regulating and controlling the practice of advertising in Nigeria ;
- (e) Conducting qualifying examinations in the profession ;
- (f) Performing all such other functions as are incidental or conducive to the above responsibilities or any of them.

In pursuance of the above responsibilities, the Governing Council of APCON recommends, reviews from time to time and produces subject to the approval of the Minister of Information this Code for the regulation of advertising throughout the Federal Republic of Nigeria and to meet the changing needs both of the industry and of our society.

Subject to the APCON Act and the supervisory powers of the Minister of Information, the Code of Advertising practice is the guiding document of the Governing Council of APCON, the Advertising Standards Panel and any other committee put in place by the Governing Council of APCON in its discharge of its regulatory oversight function over advertising practice and the advertising industry, and to every advertising practitioner being hinged on the highest ethical standards, rules and procedures aimed at providing an efficient and effective regulation of the Nigerian Advertising Industry. It is a basic but not exclusive supplement to all Federal Advertising legislations whether sectoral or based on the principal APCON Act. Every authority, whether local, state or Federal is enjoined to assist the Council in the efficient discharge and enforcement of this updated Code. It acknowledges individual

Beneficiary : refers to any person or organization who/which gains advantage from promotions, whether as an ultimate consumer, or as one engaged in a profession or trade.

Consumer : refers to any person who can reasonably be expected to be affected by an advertisement.

Creative Advertising Agency : specializes in creative and design based business models.

Directed at the Nigerian market : in relation to advertising services, means that the target market related to those advertising services consists primarily of consumers in Nigeria or is sponsored by a company doing business in Nigeria.

Electronic media : refers to any media providing electronic, interactive communications, such as the internet, online services, and/ or electronic networks, including telephone.

Foreign advertiser or foreign advertising practitioner : means a person other than a registered Nigerian practitioner, firm, company or agency who offers advertising services by any means and who is not a Nigerian.

Full Service Advertising Agency : performs all the functions of an advertising agency including planning, creating, producing advertisements and buying media on behalf of its clients.

Guarantee/Warranty : refers to a written promise, assurance or pledge given by the makers of an article that they will repair or replace it free if it is unsatisfactory or develops defects within a stated time from the date of purchase.

Hypnosis : refers to an unconscious state in which somebody can still see and hear and can be influenced to follow commands or answer questions.

Interactive Agencies : offer a mix of web design/development, search engine marketing, internet and mobile marketing as well as promotion of brands in the various social media platforms.

Intermediary : refers to any person, company or organisation other than the promoter assisting or involved with the implementation of any aspect of promotion activities.

Mail Order/Direct Sale : refers to products or services requiring consumer to place order by mail or which promises home delivery of advertised products or services to the buyer.

Media Agency : specializes in planning and buying advertising time or space in an advertising medium.

Minor : refers to any person below the age of 18 years.

Nigerian : means :

(a) a Nigerian citizen as defined under the 1999 Constitution of the Federal Republic of Nigeria and any other relevant law ;

with a high sense of social responsibility and shall avoid misinformation or disinformation.

All advertisements shall conform to the principle of fair competition generally accepted in business, and of fair comments expected in free human communication. They shall aim to enhance public confidence in advertising and shall always be in the interest of the consumer and the wider Nigerian society.

0.7 For the purpose of this Code :

Definitions.

Advertisement : is a communication in the media, paid for by an identified sponsor and directed at a target audience, with the aim of imparting correct information about a product, service, idea or opinion.

Media : in this case shall include, but not limited to, the newspaper, magazine, radio, television, outdoor, cinema, the internet, direct mail and any channel of communication whether physical or electronic.

Advertiser : means a person or organization who/which causes an advertisement to be produced and is the sponsor and beneficiary of such advertisement.

Advertising : is a form of communication through the media about products, services or ideas paid for by an identified sponsor.

Advertising Agency : is a service business that creates plans and handles advertising and other forms of promotion or communication services for its clients.

Advertising Artistes : are performers used in various advertising messages and materials inclusive of models, performing musicians, dancers, actors and voice over artistes.

Advertising Media : offer and sell advertising opportunities in various media vehicles such as outdoor and indoor, print, broadcast, web and social media.

Advertising Medium : refers to any platform, visual, audio and otherwise which lends itself to the display, publication or electronic transmission of an advertisement.

An Advertising Organisation : means any corporate body in which a group of advertising practitioners are in active practice for the purpose of delivering advertising services.

Advertising Practitioner : is a person registered by APCON to practice advertising in Nigeria.

Advertising Production Organisations : produce materials for advertising in various media including outdoor/indoor, cinema, print, broadcast and web/internet.

Advertising services : means the supply by a person whether natural or non-natural, for payment by a beneficiary, of access to a target market of consumers or for the promotion of services and products.

PART I—ADVERTISING PRACTICE

CHAPTER ONE—THE GENERAL PRINCIPLES OF THE CODE OF ADVERTISING
AND SALES PROMOTION

Article 1 : Legality

All advertisements shall be legal. They shall conform to all existing laws in Nigeria as well as the Oath of Advertising Practice.

Article 2 : Decency

Advertisements shall not use visual illustrations or words or sounds that offend public decency. Advertisements shall not be obscene or offensive.

Article 3 : Honesty

All advertisements shall be so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge.

Relevant factors likely to affect consumers' decisions shall be communicated in such a way and at such time that consumers can take them into account.

Article 4 : Sexuality

Advertisements shall not exploit, depict, or suggest sexual behaviour either in obvious or implied context.

Article 5: Gender Discrimination

No gender shall be depicted as subservient, superior or inferior to the other, or as object to satisfy the sexual pleasure of the other.

Article 6 : Superstition

Advertisements shall not promote, or exploit superstitions or negative myths even if such superstitions or myths reflect any aspect of culture, philosophy, or world view.

Article 7 : Appeals to Fear and Distress

Advertisements shall not play on or exploit fear or distress in an attempt to induce patronage.

Article 8 : Minors

Special care shall be taken in advertisements directed to or featuring minors. Such advertisements shall not undermine positive social behaviour, lifestyle, and attitude.

Products unsuitable for minors shall not be advertised in media targeted at them. Advertisements directed to minors shall not be inserted in the media where the editorial matter is unsuitable for them.

Materials unsuitable for minors shall be clearly identified as such.

Article 9 : Testimonials

Advertisements containing testimonials and endorsements shall be genuine, and the models used shall be alive and suitable for the products, services and ideas they endorse in the advertisements.

(b) a Nigerian government or an agency of such a government ;

(c) a partnership, trust or joint venture in which a person or any combination of persons referred to in paragraph (a), (b), or (d) beneficially owns or controls, directly or indirectly, interests representing in value more than half of the total value of the assets of the partnership, trust or joint venture, as the case may be ;

(d) a Nigerian company ; and

(e) a non-profit organization in which more than half of its members are persons referred to in paragraph (a) or (b).

Nigerian advertiser : means a person or an entity, whether an individual, a company, a partnership, a trust, a joint venture, a government, a government agency, an association or a non-profit organization, that—

(a) offers, directly or indirectly, advertising services relating to their products and services or the products and services of an identified sponsor ;

(b) has a place of business in Nigeria ;

(c) has at least one individual in Nigeria who is employed or self-employed in connection with their business ; and

(d) has assets in Nigeria that are used in carrying on their business.

Nigerian company means a company or a firm—

(a) that is incorporated under the laws of Nigeria ;

(b) whose principal place of business is in Nigeria ;

(c) whose chairperson or other presiding officer and more than half of whose directors or other similar officers are Nigerian citizens ;

(d) in the case of a company with share capital (company limited by guarantee), of which Nigerians beneficially own or control, other than by way of shares held only as security, directly or indirectly, in the aggregate more than half of all the issued and outstanding voting shares representing more than half of the votes ; and

(e) in the case of a company without share capital, of which Nigerians beneficially own or control, directly or indirectly, interests representing in value more than half of the total value of the assets.

Product : refers to anything that constitutes the subject of an advertisement including goods and services.

Promoter : refers to any person, company or organization by or on whose behalf a sales promotion is initiated, organized or commissioned.

Promotional Product : refers to goods, services or any other benefits such as premiums, prizes, and gift offered to a beneficiary.

Social Responsibility : means a respect for human dignity, and to avoid inciting or condoning any form of discrimination, including that based upon race, nationality, ethnicity, religion, gender, age, disability, etc.

Article 18 : Product Hype

Announcers, writers and other editorial personnel shall not engage in product hype or any form of product promotion which employs superlative, unsubstantiated or misleading claims, testimonials or descriptions.

Article 19 : Denigration

Advertisements shall not denigrate any person or group of persons, firm, organization, industry, or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule.

Article 20 : Comparative Advertising

(a) Advertisements for products and services shall not unfairly discredit, disparage, or attack other products, services, advertisements or companies, or exaggerate the nature or importance of competitive differences.

(b) Advertisements for products and services shall not imitate the slogans or illustrations of another advertiser in such a manner as to mislead the consumers.

Article 21 : Presentation for Approval

All advertisements except those for public service announcement, goodwill messages, obituaries and vacancies shall be presented for vetting and approval by the Advertising Standards Panel (ASP) before exposure. It is mandatory for all media houses to demand the ASP's Certificate of Approval, which are issued for all approved advertisements before placing any such advertisements (details and modalities are available in the Vetting Guidelines published by the ASP).

CHAPTER TWO—PRESENTATIONS AND CLAIMS

Article 22 : Presentation/Description

Advertisements shall not contain any description, claim, or illustration which, directly or by implication convey an erroneous or misleading impression about the product or service advertised or about its suitability for the purpose recommended.

Article 23 : Substantiation

Any description, claim, or illustration made in any advertisement shall be subject to empirical proof or capable of substantiation. Such proof or substantiation shall be available so that evidence can be produced without delay and upon request to the Advertising Standards Panel.

Such evidence shall be required in respect of superlative or comparatives claims made in any advertisement.

Testimonials or endorsements made in any advertisement shall be subject to proof.

Article 10 : Copyright

Advertisements shall not contain any item which is in breach of Nigerian and international copyright laws, or omit anything which the laws on intellectual property require.

Copyright permission shall be obtained from the original owner before any such right may be used.

Article 11 : Privacy

The right of individuals to privacy shall be respected. Pictures, names, identity, and properties of individuals shall not be used in a manner that suggests their personal endorsement without prior consent.

