



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Thursday, 2 March, 2017

1. The House met at 11.25 a.m. Mr Speaker read the Prayers.
2. **Votes and Proceedings**
Mr Speaker announced that he had examined and approved the *Votes and Proceedings* of Wednesday, 1 March, 2017.
The Votes and Proceedings was adopted by unanimous consent.
3. **Oaths of Allegiance and Membership**
A Member-elect, Jerome Amadike (*Etche/Onuma Federal Constituency*) took and subscribed the Oaths of allegiance and membership as prescribed by law.
4. **Announcements**
 - (a) *Visitors in the Gallery:*
Mr Speaker recognized the presence of the following visitors:
 - (i) Staff and Students of *Delivine Academy*, Gwagwalada, Abuja;
 - (ii) Staff and Students of *Rosa Mystica Academy*, Kubwa, Abuja; and
 - (iii) Staff and Students of *Patriot's Education Centre*, Kubwa, Abuja.
 - (b) *Ad-hoc Committees:*
Mr Speaker announced the membership of the following *Ad-hoc* Committees:
 - (i) *Ad-hoc Committee to Investigate the Planned Relocation of Shell Petroleum Development Company (SPDC) from Port Harcourt to Forestall Impending Crises in the Niger-Delta Region (HR. 35/2017):*

(1)	Hon. Isiaka Ibrahim	—	Chairman
(2)	Hon. Zakari Ya'u Galadima	—	Member
(3)	Hon. Ayuba Mohammed Bello	—	Member
(4)	Hon. Bamgbose Joseph H.	—	Member
(5)	Hon. Adepoju Sunday	—	Member
(6)	Hon. Pondi Julius G.	—	Member
(7)	Hon. Peter Akpatason	—	Member
(8)	Hon. Gbillah Mark Terseer	—	Member
(9)	Hon. Kabir Ajanah Muhammed	—	Member

(10)	Hon. Sani Bala	—	Member
(11)	Hon. Abdullahi Wamakko	—	Member
(12)	Hon. Sylvester Ogbaga	—	Member
(13)	Hon. Jerry Alagbaoso	—	Member
(14)	Hon. Suleiman Yahaya Kumale	—	Member

(ii) *Ad-hoc Committee to Investigate and Ascertain the Reasons for the undue harassments and intimidation of Members of the All Progressives Congress (APC) from Kano State loyal to the Kwankwasiyya Movement, in order to avert a breakdown of law and order in the State and investigate other infringements across the country, specifically in the Federal Capital Territory (FCT) and Rivers State (H.R. 47/2017):*

(1)	Hon. Toby Okechukwu	—	Chairman
(2)	Hon. Samaila Suleman	—	Member
(3)	Hon. Mohammed Ali Wudil	—	Member
(4)	Hon. Muhammed Sani Abdul	—	Member
(5)	Hon. Phillip Gutuwa	—	Member
(6)	Hon. Olufunke Adedoyin	—	Member
(7)	Hon. Ochiglegor Idagbo	—	Member
(8)	Hon. Patrick Aisowieren	—	Member
(9)	Hon. Sopoluchukwu Ezeonwuka	—	Member
(10)	Hon. Denis Agbo	—	Member
(11)	Hon. Akinwunmi Nurudeen Olaitan	—	Member
(12)	Hon. Babajimi Benson	—	Member

(iii) *Ad-hoc Committee to Carry out Investigation on the Approach for Reparations and Repatriation of Historical Artefacts carted away from Nigeria (H.R. 242/2016):*

(1)	Hon. Adekoya Adesegun Abdel-Majid	—	Chairman
(2)	Hon. Badru Enitan Dolapo	—	Member
(3)	Hon. Albert Adeogun	—	Member
(4)	Hon. Lawal Rabiu Lere	—	Member
(5)	Hon. Sani Aliyu Rano	—	Member
(6)	Hon. Asabe Vilita Bashir	—	Member
(7)	Hon. Adaelu Solomon	—	Member
(8)	Hon. Chime Oji	—	Member
(9)	Hon. Shehu Aliyu Usman	—	Member
(10)	Hon. Lovette Idisi	—	Member
(11)	Hon. Nosa Omoregie Ogbeide-Ihama	—	Member
(12)	Hon. Umar Farouk	—	Member
(13)	Hon. Lawal Idris Mohammed	—	Member

(iv) *Ad-hoc Committee to Investigate the Activities of the Staff of NPMC and the Staff of Representative Government own Depots across the country (H.R. 40/2017):*

