



ARCON

Advertising Regulatory Council Of Nigeria

HIGHLIGHTS OF THE NEW ARCON LAW

PRESENTED BY

DR. OLALEKAN FADOLAPO, FCA, rpa
DIRECTOR GENERAL, ARCON

HIGHLIGHTS OF THE ARCON LAW

- PREAMBLE
- REMIT OF THE LAW
- APPLICATION OF THE ACT
- INTERPRETATION OF TERMINOLOGIES
- ESTABLISHMENT OF A GOVERNING COUNCIL
- FUNCTIONS OF THE COUNCIL
- POWERS OF THE COUNCIL
- PRIVILEGES OF REGISTERED PERSONS AND OFFENCES BY UNREGISTERED PERSONS
- STATUTORY COMMITTEES AND BODIES
- MISCELLANEOUS PROVISIONS

P R E A M B L E

**MILESTONES OF
ADVERTISING IN NIGERIA
AS A BUSINESS AND
A PROFESSION**

REMIT OF THE LAW

This Act repeals the Advertising Practitioners (Registration, etc.) Act, Cap. A7, Laws of the Federation of Nigeria, 2004 and enacts the Advertising Regulatory Council of Nigeria Act, 2022 to establish a Council for advertising, advertisements and marketing communications as the apex regulatory authority for the Nigerian advertising industry, make provision for the regulation and control of advertising, ensure the protection of the general public and consumers, promote local content and entrench the best international practices.

REMIT OF THE LAW

S1, 2d Notwithstanding the provisions in any other Act, have exclusive power to determine, pronounce upon, administer, monitor, and enforce compliance by persons and organizations on matters relating to advertisements, advertising, and marketing communication in Nigeria, whether of a general or specific nature.

APPLICATION OF THE ACT

- S2 The provisions of this Act applies to —
- S2a Individual, organization, body corporate or agency of the Federal Government, State, or Local Government which engages in, regulates, sponsors or takes benefit of advertising services, advertisements, and marketing communications services; and
- S2b Any person who sponsors or takes benefit of an advertising, advertisement, or marketing communications services within the provisions of this Act.

INTEPRETATION OF TERMINOLOGIES (S63)

- Advertisement” means a notice, announcement, exposure, publication, broadcast, statement, announcorial, informercial, commercial, hype, display, town cry, show, event, logo, payoff, or trademark to promote, advocate, solicit, showcase, endorse, vote or support a product, service, cause, idea, person or organization with the intention to influence, sway, actuate, impress, arouse, patronize, entice or attract a person, people or organization by an identified sponsor irrespective of media, medium or platform;

INTEPRETATION OF TERMINOLOGIES (S63)

- Advertising means any act, action, activity, construct, or undertaking directly, or indirectly, intentionally, or unintentionally, aimed at creating, planning, strategizing, managing, developing, producing, propagating, servicing, or facilitating an advertisement, brand, or marketing communications ideas.

INTEPRETATION OF TERMINOLOGIES (S63)

- Marketing Communications means any act, gesture, endeavor, execution, performance tactics, or effort aimed at sharing promotional information, evoking emotion, creating awareness, or encouraging demand for a product, service, cause, idea, person, or organization through the use of public media, mass media, or any medium capable of disseminating information to the public directly, or indirectly, intentionally, or unintentionally.

INTEPRETATION OF TERMINOLOGIES (S63)

- Advertiser” means a person, private or public organisation that causes, requests, directs, or pays for an advertisement, advertising or marketing communications ideas to be created, developed, produced, executed, expose or that takes benefit of advertisement, advertising, and marketing communication services.

INTEPRETATION OF TERMINOLOGIES (S63)

- Advertisement agency” means any agent, agency, or organization that engages in full advertising service, creative advertising, media buying, media planning, media brokerage, experiential marketing, activation, out-of-home advertising, brand consulting, brand management, digital advertising, or any other advertising, marketing communications service.
- Media means any medium, channel, or platform that disseminate, circulate, expose, broadcast, publish, display or make public an advertisement;

ESTABLISHMENT OF A GOVERNING COUNCIL



The Governing Council shall consist of:

- (a) Chairman, who shall be a distinguished Fellow of the profession to be appointed by the President;
- (b) The Director-General of the Council who shall be the Vice-Chairman;
- (c) One representative not below the rank of a director from the supervisory Ministry;
- (d) One representative each of:
 - (i) National Universities Commission (NUC),
 - (ii) National Board for Technical Education (NBTE),
 - (iii) Broadcasting Organisation of Nigeria (BON),
 - (iv) Newspapers Proprietors' Association of Nigeria (NPAN),