Proper contractual agreements shall be entered into by the agencies, advertisers, and individuals, and the contractual terms respected by all the parties.

Article 12 : Identity

Advertisements soliciting patronage or reaction shall show the correct name of the advertiser as well as the street address where personal calls can be made to ascertain the genuineness of the claims contained in the advertisement.

Media organizations shall not accept nor expose advertisements that do not indicate the proper identity of the sponsor except in teaser advertisements.

Advertisements shall not bear signoffs such as "committee of friends", "concerned citizens", or any other broad terms without verifiable names and addresses.

Article 13 : Camouflage

Advertisements shall be clearly distinguished as such and shall not be disguised as news or editorial matter.

The use of headlines such as "News Flash" and "Breaking News" to introduce advertisements are prohibited.

Article 14 : Religion

Advertisements shall not disparage or exploit religious belief, mislead people, or employ miracles as a bait to elicit patronage.

Advertisements promoting a particular faith or belief shall not offend the right of people to hold contrary belief or conviction.

Article 15 : Violence

Advertisements shall not depict violence against people, product or any other object.

Article 16 : Advertisements for Competing Products and Services

Two or more advertisements for competing or similar products or services shall not be placed adjacent to each other in print, outdoor, or electronic media.

Article 17 : Price

Advertisers and agencies are encouraged to indicate the prices of products or services in their advertisements.

Alcoholic
Beverages.

Article 32 : Radio/Television

(a) Advertisements for alcoholic beverages shall not be exposed in children's, religious and sports programmes ;

(b) Children, sportsmen/women and pregnant women shall not be used as models ;

(c) Advertisements for alcoholic beverages shall not employ religious or medical suggestions or connotations.

Article 33 : Print Media

(a) Advertisements shall not bear any religious or medical connotations;

(b) Children, sportsmen/women and pregnant women shall not be used as models ;

(c) Advertisements for alcoholic beverages shall not be published in children's publications.

Article 34 : Outdoor

(a) Advertisements for alcoholic beverages shall not be sited within a radius of 200 meters from the nearest perimeter fence of any place of worship, hospital, school, or motor parks ;

(b) Children, sportsmen/women and pregnant women shall not be used as models ;

(c) Advertisements for alcoholic beverages shall not employ religious or medical suggestions or connotations.

Article 35 : Cinema/Viewing Centre

(a) Advertisements for alcoholic beverages shall not be exposed during children's, religious and sports programmes ;

(b) Children, sportsmen/women and pregnant women shall not be used as models ;

(c) Advertisements for alcoholic beverages shall not employ religious or medical suggestions or connotations.

Article 36 : Sponsorship

(a) Sponsorship of sporting events by alcoholic beverage brand is permitted, however, in television coverage, or in the promotion of such events, only brand/corporate names, logos and/or product packs may be used as flashes or backdrops on the screen ;

(b) Events and competitions directed at children shall not be linked to any alcoholic beverage through sponsorship or any other form of marketing support.

Article 37 : Gift Items

Give-away items for alcoholic beverages shall not be directed at children, sportsmen/women and pregnant women in terms of their appeal.

Article 24 : Consent

Where a testimonial or endorsement in any advertisement suggests or recommends the use of a product, the prior written consent of the model used shall be obtained before the exposure of such advertisement.

Where the person giving the testimonial or making the endorsement is a minor, the prior written consent of his parents or guardians or any one of his parents or guardian shall be obtained.

Article 25 : Scientific Terms and Data

Advertisements shall not employ complex computations and scientific terms or data in a manner to confer authenticity on claims which such complex computations and scientific terms or data do not possess.

Article 26 : Statistics

Advertisements shall not employ statistics with limited validity or application in such a way as to make such statistics appear to be universally true or applicable.

Article 27 : Guarantee/Warranty

Advertisements may employ the words "guarantee" or "warranty" provided that the condition of sale or purchase of the product or service which the words refer to shall be clearly stated.

Advertisements shall clearly indicate where the details of the guarantee or warranty can be examined and studied before patronage.

Article 28 : Passing-Off

Advertisements shall not contain false representation which are likely to confuse or induce others in such a manner to believe that the product, services or advertisement of another are those of/or connected with the advertiser or vice versa.

Article 29 : Imitation

Advertisements shall not imitate or be closely similar to another previously published or exposed advertisement to the extent that the latter advertisement is confused with, or associated with the former advertisement.

Article 30 : Hidden Extras

Advertisements indicating cost or charges for products or services shall disclose all information relating to the cost or charges of the products or services in such a manner that consumers will not be required to incur extra costs or charges for the products or services.

Article 31 : Bait Advertising

Advertisements shall not appear howsoever to offer any product or service as not for sale which is intended for sale as a means to switch consumers to other products or services.

attributes of alcoholic beverages, but shall not imply that the consumption of such drink can improve performance.

Tobacco
Products.

Article 45 : Prohibition

(a) Advertising for tobacco products in any manner is prohibited ;

(b) All other forms of consumer engagement and brand communication shall be as stipulated in accordance with the relevant law for the time being in force.

Article 46 : Sponsorship

(a) Corporate sponsorship of programmes and events by tobacco manufacturers is permitted provided that adequate care shall be exercised to ensure that only persons above the age of 18 years are admitted to such events ;

(b) All events mentioned under this article including events in support of tobacco brands shall be restricted to the arenas.

Advertising
for
Condoms.

Article 47 : Indecency

Advertisements for condoms shall not encourage indecency in the use of the product. Emphasis of the message shall be focused on health and family planning applications.

Article 48 : Insinuations

Advertisements for condoms shall not dramatize or in any other manner depict or insinuate the sexual act by word, graphic, sound or action.

Article 49 : Health Warning

Advertisements for condoms shall carry the following health warning : Be Warned : "The Condom is not 100 per cent safe. Total abstinence or faithfulness is the best option."

Article 50 : Time/Place of Exposure

(a) Advertisements for condoms shall not be aired during children's programmes ;

(b) Advertisements for condoms shall not be aired between 6:00 a.m. and 8:00 p.m. on radio and between 6:00 p.m. and 10:00 p.m. on television ;

(c) Outdoor advertisements for condoms shall not be sited near schools or places of worship.

Advertise-
ments for
Health,
Beauty
Products and
Therapies.

Article 51 : Diet and Lifestyle

(a) Advertisements shall not disparage good dietary practice and shall avoid anything likely to encourage poor nutritional habits or an unhealthy lifestyle, especially among children ;

(b) Advertisements shall not discourage selection of foods, such as fresh fruit and vegetables, which generally accepted dietary opinion recommends shall form a greater part of the average diet ;

Article 38 : Claims, Insinuations and Associations

(a) Advertisements for alcoholic beverages shall not suggest or imply that alcoholic beverages have health benefits ;

(b) Advertisements for alcoholic beverages shall not be associated with piloting, driving, riding or any sports activity ;

(c) Advertisements for alcoholic beverages shall not show persons stating that they drank alcoholic beverages when they were minors ;

(d) Advertisements for alcoholic beverages shall depict only moderate and responsible drinking ;

(e) Advertisements for alcoholic beverages shall not show persons wearing clothing typical of the healthcare professions, healthcare trades or the pharmaceutical trades.

Article 39 : Time of Exposure

Advertisements for alcoholic beverages shall not be aired between 6:00 a.m. and 8:00 p.m. on radio and between 6:00 a.m. and 10:00 p.m. on television.

Article 40 : Product-in Use

Advertisements for alcoholic beverages shall not depict people drinking heavily or very rapidly or imply that such behaviour is attractive or appropriate.

Article 41 : Age Limit of Models

(a) Models used in advertisements for alcoholic beverages shall not appear to be less than 25 years old ;

(b) Persons under the age of 25 years shall not be depicted in advertisements for alcoholic beverages except where it would be usual for them to appear such as in family scenes or in background crowds. They shall not be shown drinking alcoholic beverages or appear to be doing so.

Article 42 : Social Acceptance

(a) Advertisements shall not imply that alcoholic beverage consumption is essential for business and social success or acceptance ;

(b) Advertisements shall not depict abstinence in a negative light or suggest that it is wrong or foolish to refuse a drink.

Article 43 : Sexual Indulgence

(a) Advertisements for alcoholic beverages shall not be suggestive of sexual indulgence or permissiveness or portray nudity ;

(b) Advertisements for alcoholic beverages shall not present any situation that is derogatory to the virtue of normal sex behaviour, claim or suggest that alcoholic beverages can contribute directly to success in sexual behaviour.

Article 44 : Attributes

Advertisements for alcoholic beverages shall not offer a product expressly as a stimulant, sedative or tranquillizer. Advertisements may refer to the refreshing

(h) Advertisers shall hold proof before claiming or implying that minor addictions and bad habits can be treated without effort from those suffering.

(i) Advertisers shall not use unfamiliar scientific words for common conditions.

Article 53 : Medicines

(a) The National Agency for Food and Drug Administration and Control (NAFDAC) Decree No. 15 of 1993 as amended and its regulations, govern the promotion of medicines and the conditions of ill health that they can be offered to treat ;

(b) Medicines shall have a NAFDAC registration number from the NAFDAC before they are advertised and any claims made for products shall conform with the authorisation. Medicinal claims shall not be made for unauthorised products ;

(c) Prescription-only medicines may not be advertised to the public. Health-related claims in Advertising Communications addressed only to the medical, dental, veterinary and allied professions are exempt from the Code.

(d) Advertising communications shall include the name of the product, an indication of what it is for, text such as '*Always read the label*' and the common name of the active ingredient if there is only one. There shall be no suggestion that any medicine is either a food or a cosmetic ;

(e) Advertisers shall not use fear or anxiety to promote medicines or recovery from illness and shall not suggest that using or avoiding a product can affect normal good health ;

(f) Illustrations of the effect or action of any product shall be accurate ;

(g) Advertising communications for medicines shall not be addressed to children ;

(h) Advertisers shall not use health professionals or celebrities to endorse medicines ;

(i) Advertising communications for any medicine shall not claim that its effects are as good as or better than those of another identifiable product ;

(j) Homeopathic medicinal products shall be registered with NAFDAC. Any product information given in the advertising communication shall be confined to what appears on the label. Advertising communications shall include a warning to consult a doctor if symptoms persist (as may be stipulated by the National Agency for Foods and Drug Administration, NAFDAC) ;

(k) Advertisement for herbal/alternative medicine is not prohibited and is subject to the aforesaid rules on advertisement of medicine; however advertisement for herbal/ alternative medicine must state that the claims of health benefits have not been clinically verified (except where it has indeed been verified).