(1)	Hon. Danlami Kurfi	—	Chairman
(2)	Hon. Donye Diri	—	Member
(3)	Hon. Ogun Sergius Oseasochie	—	Member
(4)	Hon. Dickson Tirghe	—	Member
(5)	Hon. Salisu Ningi	—	Member
(6)	Hon. Chanchangi Rufai Ahmed	—	Member
(7)	Hon. Solomon Mauren	—	Member
(8)	Hon. Abubakar Fagen Gawo	—	Member
(9)	Hon. Garba Umar Durbunde	—	Member
(10)	Hon. Lam Adesina	—	Member
(11)	Hon. Israel Famurewa	—	Member
(12)	Hon. Chukwudozie Nwankwo	—	Member
(13)	Hon. Onwugbo Samuel	—	Member
(14)	Hon. Shadafi Salihu Adamu	—	Member

- (v) *Ad-hoc Committee to Investigate the Revenue Leakages and Activities of the Department of Petroleum Resources (DPR) (HR. 261/2016):*
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|------|-------------------------------|---|----------|
| (1) | Hon. Jarigbe Agom Jarigbe | — | Chairman |
| (2) | Hon. Rahis Abdulkadir | — | Member |
| (3) | Hon. Nicholas Sarkin Noma | — | Member |
| (4) | Hon. Samaila Gadaka | — | Member |
| (5) | Hon. Ezekiel Adaji | — | Member |
| (6) | Hon. Johnson Oghuma | — | Member |
| (7) | Hon. Kenneth Chikere | — | Member |
| (8) | Hon. Mua'zu Lawal | — | Member |
| (9) | Hon. Murtala Matazu Danmazari | — | Member |
| (10) | Hon. Agunsoye Rotimi | — | Member |
| (11) | Hon. Faleke James | — | Member |
| (12) | Hon. Chris Azubogu | — | Member |
| (13) | Hon. Nkole Uko Ndukwe | — | Member |
| (14) | Hon. Aminu Ashiru Mari | — | Member |
- (vi) *Ad-hoc Committee to Investigate the Health Implications of the Mounting of Telecommunications Masts Close to Buildings (HR. 11/2017):*
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| (1) | Hon. Iboro Ekanem Asuquo | — | Chairman |
| (2) | Hon. Muktari Dan Dutse | — | Member |
| (3) | Hon. Nasiru Ali Ahmed | — | Member |
| (4) | Hon. Ime Owodighe Ekpoattai | — | Member |
| (5) | Hon. Barry Mpidi | — | Member |
| (6) | Hon. Lado Suleija | — | Member |
| (7) | Hon. Akinfolarin Mayowa | — | Member |
| (8) | Hon. Shadimu Mutiu Alao | — | Member |
| (9) | Hon. Talatu Yohanna | — | Member |
| (10) | Hon. Dadami Danbatta | — | Member |
| (11) | Hon. Aminu Malle Ibrahim | — | Member |
| (12) | Hon. Dave Martins Ambugado | — | Member |
| (13) | Hon. Tijjani Ibrahim | — | Member |
- (vii) *Ad-hoc Committee to investigate the alleged killing of four persons, maiming of innocent passers-by, illegal raiding of markets, warehouses, breaking into shops to impound contrabands, diversion of impounded goods for personal gains by customs officials and any other atrocities allegedly perpetrated by men of the Customs Service nation-wide (HR. 238/2016):*
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| (1) | Hon. Lawal Abubakar Garba | — | Chairman |
| (2) | Hon. Ismaila Hassan Muazu | — | Member |
| (3) | Hon. Isa Hassan Jama'are | — | Member |
| (4) | Hon. Joseph Edionwele | — | Member |
| (5) | Hon. Joan Mrakpor | — | Member |
| (6) | Hon. Micky Kazeem | — | Member |
| (7) | Hon. Jide Jimoh | — | Member |
| (8) | Hon. Danladi Tope Olayemi | — | Member |
| (9) | Hon. Johnbull Shekarau | — | Member |
| (10) | Hon. Ali Madaki | — | Member |
| (11) | Hon. Abdulmalik Zubairu Bungudu | — | Member |
| (12) | Hon. Lazarus Ogbee | — | Member |
| (13) | Hon. Darlington Nwokocho | — | Member |
| (14) | Hon. Dahiru Sarki-Abubakar | — | Member |

5. Petitions

- (i) A petition from Aliyu Musa & Co. (Legal Practitioners), on behalf of Police Constable Edward Yadong, on the termination of his appointment by the Nigeria Police, was presented and laid by Hon. Aminu Shehu Shgari (*Shagari/Yabo Federal Constituency*);