ESTABLISHMENT OF A GOVERNING COUNCIL

- (v) Outdoor Advertisement Association of Nigeria (OAAN),
- (vi) Advertisers Association of Nigeria (ADVAN),
- (vii) Media Independent Practitioners Association of Nigeria (MIPAN), and
- (viii) Experiential Marketers Association of Nigeria (EXMAN);
- (e) Five representatives of the Association of Advertising Agencies of Nigeria (AAAN); and
- (f) The Head of Legal Unit of the Council who shall always act as the Secretary of the Governing Council.

FUNCTIONS OF THE COUNCIL

S8. The Council shall:

- (a) regulate and control advertising, advertisements, and marketing communications in all its aspects and ramifications directed at or exposed to the Nigerian market
- (e) ensure the effective administration, supervision, regulation, and control of advertising, advertisement, and marketing communication in Nigeria in all its aspects and ramifications
- (h) carry out investigation or inquiry considered necessary or desirable in connection with any matter relating to advertising, advertisement, and marketing communications in Nigeria;

FUNCTIONS OF THE COUNCIL

Regulate and control creative ratings, advertising, advertisement and marketing communications awards, marketing communications research, audit bureau of circulations, audience measurement, consumer insight research, and other related researches directed to and targeted at the Nigerian market.

- (j) The preservation of Nigerian local content and use of indigenous skills as an important element in advertising, advertisement, and marketing communications services in Nigeria and directed at the Nigerian market

FUNCTIONS OF THE COUNCIL

- (k) Formulate and implement regulations and guidelines on advertising, advertisement, and marketing communications industry terms of engagement, credit policy and disengagement protocol.
- (r) Securing in accordance with the provisions of this Act, the establishment and maintenance of separate registers for individual and body corporate entitled to practice in any form of advertising, advertisement and marketing communications including creative agencies.

FUNCTIONS OF THE COUNCIL

(u) Formulate policies, regulate, approve and register advertising, advertisement, and marketing communications business combinations, mergers, acquisitions, subsidiary investment, affiliation, and other investments by organizations licensed under this Act;

POWERS OF THE COUNCIL

S9. The Council shall have powers to:

- (b) Authorize, formulate, establish and issue code, proclamations, standards of practice, guidelines, and other regulations on advertising, advertisement, and marketing communications in Nigeria.
- (d) License and revoke license issued to all categories of advertisement agencies under this Act;
- (f) Monitor and enforce sanctions on any person or organization that sponsors, exposes, or causes to be exposed in Nigeria, any advertising, advertisement, and marketing communications materials without prior approval of the Advertising Standards Panel;

POWERS OF THE COUNCIL

- (g) Investigate and compel public and private organisations to produce advertising and marketing communications-related information.
- (h) Have access to books including financial records of organizations licensed by the Council.
- (j) Compel public and private organisations to use only bodies corporate licensed under this Act for advertising and marketing communications services in Nigeria.
- (k) Compel public and private organisations to disclose all advertising service providers engaged by them;

POWERS OF THE COUNCIL

- (i) Investigate and prosecute individual, body corporate or organization, directors and shareholders licenced under this Act in the interest of the public.
- (p) Sanction any person or organization that violates or infringes any provision of this Act, code of advertising practice, standard of practice, proclamation, and any other enactment that relates to advertising, advertisement, and marketing communications in Nigeria.

POWERS OF THE COUNCIL

- (q) Prosecute any person or organization that violates or infringes any provision of this Act, code of advertising, proclamations, and any other enactment relating to advertising, advertisement, and marketing communications.
- (r) Upon violation of any provision of this Act, seal advertising department, marketing department, or commercial departments of organizations and agencies upon obtaining a court order.

POWERS OF THE COUNCIL

- (t) Compel public or private organizations or any person who sponsors or takes benefit of an advertisement to pull down or remove any advertisement or marketing communication exposed and directed at the Nigerian market that violates any provision of this Act.
- (u) Stop the exposure or cause the removal of any advertising, advertisement, and marketing communication exposed or directed at the Nigerian market that violates any provision of this Act; and
- (v) Do such other things as it considers necessary for the effective performance of its functions under this Act.