(c) This article does not preclude responsible advertising for any products including those that shall be eaten only in moderation ;

(d) Claims of nutritional or health benefits shall be considered in the context of a balanced diet or lifestyle or both ;

(e) Nutrition or health claims shall be supported by sound scientific evidence. Generalised claims such as 'goodness' or 'wholesome' shall not exaggerate the nutritional or health benefit of a food product or an ingredient.

(f) Reference to the properties of an ingredient shall not give a misleading impression of the properties of the whole product. The scientific meaning of the word "energy", calorific value, shall not be confused with its colloquial meaning of physical vigour ;

(g) Advertisements shall not encourage or condone excessive consumption of any food.

Article 52 : Medicals

(a) Medical and scientific claims made about beauty and health-related products shall be backed by evidence where appropriate consisting of trials conducted on people. Where relevant, the rules will also relate to claims for products for animals. Substantiation will be assessed on the basis of available scientific knowledge ;

(b) Advertisers inviting consumers to diagnose their own minor ailments shall not make claims that might lead to a mistaken diagnosis ;

(c) Advertisers shall not discourage essential treatment. They shall not offer specific advice on, diagnosis of or treatment for serious or prolonged conditions unless it is conducted under the supervision of a doctor or other suitably qualified health professional (e.g. one subject to regulation by a statutory or recognised medical or health professional body). Accurate and responsible general information about such conditions may, however, be offered ;

(d) Consumers shall not be encouraged to use products in excess and Advertisers shall hold proof before suggesting their products or therapies are guaranteed to work, absolutely safe or without side-effects ;

(e) Advertising communications shall not suggest that any product is safe or effective merely because it is 'natural' or that it is generally safer because it omits an ingredient in common use ;

(f) Advertisers offering individual treatments, particularly those that are physically invasive, may be asked by the media and the ASP to provide full details together with information about those who will supervise and administer them. Where appropriate, practitioners shall have relevant and recognized qualifications. Advertisers shall encourage consumers to take independent medical advice before committing themselves to significant treatments, including those that are physically invasive ;

(g) References to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as 'cure' and 'rejuvenation' are not acceptable ;

Article 57 : Hair and scalp

Advertisers shall be able to provide scientific evidence, where appropriate in the form of trials conducted on people for any claim that their product or therapy can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health as distinct from its appearance.

Article 58 : Weight Control

(a) A weight reduction regime in which the intake of energy is lower than its output is the most common self-treatment for achieving weight reduction. Any claims made for the effectiveness or action of a weight reduction method or product shall be backed if appropriate by rigorous trials on people; testimonials that are not supported by trials do not constitute substantiation ;

(b) Obesity is frequently associated with medical conditions and treatments for it shall not be advertised to the public unless they are to be used under suitably qualified supervision ;

(c) Advertising communications for any weight reduction regime or establishment shall neither be directed at, nor contain anything that will appeal particularly to, people who are under 18 or those in whom weight reduction would produce a potentially harmful body weight. Advertising Communications shall not suggest that it is desirable to be underweight ;

(d) Advertisers shall show that weight reduction is achieved by loss of body fat before claims are made for a weight reduction aid or regimen. Combining a diet with an unproven weight reduction method does not justify making weight reduction claims for that method ;

(e) Advertisers shall be able to show that their diet plans are nutritionally well balanced (except for producing a deficit of energy) and this shall be assessed in relation to the kind of person who would be using them ;

(f) Vitamins and minerals do not contribute to weight reduction but may be offered to slimmers as a safeguard against any shortfall when dieting ;

(g) Advertisers promoting Very Low Calorie Diets shall do so only for short term use and shall encourage users to take medical advice before embarking on them ;

(h) Advertising Communications for diet aids shall make clear how they work. Prominence shall be given to the role of the diet and Advertising Communications shall not give the impression that dieters cannot fail or can eat as much as they like and still lose weight ;

(i) Advertising Communications shall not contain claims that people can lose precise amounts of weight within a stated period or that weight or fat can be lost from specific parts of the body ;

(j) Claims that individuals have lost exact amounts of weight shall be compatible with good medical and nutritional practice, shall state the period involved and shall not be based on unrepresentative experiences ;

Article 54 : Vitamins, Minerals and Other Dietary Supplements

(a) Advertisers shall hold scientific evidence for any claim that their vitamin or mineral product or other food supplement is beneficial to health. In assessing claims the ASP will bear in mind recommendations made by bodies such as NAFDAC and Nutritional Society of Nigeria ;

(b) A well-balanced diet shall provide the vitamins and minerals needed each day by a normal, healthy individual. Advertisers may offer vitamin and mineral supplements to certain groups as a safeguard to help maintain good health but shall not imply that they can be used to prevent or treat illness, elevate mood or enhance normal performance. Without well-established proof, no advertising communication shall suggest that there is widespread vitamin or mineral deficiency or that it is necessary or therapeutic to augment a well-balanced diet. Individuals shall not be encouraged to swap a healthy diet for supplementation ;

(c) People who are potentially at risk of deficiency may be safeguarded by vitamin and mineral supplementation. Products shall be appropriate and advertising communications shall specify the group they are addressing when claiming or implying that health may be maintained. Indicative groups include :

- (i) people who eat nutritionally inadequate meals ;
- (ii) the elderly ;
- (iii) children and adolescents ;
- (iv) convalescents ;
- (v) athletes in training or others who are physically very active ;
- (vi) women of child-bearing age ;
- (vii) lactating and pregnant women ;
- (viii) people on restricted food or energy diets ;
- (ix) people who smoke.

(d) Serious vitamin and mineral depletion caused by illness shall be diagnosed and treated by a doctor. Self-medication shall not be promoted on the basis that it will influence the speed or extent of recovery.

Article 55 : Cosmetics

(a) Claims made about the action that a cosmetic has on or in the skin shall distinguish between the composition of the product and any effects brought about by the way in which it is applied, such as massage. Scientific evidence shall also make this distinction ;

(b) Some cosmetics have an effect on the kind of skin changes that are caused by environmental factors. Advertising communications for them can therefore refer to temporarily preventing, delaying or masking premature ageing.

Article 56 : Prevention of Ageing

Advertisements for drugs shall not contain any claim to provide rejuvenation, or to prevent, retard or reverse the physiological changes and degenerative conditions brought about by, or associated with advancement in age.

(b) Advertisements shall not offer to cure cancer, AIDS or any other ailment of such category, unless the cure has been authenticated by the body regulating such sector of medical practice in Nigeria ;

(c) Advertisements of products, medicines, treatment for disorders or irregularities peculiar to women shall not contain expressions such as inducing abortion ;

(d) Advertisements shall not contain any exaggeration especially the use of words such as magic, magical, miracle, miraculous, etc. ;

(e) Advertisements shall not offer to diagnose and treat by correspondence ;

(f) Advertisement for medical products shall not offer to refund money to dissatisfied users ;

(g) Advertisements shall not contain words such as clinic, institute, laboratory or similar terms unless such establishment does, in fact, exist and is registered as such ;

(h) Advertisements for medicine shall not purport to increase sexual libido or correct sexual weakness.

Article 67 : Alternative Medical Practices

Subject to the provisions of this Code, all advertisements, promotions and other marketing communication activities concerning alternative medical practices, products and treatments shall :

(i) Clearly specify the name and address of the dispenser/advertiser ;

(ii) Specify the particular ailment to which the product applies and shall not claim efficacy over a range of conditions ;

(iii) Have dosage specification.

Article 68 : Encouragements

Advertisements for religious products and services shall not go beyond the effort to encourage the moral, social and psychological wellbeing of the adherents.

Article 69 : Exploitation of weakness

Religious advertisements shall not exploit the weaknesses, handicaps, shortcomings, or state of desperation of members of the public.

Article 70 : Miracles, Coercion, etc.

Advertisements and promotions of any religious products or services shall not :

(i) exaggerate the occurrence of miracles or use of spurious testimonies that are likely to deceive the audience ;

(ii) appear to guarantee financial prosperity, healing, marriage, employment, etc ;

(iii) cast aspersion on any other sect or religious belief ;

(k) Resistance and aerobic exercise can improve muscular condition and tone; this can improve body shape and posture. Advertisers shall be able to substantiate any claims that such methods used alone or in conjunction with a diet plan can lead to weight or inch reduction. Advertising communications for intensive exercise programmes shall encourage users to check with a doctor before starting ;

(l) Short-term loss of girth may be achieved by wearing a tight-fitting garment. This shall not be portrayed as permanent, nor shall it be confused with weight or fat reduction.

Article 59 : Offensive Advertisements

Advertisements shall not describe or dramatise distress or a morbid situation in an offensive manner.

Article 60 : Elimination of Ailment

Advertisements for drugs shall not contain a claim to cure any ailment or symptoms of ill health, nor shall any advertisement for drugs contain a word or expression or impression suggesting the elimination of any ailment, illness or disease.

Article 61 : Prescription Drugs

Advertisements for drugs or devices relating to the treatment of diseases, complaints, conditions, or symptoms which rightly requires the attention of a registered medical practitioner shall not be exposed in any public medium, except in relevant professional media.

Article 62 : Diagnosis, Prescription, or Treatment

Advertisements shall not contain any offer to diagnose, advice, or prescribe treatment for any disease, complaint, condition, or symptom which requires the attention of a medical doctor.

Article 63 : Appeals to Fear and Exploitation of Credulity

Advertisements shall not cause unwarranted anxiety especially to those who suffer, or may suffer from the condition to which the advertisement relates, nor suggests that the use of the advertised product is all that is required for the maintenance of the physical or mental well being of such persons.

Article 64 : Encouragement of Excesses

Advertisements shall not in any way encourage indiscriminate, unnecessary, or excessive use of medical products.

Article 65 : Hypnosis

Advertisements shall not contain any offer to diagnose or treat complaints or conditions by hypnosis.