- (ii) A petition from Panshekara Babban Zaure Development Association, on alleged allocation of their houses and farmlands by the Nigerian Railway Property Management Limited, Kano State, was presented and laid by Hon. Munir B. Danagundi (*Kumbotso Federal Constituency*);
- (iii) A petition from Corporal Sunday Ola, on his dismissal by the Nigeria Police, was presented and laid by Hon. Ezekiel A. Adaji (*Ohimini/Otukpo Federal Constituency*);
- (iv) A petition from Matthew Mohammed, on the refusal of the Federal Road Safety Commission to comply with the Resolution of the House of Representatives of Wednesday, 15 June, 2016, was presented and laid by Hon. Ali Isa J. C. (*Balanga/Biliri Federal Constituency*);
- (v) A petition from Reuben E. Wanogho & Co. (Legal Practitioners), on the leadership crisis in the Independent Petroleum Marketers Association of Nigeria, was presented and laid by Hon. Yakubu Umar Barde (*Chikun/Kajuru Federal Constituency*);
- (vi) Petitions from the following persons were presented and laid by Hon. Abiante Awaji-Inombek Dagomie (*Andoni-Opobo/Nkoro Federal Constituency*):
 - (a) Andoni Stakeholders Forum of Rivers State, on the erroneous spelling of Andoni-Opobo/Nkoro Federal Constituency in the Constitution of the Federal Republic of Nigeria, 1999;
 - (b) National Youth Council of Nigeria, Rivers State, on the erroneous spelling of Andoni-Opobo/Nkoro Federal Constituency in the Constitution of the Federal Republic of Nigeria, 1999 (as amended);
- (vii) A petition from Muheeba Wonu Folami, on the detention of Babatunde Olalere Gbadamosi, by the Department of State Services, was presented and laid by Hon. Babajimi Benson (*Ikorodu Federal Constituency*); and
- (viii) A petition from Sule Sale Ibrahim Kazaure, on the termination of his appointment by the Corporate Affairs Commission, was presented and laid by Hon. Muhammed Gudaji Kazaure (*Kazaure/Roni/Gwiwa/Yankwashi Federal Constituency*).

Petitions referred to the Committee on Public Petitions.

6. Matters of Urgent Public Importance (Standing Order Eight, Rule 4)

(i) *The Gruesome Murder of Aba Residents, and the Need to Strengthen the Security Structure in and Around Aba Metropolis:*

Hon. Prestige Ossy Chinedu (*Aba North/Aba South Federal Constituency*), introduced the matter and prayed the House to consider and approve it as one of urgent public importance.

Question that the matter be considered as one of urgent public importance — Agreed to.

Matter to stand over till next legislative day, pursuant to Order Eight, Rule 4 (3).

(ii) *Need to Ascertain the Car Dumps and Take an Inventory of Other Forfeited Assets in Possession of the Economic and Financial Crimes Commission (EFCC):*

Hon. Babajimi Benson (*Ikorodu Federal Constituency*), introduced the matter and prayed the House to consider and approve it as one of urgent public importance.

Question that the matter be considered as one of urgent public importance — Agreed to.

Matter to stand over till next legislative day, pursuant to Order Eight, Rule 4 (3).

7. Privilege (Order Six, Rule 1)

Hon. Henry Daniel Ofongo (*Southern Ijaw Federal Constituency*) informed the House that, on Wednesday, 15 February, 2017, some officers of the Nigeria Police, Rivers State Command harassed, intimidated and threaten his life, on his way from Yenagoa, Bayelsa State to Abuja, en route Port Harcourt. He viewed this as a breach of his privilege and thus prayed the House to investigate the matter.

Mr Speaker referred the matter to Committee on Ethics and Privileges for necessary action.

8. Presentation of Reports**(i) Committee on Pensions:**

Motion made and Question proposed, "That the House do receive the Report of the Committee on Pensions on a Bill for an Act to Establish the National Intelligence Agency Pensions Board to Handle Pension Matters for Personnel of the Agency and for Other Connected Purposes (HB. 842)" (Hon. Hassan Adamu Shekarau — Birnin/Gwari/Giwa Federal Constituency).

Agreed to.

Report laid.

(ii) Committee on Local Content:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Local Content on the Investigation into the Provision of Indigenous Support Vessel Total Upstream Nigeria Limited; Total Nigeria Plc Tender for provision of PVC and Terminal Support Ref: NTD 00001632 (Arising from the Oversight Activity of the Committee, pursuant to Order Eighteen, Rule 65 (2) of the Standing Orders of the House)" (Hon. Olasupo Abiodun Adeola — Iseyin/Itesiwaju/Kajola/Iwajowa Federal Constituency).