PRIVILEGES OF REGISTERED PERSONS AND OFFENCES BY UNREGISTERED PERSONS

S31. (1) A person not being registered in accordance with this Act, shall not be entitled to hold any appointment in the public service of the Federation or of a State or in any public or private establishment, body, or institution if the holding of a such appointment involves the performance by him in Nigeria of any act pertaining to the profession for gain.

PRIVILEGES OF REGISTERED PERSONS AND OFFENCES BY UNREGISTERED PERSONS

S32. (1) An individual or organization, not being registered in any register established under this Act who has failed, refused or neglected to comply with the conditions and requirements for advertising, advertisement, and marketing communications as stipulated under this Act, or who uses any name, title, description or symbol calculated to lead any person to infer that he is engaged in advertising, advertisement or marketing communications commits an offence and is liable on conviction.

STATUTORY COMMITTEES AND BODIES

S50 The Advertising Practitioners Disciplinary Committee

S51 The Advertising Practice Investigating Panel

S52 Advertising Arbitration Panel

S53 The Advertising Standards Panel

S37 The Advertising Offences Tribunal

THE ADVERTISING OFFENCES TRIBUNAL

- S37. (1) There is established under this Act, the Advertising Offences Tribunal (in this Act referred to as "the Tribunal").
- (2) The Tribunal shall adjudicate over offences created under this Act, Code of Advertising Practice, Standard of Practice, Proclamation and other relevant enactments made under this Act.
- (3) The Tribunal shall exercise the jurisdiction, powers and authority conferred on it under this Act or any other enactment.
- S43. (1) The Tribunal shall have and exercise jurisdiction and powers in respect of criminal cases and offences created under this Act.

THE ADVERTISING OFFENCES TRIBUNAL

S45. Notwithstanding the provisions of any other enactment conferring power to search, if the Chairman of the Tribunal is satisfied that there is a reasonable ground to suspect that there may be found in any building or other places, any book, record statement, or information in any form, which, in his opinion are or may be material to the charge or any trial under this Act, he may issue a warrant under his hand authorizing any police officer or any member of the security agencies to enter, if necessary by force, the said building or other place and every part of it, to search for, seize and remove any material from it.

THE ADVERTISING OFFENCES TRIBUNAL

S47. (1) Where the Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this Act, an appeal shall lie as of right from such decision to the Court of Appeal at the instance of any party to the proceedings

PART XIII — MISCELLANEOUS PROVISIONS

- S54. Any person including sponsor or beneficiary of an advertisement, body corporate, organization or agency which creates or places for publication or exposure of an advertisement in any medium directed at or targeting the Nigerian market without the prior approval of Standards Panel commits an offence and is liable to such fine as stated in the Nigerian Code of Advertising Practice. S4
- S62. (1) The Advertising Practitioners (Registration, etc.) Act, Cap. A7, Laws of the Federation of Nigeria, 2004 is repealed.

PART XIII — MISCELLANEOUS PROVISIONS

- (1) The statutory functions, rights, interests, obligations, liabilities and properties held by the Council of the Advertising Practitioners (Registration, etc.) Act, existing before the commencement of this Act under any contract, instrument, in law or in equity, shall by virtue of this Act be deemed to have been assigned to and vested in the Council established under this Act to the extent that they are not inconsistent with any of the provisions of this Act.

BAN ON THE USE OF FOREIGN MODELS AND VOICE-OVER ARTISTS ON THE NIGERIAN ADVERTISING MEDIUM/MEDIA

In line with the Federal Government's policy of developing local talent, inclusive economic growth and the need to take necessary steps and actions aimed at growing the Nigerian advertising industry, the Advertising Regulatory Council of Nigeria (ARCON), being the apex advertising, advertisement and marketing communications' regulatory agency of the Federal Government, has in accordance with its statutory mandates, responsibilities and powers as conveyed by the Advertising Regulatory Council of Nigeria Act No. 23 of 2022 bans the use of foreign models and voice-over artists on any advertisement targeted or exposed on the Nigerian advertising space with effect from 1st October 2022.

All advertisements, advertising and marketing communications materials are to make use of only Nigerian model and voice-over artist.

Ongoing campaigns are permitted to run out their terms, however, subsequent applications for revalidation for continued exposure of such materials will not be granted by the Advertising Standards Panel (ASP).

Advertisers, advertisement agencies, media houses, advertising community and the general public are hereby enjoined to take note.

Issued this 22nd day of August, 2022.

Dr. Olalekan Fadolapo, FCA, rpa
Director-General

Thank
You