Article 66 : Restricted Words

(a) Advertisements shall not use words as safe; without risk or harmless unless so certified by medical authorities ;

Article 78 : Pricing

(a) The advertisement shall communicate all prices and financial implications clearly and shall have no hidden or disguised price adjustments, discounts, unrealistic price comparisons or exaggerated claims as relates to worth or value ;

(b) Advertisements with complicated price structures and information which appear in transient types of media such as the radio and television shall explain the details of such complicated price structure and information except where they are accompanied with detailed print media explanations. The transient media shall specifically instruct consumers to see the print medium for details.

Article 79 : Advertorial Medium

Advertisements for telecommunication products or services shall not contain any obscenities or profanities unsuitable for minors nor contain any racial or prejudicial content relating to ethnic origin, religion, sex, gender, or age.

Article 80 : General guidelines on Internet and other Electronic media marketing

(a) All advertising and marketing communications directed to the Nigerian Market using internet and other electronic media are subject to the laws regulating advertising practice in Nigeria ;

(b) Without prejudice to any other restrictions or obligations imposed by the Act or under this code on advertising, all advertisements directed towards the Nigerian market using the internet or any other electronic media must comply with the following requirements :

(i) The commercial nature of the communication must not be concealed or misleading, it should be made clear in the subject header ;

(ii) There should be clarity of the terms of the offer and devices should not be used to conceal or obscure any material factor such as : the price or other sale conditions likely to influence the custo-ners' decision ;

(iii) There should be clarity as to the procedure for concluding a contract.

(iv) Due recognition must be given to the standards of acceptable commercial behavior held by public groups before the posting of marketing communications to such groups using electronic media ;

(v) Unsolicited messages should not be sent except there are reasonable grounds to believe that the consumers who received such communications will be interested in the subject matter or offer ;

(vi) All marketing communication sent via electronic media should include a clear and transparent mechanism enabling the consumer to express the wish not to receive future solicitations ;

(vii) In addition to respecting the consumer's preferences, expressed either directly to the sender or through participation in a preference service programme, care should be taken to ensure that neither the marketing

(iv) coerce, cajole, or otherwise compel anyone to become an adherent of a particular sect or belief or to participate in any religious activity.

Article 71 : Presentation and Contents

Political advertisements shall be issue-oriented and devoid of abusive statements or references. They shall not employ false, distorted or unsubstantiated claims, or contain misrepresentations.

Advertisements for Political Activities.

Article 72 : Advertiser's Identity

Every political advertisement shall clearly identify the sponsoring organization or individual, visually and/or orally.

Article 73 : Sectional Interests

Political advertisements shall not explicitly nor implicitly exploit ethnicity, religion or any other sectional interest.

Article 74 : Compliance

Media houses, agencies, political parties, politicians and their agents shall ensure that political advertisements are in consonance with the provisions of this Code as it relates to political activities and of the Oath of Advertising Practice and the Nigerian Broadcasting Corporation Code as it relates to political advertising.

Article 75 : Compliance with Rules and Regulations

Advertisements for telecommunication products and services shall comply with the rules and regulations of the Nigerian Communications Commission and other appropriate regulatory agencies.

Advertisements for Telecommunication Products and Services.

Article 76 : Access to Information

(a) All claims made in telecommunication advertisements shall portray the true picture of what they offer in terms of products quality and services ;

(b) Advertisers shall ensure that customers can view and download all relevant terms and conditions of its Telecommunication services from an accessible website.

Article 77 : Requirements

All advertisements for telecommunication products and services shall comply with the following requirements :

(a) where the products and services on which the advertisement claims or representations depend can be tested by survey or data, such survey or data shall be reasonably competent and reliable, reflecting the true and accepted principle of such research ;

(b) the standards for quality, grade of service, products and equipment that are manufactured, imported or sold in Nigeria as set by the Nigerian Communications Commission ;

(c) any other standard or requirement of a specific or general nature that may be specified from time to time by relevant regulatory authorities.

communication itself, nor any application used to enable consumers to open other marketing or advertising messages, interferes with the consumer's normal usage of electronic media.

Requirements for electronic advertising relating to minors—

The following requirements apply to all offers of products or services to or about Children :

(i) Parents and/or guardians should be encouraged to participate in and/ or supervise their children's activities ;

(ii) Identifiable personal information about children should be disclosed to third parties only after obtaining parental consent or where authorized by law. Third parties do not include agents or others who provide support for operational purposes of the website and who do not use or disclose a child's personal information for any other purpose ;

(iii) Marketing communication for products unsuitable for children should be clearly identified as such in the subject line of the message.

Requirement of respect for potential sensitivities of the global audience for advertising through electronic network

Given the global reach of electronic networks, and the variety and diversity of possible recipients, marketers should ensure that their marketing communications are consistent with the principles of social responsibility and should take special care to ensure that they do not cause offence.

Article 81 : Stock

(a) Advertisers shall ensure that they have adequate stock of advertised products to satisfy the demand expected to be generated by the advertisement ;

(b) All advertisements for mail order shall clearly indicate that consumers who show reasonable cause for dissatisfaction shall be refunded the money paid in respect thereof.

Article 82 : Samples

Advertisers shall be prepared to provide a demonstration or sample of the advertised product upon demand by the ASP.

Article 83 : Advertiser's Address

Advertisements for mail order and direct sales shall clearly state the name and address of the advertiser.

Article 84 : Conformity with Description

Products advertised shall conform to the descriptions contained in the advertisement.

Article 85 : Statement of Terms

The selling arrangements shall be clearly stated in the advertisements.

Mail Order/
Direct Sale.

Article 86 : Substitution

Consumers who respond to mail order and direct sale advertisements shall be offered the products advertised.

Substituted products shall not be delivered without the consent of the buyer.

Employment
and Business
Opportuni-
ties.

Article 87 : General

(a) Before publication, media shall demand full details of the Advertisers and any terms and conditions imposed on respondents ;

(b) Employment Advertising shall correspond to genuine vacancies and potential employees shall not be asked to send money for further details. Living and working conditions shall not be misrepresented. Quoted earnings shall be precise; if a forecast has to be made, this shall not be unrepresentative. If income is earned from a basic salary and commission, commission only, or in some other way, this shall be made clear ;

(c) An employment agency shall make clear in advertising communications its full name and contact details and the fact that it is an employment agency, if the name does not disclose that fact ;

(d) Advertising for homework schemes requiring participants to make articles, perform services or offer facilities at or from home shall contain :

(i) the full name and geographical address of the Advertisers ;

(ii) a clear description of the work ; the support available to home workers shall not be exaggerated ;

(iii) an indication of whether participants are self-employed or employed by a business ;

(iv) the likely level of earnings, but only if this can be supported with evidence of the experience of current homeworkers. ;

(v) no forecast of earnings if the scheme is new ;

(vi) a statement of any required investment or binding obligation ;

(vii) a statement of any charges for raw materials, machines, components ; administration and the like ;

(viii) information on whether the Advertisers will buy back any products made ;

(ix) any limitations or conditions that might influence consumers prior to their decision to participate. Advertisers may include that information in follow-up literature made available to all consumers before commitment but the initial Advertising Communication shall state if a financial outlay is required.

(e) Advertising for business opportunities shall contain :

(i) the full name and geographical address of the Advertisers, not a P. O. Box or P. M. B. address ;

(ii) a clear description of the work involved and the extent of investors' commitments, including any financial investment; the support available shall not be exaggerated ;

(iii) no unrepresentative or exaggerated earnings figures. Advertisers may include that information in follow-up literature made available to all consumers before commitment but the initial Advertising Communication shall normally state if an investment is required ;

(f) Advertising for vocational training and other instruction courses shall make no promises of employment unless it is guaranteed. The duration of the course and the level of attainment needed to embark on it shall be made clear ;

(g) Advertising for the sale of directories giving details of employment or business opportunities shall indicate plainly the nature of what is being offered.

Article 88 : Scope

This category relates to all commercial and merchant banking, mortgage, financing and insurance services.

Financial and
Related
Services.

Applications for ASP approval of advertisements for financial and related services shall show approval of the institution, products and services by the Central Bank of Nigeria, Federal Mortgage Bank, National Insurance Commission and/or any other appropriate regulatory agency.

Article 89 : General

Advertisements for financial and related services shall, in addition to the provisions of this Code, be prepared with great care to ensure that members of the public appreciate fully any commitment which they may enter in responding to the advertisement.

The following rules shall apply :

(a) advertisements by any bank or deposit-taking institution for the opening, closure or relocation of offices, branches or cash centres shall not be exposed without the written approval of the Central Bank of Nigeria ;

(b) the use of words or phrases that depict lottery or gambling such as "raffle", "raffle draw", "bonanza", "win", etc. in advertisements shall not be permitted, except it is licensed by the Lottery Board ;

(c) where insurance-linked products and or products with scholarship benefits are to be advertised, the actual value of such insurance and/or scholarship benefits shall be clearly stated.

Article 90 : Advertiser's Address

Advertisements for financial and related services in newspapers, magazines and other print media, save for outdoor, shall bear at least the corporate address of the advertiser.

Article 91 : Deposits and Interest Rates

(a) Where interest rates are stated in advertisements, the rates per annum shall be clearly indicated ;

(b) Interest rates for deposits of less than one year tenor shall be stated to be *pro rata*.

Article 92 : Tenor of Deposit

Where deposits are solicited for a minimum period in any advertisement, the tenor of such deposits with the rates payable shall be clearly stated.

Article 93 : Naira Notes and Coins

(a) The reproduction of the Naira notes in advertisements in the same size and colour as the real note is prohibited ;

(b) Coins may be reproduced in print, but cut-out or die-cut reproduction in any material is prohibited ;

(c) Advertisements that feature Naira notes and coins shall encourage proper handling ;

(d) Advertisements shall not depict the display of the Naira in a manner that reflects frivolity such as heaping, tossing or attempts to titillate covetousness in the consumer ;

Article 94 : Coded Accounts

Advertisements shall not encourage nor imply that coded or anonymous bank accounts can be operated in Nigeria unless permitted by relevant law.

Article 95 : Exchange Rates

Advertisements featuring foreign currencies shall also show current Naira equivalents.

Article 96 : Disparagement of Competitors

(a) Advertisements for financial and related services shall not disparage other banking or financial and related institutions, products and services ;

(b) Advertisements for financial and related services shall not :

(i) be injurious to the operations, products or services of other financial institutions or financial system ; nor

(ii) contain figures from non-audited financial statements of the advertising institution.

Article 97 : Promotions and Incentives

(a) Advertisements shall not encourage customers of other banks or financial institutions to switch over patronage through competitions, lotteries and other such promotional techniques ;

(b) Advertisements offering better incentives than other competitors shall ensure that they supply the public with all relevant facts necessary for a proper assessment of their claims ;

(c) Where terms and conditions apply, advertisers shall state them clearly or refer customers to any accessible website where they shall be found.

Article 98 : Forecasts

Advertisements for financial and related services containing any forecast or projection of a specific return or rate of return shall clearly state the basis upon which the forecast or projection is made.

Article 99 : Prohibited Names

(a) Advertisised financial products and services shall not bear names that are misleading or offensive. In addition the names shall not include words such as "Central", "Federal", "Federation", "National", "Nigeria", "State", "Christian", "Islam", "Koranic", "Biblical", "Bonanza", "Raffle", and "Raffle Draw";

(b) Such financial products and services shall have target markets ; clear features ; benefits derivable by both the banker and customer ; mode of operation which do not contravene any of the provisions of any existing relevant statutes as well as circulars or directives issued from time to time by the Central Bank of Nigeria or the Code of Advertising Practice ;

(c) Such financial products and services shall have features and benefits which shall not be deceptive in any manner or form ;

(d) The issuing institution of any financial products and services shall have the capability to honour its obligations to investors or depositors in the product as indicated in the product features and benefits.

Article 100 : Inducements

Advertisements shall not suggest to children that a product shall be bought or a service patronized.

Article 101 : Appeals

Appeals in advertisements directed at children shall not make them feel inferior to or less likeable than other children who buy or use the advertised products or services.

Article 102 : Exaggeration

Advertisements directed at children shall not exaggerate the use of the product or services.

Article 103 : Safety

(a) Advertisements shall not portray children indulging in behaviour or practice which is unsafe or in any manner hazardous to them ;

(b) Street scenes depicted in advertisements shall show adequate regard for the Highway Code and all road safety regulation ;

(c) Children shall not be depicted in any dangerous situation, such as walking unguarded stairways or leaning over balconies or darting across busy highways ;

(d) Children shall not be shown reaching or attempting to reach items far above their heads as imitating such postures in real life could lead to accidents.

Advertising
to Children.

Article 104 : Accidents

Children shall not be shown using items that could lead to electrocution, burns or any other type of accident. Such items include cooking gas, matches, kerosene, petrol, inflammable materials and electric appliances.

Article 105 : Medicaments

(a) The precepts that all medicines, disinfectants, antiseptics, etc. shall be kept out of the reach of children shall not be violated in any advertisements ;

(b) Where medicines are shown to be in use in advertisements meant for children, they shall be so demonstrated with adult supervision.

Article 106 : Motorized Machines

Children shall not be shown driving cars or operating any motorized machine.

Article 107 : Exploitation of Innocence

Advertisements directed at children shall promote their physical and moral well-being and shall not exploit their natural innocence or trusting nature.

Article 108 : Values

Advertisements using children as models shall not expose them to values that are not approved by the society in general.

Article 109 : Decency

Females appearing in advertisements shall be decently clothed in such a manner acceptable in the society where the advertisement is exposed.

Article 110 : Caricature

The African woman in an advertisement shall depict her as such and not a caricature.

Article 111 : Family Values

Advertisements shall not detract from the sanctity of marriage as well as family standard and values.

CHAPTER FOUR—INTER-SECTORIAL RELATIONSHIP AND PRACTICES

Article 112 : Relationship

Advertising agencies, advertisers or clients shall inter-relate strictly and legally as principals, with each keeping to its area of specialization and terms of contract.

Article 113 : Non-Retention of Advertising Agency

(a) Where an advertiser does not retain the services of an advertising agency, the advertiser shall ensure that all its advertising business is handled by registered advertising practitioners ;

(b) This Code recognizes that there will always be individuals and small organizations whose advertising requirements may not justify the need for the services of an advertising agency. Such category of advertisers may transact their advertising businesses directly provided there is an advertising practitioner or engaged for that purpose. The onus to ensure strict adherence to the ethics and code of advertising practice shall be on the advertising practitioner.

Article 114 : Rates

Media rates shall be published for the information of advertisers, agencies and the general public.

Article 115 : Rate Cards

All conditions relating to the acceptance of advertisements shall be clearly stated on media rate cards. Cash discounts, rebates and similar incentives shall also be clearly stated.

Article 116 : Rate Changes

(a) Media rate changes shall be adequately justified by the findings of authentic audience research in the spirit of a competitive environment ;

(b) Media rate changes shall be adequately notified to advertisers, agencies and the general public. The period of notice shall not be less than 45 days, prior to the effective date of the change.

Article 117 : Equal Opportunity

Equal opportunity to buy media space or air time shall be given to agencies as well as media independents and advertisers. The principle of first come first serve shall be adhered to at all times.

Article 118 : Advertisements for Competing Brands

Advertisements for competing brands shall not be placed next to each other in any medium.

Article 119 : Offensive Advertisements

It shall be the responsibility of media owners to ensure that no advertisement in the media offends any part of the provisions of this Code, the Oath of the Advertising Practice or any law of Federal Republic of Nigeria.

Article 120 : Endorsement of Advertising materials

Advertising materials and media purchase orders, shall be duly endorsed by a registered advertising practitioner not below the grade of Associate Member of the Profession (*arpa*). An advertisement that does not meet the requirement shall not be accepted for exposure in the media.

Article 121 : Outdoor Regulations

(a) All outdoor boards and structures shall be sited and maintained with due regards to bye-laws, state and federal laws and industry guidelines ;

Responsibilities of Media Owners.

(b) Outdoor hoardings shall not be placed in any manner that poses hazards of any nature to the public ;

(c) The use of motion pictures or lurid images is prohibited on sites along highways or roads where they can cause traffic distractions.

Article 122 : Outdoor Environment

All outdoor boards and structures shall be sited and maintained with adequate consideration for safety of the public and protection of the environment.

General.

Article 123: Credit Management and Powers of APCON to legislate generally on industry credit policy

(a) Advertisement placement transactions shall be covered by formal contracts between the advertiser or advertising agency and the media ;

(b) All parties in an advertising related transaction shall enter into well defined formal business agreements, contracts and or arrangements ;

Such formal agreements shall be duly executed by the parties and APCON reserves the right not to entertain claims or disputes arising from unsigned agreements through its domestic dispute resolution organs.

(c) The terms of such contracts between the parties shall be strictly adhered to and enforced by the parties ;

(d) Parties may be liable to be sanctioned by way of administrative sanctions/fines by APCON upon a proper complaint having been made and representations made by parties concerned for neglect, failure or breach of credit obligations under the relevant agreements.

APCON after consultation with any or all relevant sectorial groups shall from time to time publish mandatory notices/guidelines on credit policy, including issuance of guidelines on mandatory and standard clauses in advertising contracts agreements which shall guide all formal contracts and arrangement between parties.

Article 124 : Sectorial Guidelines

All other guidelines adopted by the recognized sectorial groups shall be in consonance with the spirit and letter of this Code.

CHAPTER FIVE—ADVERTISING PRODUCTION AND MANAGEMENT

Article 125 : Models

Models used in advertisements exposed in Nigeria shall be Nigerians except where the concept specifically requires non-Nigerians.

Article 126 : Advertising Positions

(a) Advertising positions in advertising and media agencies may be occupied by non-Nigerians only where there are no qualified Nigerians available for such positions ;

(b) Non-Nigerians shall be employed only in situations where such employment promotes the development of local manpower ;

(c) Only persons who are registered advertising practitioners, Nigerians and non-Nigerians alike, shall be employed in advertising positions.

Article 127 : Social Values

(a) Nigerian location and ambience shall be correctly depicted and respect for Nigeria's national institutions and culture shall be shown ;

(b) Duration of commercial breaks and the ratio of foreign/local contents shall follow the specifications of the Nigerian Broadcasting Corporation ;

(c) Majority of the content of advertisements such as, equipment, footage and production input shall as much as possible be Nigerian ;

(d) Nigerian languages shall be properly used in advertisements. The rich idiomatic expressions characteristic of Nigerian languages shall be positively exploited.

PART TWO—SALES PROMOTION

Article 128 : General Application

The sales promotion rules shall be read in conjunction with the general rules, direct marketing rules and other specific rules, if relevant.

The sales promotion rules are designed primarily to protect the public but they also apply to trade promotions and incentive schemes and to the promotional elements of sponsorships. They regulate the nature and administration of promotional marketing techniques. Those techniques generally involve providing a range of direct or indirect additional benefits, usually on a temporary basis, designed to make goods or services more attractive to purchasers. The rules do not apply to the routine, non-promotional, distribution of products or to product extensions, for example the suitability of one-off editorial supplements (be they in printed or electronic form) to newspapers and magazines.

Promoters are responsible for all aspects and all stages of promotions.

Promotions shall be conducted equitably, promptly and efficiently and shall be seen to deal fairly and honourably with consumers. Promoters shall avoid causing unnecessary disappointment.

Article 129 : Protection of Consumers, Safety and Suitability

(a) Promoters shall make all reasonable efforts to ensure that their promotions, including product samples, are safe and cause no harm to consumers or their property. Literature accompanying promotional items shall give any necessary warnings and any appropriate safety advice ;

(b) Promoters shall make every effort to ensure that unsuitable or inappropriate material does not reach consumers. Promotions shall not be socially undesirable to the audience addressed by encouraging excessive consumption or inappropriate use and shall be designed and conducted in a way that respects the right of consumers to a reasonable degree of privacy and freedom from annoyance ;

(c) Promotions or promotional items shall not be offensive to the audience addressed.

Article 130 : Children

(a) Special care shall be taken when promotions are addressed to children or when products intended for adults may fall into the hands of children ;

(b) Alcoholic drinks shall not feature in promotions directed at people under 18.

Article 131 : Availability

(a) Promoters shall be able to demonstrate that they have made a reasonable estimate of likely response and that they were capable of meeting that response ;

(b) Phrases such as "*subject to availability*" do not relieve promoters of the obligation to take all reasonable steps to avoid disappointing participants ;

(c) Promoters shall not encourage consumers to make a purchase or series of purchases as a precondition to applying for promotional items if the number of those items is limited ;

(d) If promoters are unable to supply demand for a promotional offer because of an unexpectedly high response or some other unanticipated factor outside their control, they shall offer refunds or substitute products in accordance with any directions that may be prescribed by the Council from time to time ;

(e) When prize promotions are widely advertised, promoters shall ensure that entry forms and any goods needed to establish proof of purchase are widely available.

Article 132 : Administration

(a) Promotions shall be conducted under proper supervision and adequate resources shall be made available to administer them. Promoters and intermediaries shall not give consumers justifiable grounds for complaint ;

(b) Promoters shall allow adequate time for each phase of the promotion: notifying the trade, distributing the goods, issuing rules if relevant, collecting wrappers and the like, judging and announcing results.

Article 133 : Free Offers and Free Trials

(a) Promoters shall not try to recover their costs by reducing the quality or composition or by inflating the price of any product that shall be bought as a pre-condition of obtaining the free item ;

(b) Promoters shall not describe an individual element of a package as "*free*" if the cost of that element is included in the package price ;

(c) Promoters shall not use the term "*free trial*" to describe "*satisfaction or your money back*" offers, "*buy one, get one free*" offers or other offers where a nonrefundable purchase is required. If appropriate, promoters shall

provide a cash refund, postal order or personal cheque promptly to free trial participants ;

(d) Consumers' liability for costs shall be made clear in all material featuring "free" offers. An offer shall be described as free only if consumers pay no more than :

(i) the minimum, unavoidable cost of responding to the promotion, e.g. the current public rates of postage, the cost of telephoning up to and including the national rate or the minimum, unavoidable cost of sending an *e-mail* or SMS text message ;

(ii) the true cost of freight or delivery ;

(iii) the cost, including incidental expenses, of any travel involved if consumers collect the offer.

Promoters shall not charge for packing, handling or administration.

Article 134 : Prize Promotions and the Law

Promoters shall take legal advice before embarking on promotions with prizes, including competitions, prize draws, instant win offers and premium payment promotions, to ensure that the mechanisms involved do not make them unlawful lotteries (*see* the National Lottery Act).

Article 135 : Significant Conditions for Promotions

(a) Promotions shall specify clearly before any purchase (or before or at the time of entry/application, if no purchase is required) :

(i) how to participate, including significant conditions and costs, and any other major factors reasonably likely to influence consumers' decisions or understanding about the promotion. If a promotion has a free entry route, for example if one is required by law, that route shall be explained clearly ;

(ii) the start date, in any competition referring to a special offer if the special offer has not yet begun ;

(iii) a prominent closing date, if applicable, for purchases and submissions of entries/claims. Prize promotions and promotions addressed to or targeted at children always need a closing date. Some others do not, for example : competitions that refer to a special offer (whether the promoter's previous offer or a competitor's offer), so long as they are and are stated to be "subject to availability" ; promotions limited only by the availability of promotional packs (e.g. gifts with purchase, extra volume packs and reduced price packs); and loyalty schemes run on an open-ended basis ;

(iv) promoters shall be able to demonstrate that the absence of a closing date will not disadvantage consumers ;

(v) promoters shall state if the deadline for responding to undated promotional material will be calculated from the date the material was received by consumers ;

(vii) Closing dates shall not be changed unless circumstances outside the reasonable control of the promoter make it unavoidable. If they are changed, promoters shall take all reasonable steps to ensure that consumers who participated within the original terms are not disadvantaged ;

(viii) any proof of purchase requirements ;

(ix) the minimum number and nature of any prizes, if applicable. Promoters shall state if prizes are to be awarded in instalments or are to be shared among recipients ;

(x) geographical, personal or technological restrictions such as location, age or the need to have access to the Internet. Promoters shall state any need to obtain permission to enter from an adult or employer ;

(xi) where it is not obvious, if there is likely to be a limitation on the availability of promotional packs in relation to a stated closing date of the offer ;

(xii) the promoter's full name and business address, unless this is obvious from the context. Promotions by newspapers and magazines in their publications need not state the name and address if those can easily be found elsewhere in the publication ;

(xiii) Participants shall be able to retain the above conditions or have easy access to them throughout the promotion. Advertisements for promotions shall specify all of the significant conditions above that are applicable.

Article 136 : Other Rules for Prize Promotions

(a) Promoters shall not claim that consumers have won a prize if they have not. The distinction between prizes and gifts shall always be clear. Gifts offered to all or most consumers in a promotion shall not be described as prizes. If promoters offer gifts to all or most consumers in addition to giving prizes to those who win, particular care is needed to avoid confusing the two. In such cases, it shall be clear that consumers "qualify" for the gifts but have merely an opportunity to win the prizes. If promoters include a gift that consumers have qualified for in a list of other prizes, they shall distinguish clearly between the two ;

(b) Promoters shall not overstate consumers' chances of winning prizes. If promoters include consumers who have not won prizes in lists of those who have won prizes, they shall distinguish clearly between the two ;

(c) Promoters shall not claim that consumers are luckier than they are. They shall not use terms such as "finalist" or "final stage" in a way that implies that consumers have progressed, by chance or skill, to an advanced stage of promotions if they have not ;

(d) Promoters shall not claim that consumers shall respond by a specified date or within a specified time if they need not ;

(e) Complex rules shall be avoided and only very exceptionally will it be considered acceptable to supplement conditions of entry with additional rules. If extra rules cannot be avoided, participants shall be informed how to obtain them; the rules shall contain nothing that could reasonably have influenced consumers against making a purchase or participating ;

(f) Promoters of prize draws shall ensure that prizes are awarded in accordance with the laws of chance and under the supervision of an independent observer ;

(g) Participants in instant win promotions shall get their winnings at once or shall know immediately what they have won and how to claim without delay, unreasonable costs or administrative barriers. Instant win tickets, tokens or numbers shall be awarded on a fair and random basis and verification shall take the form of an independently audited statement that all prizes have been distributed, or made available for distribution, in that manner ;

(h) Prize promotions shall specify before or at the time of entry :

(i) any restriction on the number of entries ;

(ii) whether or not a cash alternative can be substituted for any prize ;

(iii) when prize winners will receive their prizes if later than six weeks after the closing date ;

(iv) how and when winners will be notified of results ;

(v) how and when winners and results will be announced. Promoters shall either publish or make available on request the name and location address of major prize winners and, if applicable, their winning entries. Prize winners shall not be compromised by the publication of excessively detailed personal information ;

(vi) in a competition, i.e. a game of skill or judgement, the criteria for judging entries (e.g. the most apt and original tiebreaker). If the selection of winning entries is open to subjective interpretation, an independent judge, or a panel including one member who is independent of the competition's promoters and intermediaries, shall be appointed. Those appointed to act as judges shall be competent to judge the subject matter of the competition. The full names of judges shall be made available on request ;

(vii) if relevant, who owns any copyright in the entries ;

(viii) if applicable, how entries will be returned by promoters ;

(ix) any intention to use winners in post-event publicity ;

Participants shall be able to retain the above conditions or have easy access to them throughout the promotion.

(i) Promoters shall award the prizes as described in their advertising or reasonable equivalents ;

(j) Promoters shall not falsely claim or imply that the consumer has already won, will win, or will on doing a particular act win a prize (or other equivalent benefit) if the consumer shall incur a cost to claim the prize (or other equivalent benefit) or if the prize (or other equivalent benefit) does not exist.

Article 137 : Front Page Flashes

Advertisers announcing reader promotions on the front page or cover shall ensure that consumers know whether they will be expected to buy subsequent editions of the publication. Major conditions that might reasonably influence consumers significantly in their decision to buy the publication shall appear on the front page or cover.

Article 138 : Charity-linked Promotions

Promotions run by third parties (e.g. commercial companies) claiming that participation will benefit registered charities or causes shall:

(i) name each charity or cause that will benefit and be able to show the ASP the formal agreement with those benefiting from the promotion ;

(ii) if it is not a registered charity, define its nature and objectives ;

(iii) specify exactly what will be gained by the named charity or cause and state the basis on which the contribution will be calculated ;

(iv) state if the promoter has imposed a limit on its contributions ;

(v) not limit consumers' contributions. If an amount is stated for each purchase, there shall be no cut-off point for contributions. If a target total is stated, extra money collected shall be given to the named charity or cause on the same basis as contributions below that level ;

(vi) be able to show that targets set are realistic ;

(vii) not exaggerate the benefit to the charity or cause derived from individual purchases of the promoted product ;

(viii) if asked, make available to consumers a current or final total of contributions made ;

(ix) take particular care when appealing to children.

Article 139 : Trade Incentives

(a) Incentive schemes shall be designed and implemented to take account of the interests of everyone involved and shall not compromise the obligations of employees to give honest advice to consumers ;

(b) If promoters intend to ask for help from, or offer incentives to, another company's employees, they shall require those employees to obtain their employer's permission before participating. Promoters shall observe any procedures established by companies for their employees, including any rules for participating in promotions ;

(c) Incentive schemes shall make clear to those benefiting that they may be responsible for paying tax ;

(d) Promoters shall not claim that products are able to facilitate winning games of chance.

PART 3—SANCTIONS

Article 140 : Penalties

(a) A media house which publishes or exposes an advertisement without the ASP Certificate of Approval shall be liable to a minimum penalty of ₦500, 000.00 (Five Hundred Thousand Naira) ;

(b) An agency which creates and/or places for publication or exposure of an advertisement without the ASP Certificate of Approval shall be liable to a minimum penalty of ₦500, 000.00 (Five Hundred Thousand Naira) ;

(c) An advertiser who authorises the publication or exposure of an advertisement without the ASP Certificate of Approval shall be liable to a minimum penalty of ₦500, 000.00 (Five Hundred Thousand Naira) ;

(d) An advertising practitioner who publishes, exposes or knowingly aids the publication or exposure of an advertisement without the ASP Certificate of Approval shall be subject to the APCON disciplinary procedure notwithstanding the payment by his employer of the appropriate penalty.

The ASP Certificate of Approval is an attestation that the advertising material has satisfied the provisions of this Code.

PART 4—ADMINISTRATION OF THE CODE

Article 141 : Power to Administer the Code

(a) In consonance with the powers granted to the Council as primary administrator and regulator of the practice of advertising under the enabling Act and related subsidiary legislation, and the powers granted to the Minister of Information to give directives and make regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the administration thereof, the Minister of Information authorizes the Council of APCON to receive, inquire into, arbitrate and where necessary impose sanctions for any non-compliance or non adherence to :

(i) The terms, conditions and obligations of any person under this Code ;

(ii) The Act, the Code and other regulations or any complaint or allegation about: the content of advertising materials, the terms and conditions of any advertising licence, and/ or the conduct of any advertising practitioner or person holding himself or herself out as an advertising practitioner.

(b) Pursuant to the foregoing, in addition to any specific sanction provided for under this Code, the Council of APCON shall apply any of the following sanctions stipulated in the Act or in any part of this Code, including—

- (i) Reprimand,
- (ii) Warning,
- (iii) Light or heavy fine,
- (iv) Reduction of scope of license (or scope of practice for individual and sole practitioner),
- (v) Temporary suspension of registration or licence,
- (vi) Removal from the register of practice,
- (vii) Revocation of licence,
- (viii) A recommencement or reactivation fine in the cases (v), (vi) and (vii),

(c) A sanction shall be carefully weighed against the gravity of the breach or non-compliance and the appropriate level of sanction applied. Sanctions shall graduate in severity as a result of non-compliance.

PART 5—ADVERTISING PRACTITIONERS-RIGHTS AND RESTRICTIONS

Article 142 : General Principle

(a) No person shall be permitted to offer advertising services directed at the Nigerian advertising market except under and in accordance with the provisions of this Part of the Code.

General provisions as to the Council's powers to regulate the advertising profession.

(b) The Council of APCON is empowered to—

(i) approve, admit in a register of practice and or to license all such natural and/or corporate persons of Nigerian or foreign origin which it deems qualified to practice Advertising or offer advertising services directed at the Nigerian market in a part or the entirety of the Federation of Nigeria for the benefit of a section or the whole of the general public ;

(ii) receive, process and consider applications for the establishment, ownership or operation of any form of advertising outfit in Nigeria, and with regards to foreigners seeking to set up an advertising business in Nigeria, this shall be as a preliminary step/condition precedent to compliance to all other requirements of law for the time being enforceable with respect to incorporation of companies and setting up of business by foreign investors in Nigeria ;

(iii) receive, consider and refer for investigation complaints from individuals and bodies corporate or incorporate regarding the contents of an advertisement and the conduct of an advertising practitioner or firm, in so far as it is directed to the Nigerian advertising market, irrespective of whether the person offering such advertising services has properly complied with otherwise mandatory requirements of registration or licensing ;

(iv) uphold the principles and standards of advertising established under this code with regard to the contents and quality of materials for advertising ;

(v) promote Nigerian indigenous morals, diverse culture and community life through advertising ;

(vi) apply sanctions, including revocation of registration or licences of defaulting advertisers or advertising outfits which do not operate in accordance with the Advertising code and or in the public interest.

(c) An application by an individual person for registration for the purpose of practicing advertising in Nigeria shall be an application to the Registrar of APCON in the prescribed form. A foreign individual having advertising qualification may decide to undertake any relevant course required under the Act and comply with any conditions under this Code and be registered as a Non-Nigerian advertising practitioner in the register of advertising practitioner without prejudice to compliance with other laws such as immigration laws.

(d) In the same vein, a request by a person for authority to setup, own, establish or where such outfit already exists- operate an advertising outfit in any acceptable corporate form shall be by way of an application for a licence addressed to the Registrar of the Council of APCON in the prescribed form.

(e) The Council of APCON shall, upon satisfaction that the relevant person or persons possess the requisite professional qualifications, standard of knowledge, capacity it requires for any person that intends to or indeed is practicing or offering advertising services in Nigeria, register, certify and or license any such persons :

(i) In the case of natural person whether doing business as a sole practitioner, as a partnership, as an associate member, full member and or (honorary or otherwise) fellow ;

(ii) In the case of a corporate entity, whether doing business as a :

1. Duly licensed full service and or multidisciplinary advertising agency, company or outfit ; or as a
2. Duly licensed advertising organisation,
3. Duly licensed full service advertising agency,
4. Duly licensed creative advertising agency,
5. Duly licensed media agency,
6. Duly licensed interactive agency,
7. Duly licensed advertising media,
8. Duly licensed advertising production organisations and
9. Duly licensed advertising artistes' agency.

(f) The Council of APCON shall, in the consideration of an application or a licence under this Part, be satisfied that the applicant has sufficient knowledge and skill to perform professionally howsoever that compliance with the requirements below shall not entitle an applicant *ipso facto* to the grant of a licence but the grant of a licence shall not be unreasonably withheld—

(i) where a natural person, is a fit and proper person that is to say not having engaged in any practice in the course of carrying on business which is deceitful, oppressive and/or unfair and improper, nor convicted of any offence involving fraud or dishonesty ;

(ii) where a body corporate, is registered under the Companies and Allied Matters Act 1990 as amended provided that where the aspirant applicant promoting the body corporate is of foreign origin or funding of same will be foreign under a joint venture arrangement or any other arrangement, an intention to incorporate such body corporate shall suffice and shall not constitute a reasonable ground for refusal ;

(iii) where a person has stated that he is not applying on behalf of any foreign interest, in which case any right or restriction of practice applicable shall apply, provided that where it is subsequently discovered that this statement was false, it shall be a ground for revocation of such license ;

(iv) where a person has stated that he can comply with the objectives of the APCON Act and of this Code and any other policy as is applicable to the advertising industry ;

(v) where a person gives an undertaking that the licensed outfit shall be used to promote national interest, cultural integrity, unity and cohesion, and that it shall not be used to offend the religious sensibilities or promote ethnicity, sectionalism, hatred and disaffection among the peoples of Nigeria ;

(vi) where a person is in compliance with any other requirement stated under this Code or published from time to time ;

(g) Without prejudice to paragraph(h) of this article below, the grant of licence shall be generally subject to the following terms and conditions :

(i) A licence shall be valid for a period of three years in the first instance, and for a period of three years for every subsequent renewal ;

(ii) An application for the renewal of a licence shall be made to the Council of APCON within a period of six months before the expiration of the licence ;

(iii) In considering an application for the renewal of a licence APCON shall review the past conduct of the licensee ;

(iv) The Council of APCON may not renew a licence if, having regard to the past performance of the licensee, it is not in the national or public interest or in the interest of the advertising industry to do so provided that the Council of APCON shall firstly give such licensee the opportunity of making representation before taking any decision in writing refusing a renewal of license ;

(v) A licence shall not be unilaterally transferable or changed and the license of the outfit shall not for such reason be changed or disposed without prior notification to the Council of APCON of the intention and the reasons for such change/transfer provided that the Council shall not

unreasonably withhold approval of such change or transfer where proper materials as approved under this Code are supplied to enable it exercise its discretion ;

(vi) A licensee shall be responsible for the contents of an advertisement disseminated in any relevant form of media used ;

(h) A licence may be revoked by the Council of APCON in the following cases that is :

(i) where the prescribed fee has not been paid on the due date ;

(ii) where the licence has not been put to use within a period of one year after issuance ;

(iii) where it is found that the licence was obtained in breach of /non compliance with the provisions of the APCON Act or the provisions of this Code ;

(iv) where in the opinion of the Council of APCON, the advertising outfit has been used in a manner detrimental to national interest or where a complaint from the public has been upheld after a public hearing instituted by the Council and whose decision is upheld by a majority of members of the Council ;

(v) for false statements knowingly made either in the application form or in any statement of fact which may be required pursuant to the APCON Act and the present Code ;

(vi) where the Council discovers even after the issuance of a licence, authentic information or facts that would ordinarily preclude the granting of a licence to the licensee ;

(vii) where there is willful or repeated failure to operate substantially as set forth in the licence ;

(viii) where there is willful or repeated violation or wilful or repeated failure to observe any provision of this Act or any rule or regulation produced pursuant to powers vested in the APCON Act ;

(ix) where there is violation of or failure to observe any cease and desist order issued by the Council of APCON ;

(x) where there is willful or repeated failure to allow reasonable access into the premises of any advertising outfit to officials of APCON ; and

(xi) where a provision of the APCON Act has been seriously breached.

(i) The public hearing referred to in paragraph (h) (iv) of this article may be held at such places as the Council of APCON may determine to be appropriate ;

(j) Pursuant to paragraph (i) of this article, the Council of APCON shall serve upon the licensee or person involved, an order to show cause why an order of revocation, suspension, or any other order should not be issued against him/ her and the order to show cause shall contain a statement of the matter with respect to which the Council of APCON through its Advertising

Practitioners Investigative Panel (APIP) is inquiring and shall call upon the said licensee or person to appear before APCON's Advertising Practitioners Disciplinary Committee at such time and place as may be stated in the order but not less than thirty days after the receipt of such order, to give evidence upon the matter specified therein ;

(k) If, after the hearing, the Committee determines that an order of revocation, suspension or any such other order should be issued, it shall issue such order or orders, which shall include a statement of the findings of the APIP, the grounds and reasons for agreeing with the findings and specify the effective date of the order, and cause same to be served on the said licensee or person ;

(l) The Committee may impose a lesser sanction such as a warning or the suspension of a licence as it may deem fit.

(m) Without prejudice to the generality of the previous articles, and particularly paragraph (f) of this article, the Council shall from time to time issue circulars detailing the licensing requirements for each category of advertising outfit and shall in devising an expedited regularization process take into cognizance in such circular of the fact that many advertising outfits have been in business prior to the issuance of the provisions of this amended Code.

Article 143 : Authority to practice

(a) Further to article 142 and particularly paragraph (e) therein, an advertising practitioner must be registered and if not a natural person, must be licensed and or authorized to practice in accordance to the provisions of this Code.

(b) No foreign person or advertiser shall be authorized to practice advertising in Nigeria or offer any advertising services directed at the Nigerian advertising market except registered or licensed to so do. Subject to the satisfaction of the provisions of paragraph (c) of this article, admission of foreign advertiser shall generally be by way of licence.

(c) In order for an advertising practitioner to be authorized or licensed to practice, he/she must :

(i) Be a fit and proper person (not having engaged in any practices in the course of carrying on business which is deceitful, oppressive and or unfair and improper, not convicted of any offence involving fraud or dishonesty or violated the provisions of any Advertising, Telecommunications and Media Law) ;

(ii) if an advertising outfit already in business prior to the commencement of the provisions of this Code, have proper and good records, other adequate systems of control of the practice and persons fit and proper to practice advertising/offer advertising services prior to the outfit's application for authorization/licensing ;

(iii) have the proper educational training and or experience in advertising.

(d) In this regard, subject to any further requirements that the Council of APCON may publish from time to time via Notice/Order in the Gazette, an advertising practitioner must show that—

(i) He possesses the requisite qualifications under this Code or as published from time to time by the Council of APCON via public notice ;

(ii) In the case of corporate Nigerian advertising outfits which have been in business prior to the commencement of this Code, at least 3-4 years experience of practice of advertising and supportive materials to that effect ;

(iii) In the case of foreign advertising practitioners, such individual or corporate practitioner must give particulars of relevant qualification, curriculum content of discipline learnt by relevant staff or officer to justify adequacy of qualification, provided that the Council of APCON retains the prerogative of directing such persons to pass any further examinations in a local course or establish as condition any number of training for a certain period of time as it may deem fit to approve from time to time to validate their qualifications or where a public notice has been passed to the same effect direct compliance with same for the purpose of validation of foreign qualification to practice in Nigeria and or offer advertising services directed at the Nigerian advertising market ;

(iv) he/ she has paid the requisite registration or licensing fees as may be prescribed and published via *Gazette* by the Council of APCON from time to time.

(e) Nothing in this provision shall preclude any person from being a member of any advertising association duly recognized by the Council of APCON or under the APCON Act and to be subject to any of its professional ethics, discipline and fees requirements.

(f) Notwithstanding anything in this part, Officers in the Ministry of Information and Information department of the National Assembly Office may by reason of their office practice advertising provided that they shall adhere to the provisions of the Code and the APCON Act.

(g) For purpose of constant training and deepening of knowledge and practice, a Nigerian or Non-Nigerian advertising practitioner whether registered individually or licensed shall compulsorily attend at least once every two years any advertising, communications or marketing related course, training or seminar, and a breach of this provision may be ground for suspension of license to practice until evidence that non-compliance has been remedied but shall not be a ground for a revocation of licence.

(h) Any person who is unauthorised to practice and/or has particularly failed to satisfy the provisions of this part or any other part of the Code or the APCON Act but yet offers advertising services directed at the Nigerian advertising market or for gain shall be deemed to be holding himself falsely as an advertising practitioner and liable under these provisions to pay fines

provided that in any case before any fine is imposed on any person, such person shall be given the opportunity to make representations in his/her defence in accordance with rules of fair hearing and natural justice.

(i) Where it is discovered that an individual and/or a corporate person not being registered or licensed to practice advertising has without authorization promoted or offered advertising products/services for gain to any person, such person shall be liable to a fine of 25 per cent of the value of the advertising service offered to any identified sponsor, and in the absence of knowledge of such value a fine of ₦100, 000 for each act of breach of the foregoing provisions of this part.

(j) Where it is discovered that any individual and/ or corporate person has sponsored, assisted, agreed with an unauthorised person to promote any advertising product or services, such person shall be liable to a fine of 25 per cent of the value of the advertising service offered, and in the absence of knowledge of such value a fine of ₦100,000 for each of breach of the foregoing provisions of this part.

Article 144 : Further Rights and Restrictions of Advertising Practitioners

(a) An advertising practitioner may perform any of the functions stated in APCON Public Notice of January 9, 1997 and or from time to time reviewed and declared by APCON including the conceptualization, design, planning and production of electronically based advertising.

(b) Subject to the APCON Act, only a duly registered, experienced and qualified advertising practitioner may be appointed as Registrar of APCON or an executive of APCON and only a person registered as advertising practitioner by the Council of APCON may occupy certain positions as defined from time to time by the Council of APCON through Public Notice.

(c) Such person responsible for a minor, or a person below the age of 18, or any person other than a registered advertising practitioner holding himself out to practice as an advertising practitioner or who take/uses the title of advertising practitioner or wilfully take or use any name, title, addition or description falsely implying or otherwise pretend that he is an advertising practitioner or is qualified or recognised by law to act as an advertising practitioner or prepares for a fee any advertising concept, design, research, plan, presentation, etc shall be liable to a fine ranging from a warning to a light or a heavy fine upon a proper consideration of the circumstances surrounding such holding out.

(d) A registered or licensed advertising practitioner whether of Nigerian or Non-Nigerian origin shall not be further authorized to solicit and practice with a view to making a gain where he or she—

(i) is yet to pay, by the 31st January but not later than 1st March of every year or the time stated in the relevant licence, the prescribed practicing or licensing fees as prescribed and or published from time to time by the Council of APCON; provided that nothing in this provision shall preclude

such person to pay any subscription or fees due to a sectoral advertising association recognized by APCON and provided that members of Council of APCON during their tenure of office, and such offices as the Minister of Information shall specify shall be exempted from payment of practicing fees ;

(ii) is a servant or in full time salaried employment of any kind in Nigeria (excluding a qualified and registered advertising practitioner employed by an advertising outfit) and thus shall not practice/offer advertising services for gain to his/her master or any person, provided however that such restriction shall not be applicable if he or she is—

(1) a non-executive director of a limited liability company or limited by guarantee or a sleeping partner in a partnership engaged in a business other than advertising and who receives no fees ;

(2) an officer in government department (in so far as he is not conflicted) ;

(3) an officer in a nationalized industry and or statutory company and the statute creating same allows him or her to practice ;

(4) engaged in part time work or loose/casual working relationship ;

(5) a full or part time lecturer on any subject ;

(6) a duly qualified pupil advertiser at a salary in so far that there is such an agreement with his employer.

(e) Without prejudice to article 144(d)(ii)(2), a public officer being a qualified and registered advertising practitioner should ideally refrain from engaging in active private advertising practice but rather offer advisory advertising services and consultancy howsoever that he or she is free to render advertising services—

(i) to himself/ herself ;

(ii) to a person in emergency ;

(iii) under the authority of the Government ;

(iv) free of charge to a family member, charity organization ;

(v) on humanitarian ground ; or

(vi) to a professional association.

(f) An advertising practitioner engaging primarily in advertising business shall not simultaneously engage in trade or business incompatible with the practice of an advertising practitioner or which tends to undermine the high standing of the profession and subject to any other restrictions that the council of APCON may from time to time publish by way of Public Notice, an advertising practitioner is barred from dealing directly in the sale/purchase of commodities or as commission agent or ship handler. Nothing in this provision shall by any means restrict an advertising practitioner from being a Non-Executive Director on the board of a company or a shareholder/investor in any company.

Article 145 : Promotion of Local Content and Nigerian Cultural Heritage

(a) The Federal Government of Nigeria through this Code whilst encouraging increased influx of capital, recognizing the need to promote, a level playing field, competition and best international practices in the Nigerian advertising industry, further recognizes the fundamental need to safeguard, enrich and strengthen the cultural, social, political and economical fabric of Nigeria ;

(b) All sectoral advertising associations, advertising sponsors, advertisers of Nigerian export products, and all manner of practitioners, contractors, advertising joint venture partners, foreign advertisers doing business in Nigeria and offering products and services products directed at the Nigerian advertising market, and generally all other persons or entities involved in any advertising project, business activity and or transaction in the Nigerian advertising industry shall consider Nigerian content as an important element of their overall business management, project development and/or execution ;

(c) Nigerian advertising practitioners, artists of equal or similar qualification and/ or experience shall be given first consideration in any advertising project, contract and/ or deal ;

(d) In applying for any licence, a person shall submit to the Council of APCON where required, a Nigerian Content Plan or otherwise show in its application for license sufficient proof of Nigerian content consideration ;

(e) A plan where requested shall contain provisions intended to ensure that—

(i) first consideration shall be given to services provided from within Nigeria, and

(ii) Nigerians shall be given first consideration for employment and training in the work programme for which the plan was submitted.

(f) The Council of APCON shall be responsible for verifying compliance with the foregoing provisions of any application for licence. Compliance with the foregoing provisions shall be a major criterion for award of licences especially to foreign advertising outfits, advertising joint ventures or alliance partnership with foreign investors in the Nigerian advertising industry. It shall further be a major criterion for renewal of advertising licence.

Responsibilities of the Advertising Practitioners Council of Nigeria.

The Advertising Practitioners Council of Nigeria (APCON), through its statutory committees is vested with the responsibilities of :

(a) proclaiming this Code ;

(b) enforcing the provisions of this Code ;

(c) pronouncing and enforcing legal penalties for the violations of this Code ;

(d) prosecuting cases of violation of this Code .

The statutory committees charged with the duty of enforcing this Code are :

Statutory
Committees.

- (a) the Advertising Standards Panel (ASP) and its relevant sub-committees ;
- (b) the Advertising Practitioners Investigating Panel (APIP) ; and
- (c) the Advertising Practitioners Disciplinary Committee (APDC).

THIRD SCHEDULE

SECTORAL ASSOCIATION

The recognized sectoral associations through which APCON regulates the practice of advertising are :

- (a) the Advertisers Association of Nigerian (ADVAN) ;
- (b) the Association of Advertising Agencies of Nigeria (AAAN) ;
- (c) the Broadcasting Organisation of Nigeria (BON) ;
- (d) the Newspapers Proprietors Association of Nigeria (NPAN) ;
- (e) the Outdoor Advertising Association of Nigeria (OAAN) ;
- (f) the Media Independent Practitioners Association of Nigeria (MIPAN) ;
- (g) and such other associations as the Council of APCON may from time to time approve.

FOURTH SCHEDULE

REGULATORY SECTORS

In the enforcement of the provisions of this Code, APCON shall elicit the cooperation of under listed statutory sector regulators in the areas of scientific and technical data, enforcement, and application etc. The sector regulators include but not limited to :

- (a) the Central Bank of Nigeria (CBN) ;
- (b) the National Broadcasting Commission (NBC) ;
- (c) the National Insurance Commission (NAICOM) ;
- (d) the Consumer Protection Council (CPC) ;
- (e) the Nigerian Communications Commission (NCC) ;
- (f) the National Agency for Food and Drug Administration and Control (NAFDAC) ;
- (g) the Standards Organisation of Nigeria (SON).