Agreed to.

Report laid.

(iii) Committee on Federal Capital Territory:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Federal Capital Territory on the Investigation into the alleged irregularities surrounding the Centenary City Project (HR. 08/2016)" (Hon. Herman Hembe — Konshisha/Vandekiya Federal Constituency).

Agreed to.

Report laid.

(iv) Committee on Public Petitions:**Report on the Petition by Chinda Chidum:**

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Chinda Chidum, against Sterling Oil Exploration and Energy Production Company on wrongful termination of employment" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Agreed to.

Report laid.

(v) **Committee on Public Petitions:**

Report on the Petition by Odoh Jude Ifeanyi:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Odoh Jude Ifeanyi, against Huawei Technologies Nigeria Limited on wrongful termination of appointment, unfavourable conditions of service and increasing cases of replacement of Nigerians with illegal Chinese Immigrants" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Agreed to.

Report laid.

(vi) **Committee on Public Petitions:**

Report on the Petition by Richard Termough Yough:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Richard Termough Yough, against the council of legal education for wrongful termination of appointment from service" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Agreed to.

Report laid.

(vii) **Committee on Public Petitions:**

Report on the Petition by Mr Ije Ikenna Okemini Ije:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Mr Ije Ikenna Okemini Ije, against the Independent National Electoral Commission (INEC) on wrongful termination of appointment" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Agreed to.

Report laid.

(viii) **Committee on Public Petitions:**

Report on the Petition by Aggrieved Trainees of Industrial Training Fund Model Skills Training Centre, Abuja:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Aggrieved Trainees of the Industrial Training Fund Model Skills Training Centre, Abuja, against the management of the Institution for non-graduation of the trainees after two years of graduation period of the institution" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Agreed to.

Report laid.

(ix) **Committee on Public Petitions:**

Report on the Petition by Akinyemi Olusegun Abimbola:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Akinyemi Olusegun Abimbola, against the National Drug Law Enforcement Agency (NDLEA) on alleged unlawful termination of appointment" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Agreed to.

Report laid.

(x) **Committee on Public Petitions:**

Report on the Petition by Mr Emmanuel Ajayi and Others:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Mr Emmanuel Ajayi and others, against the Director General of National Space Research and Development Agency, Dr S. O. Mohammed on wrongful redeployment of the National Coordinator of Cooperative Information Network (COPINE), Obafemi Awolowo University, Ile Ife and termination of appointment of some members of staff" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

(xi) **Committee on Public Petitions:**

Report on the Petition by Elias Okorie Chidi:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Elias Okorie Chidi, against the Nigeria Social Insurance Trust Fund on wrongful termination of appointment" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

(xii) **Committee on Public Petitions:**

Report on the Petition by Hauwa Ahmed Pategi:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Hauwa Ahmed Pategi, against First Bank of Nigeria Plc on unlawful termination of appointment" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

(xiii) **Committee on Public Petitions:**

Report on the Petition by Akipelai Community:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Akipelai Community in Ogbia Local Government Area of Bayelsa State, against Shell Petroleum Development Company on the non-compliance with their terms of agreement" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

(xiv) **Committee on Public Petitions:**

Report on the Petition by Mohammed M. Yahaya:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Mohammed M. Yahaya, against the National Drug Law Enforcement Agency (NDLEA) on alleged unlawful termination of appointment" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

(xv) **Committee on Public Petitions:**

Report on the Petition by Enoch O. Oyeniya:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Enoch O. Oyeniya, against the Centre for Management of Development on alleged wrongful and compulsory retirement from service" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

(xvi) **Committee on Public Petitions:**

Report on the Petition by Olarenwaju Aderemi Obafemi:

Motion made and Question proposed, "That the House do receive the Report of the Committee on Public Petitions on the petition by Olarenwaju Aderemi Obafemi against the Institute for Peace and Conflict Resolution on alleged dismissal from service" (*Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency*).

Agreed to.

Report laid.

9. **A Bill for an Act to Establish the National Council for Public Assistance to Widows, Dependent Children and Orphans; a Bill for an Act to Establish a Welfare Trust Fund and Management Commission for Effective Management of the Welfare of the Unemployed, People with Disability (Temporal/Permanent), Orphans, Widows, the Elderly and the Youths, Compensation for Citizens who are Deprived of Means of Livelihood as a Result of Population, Demolition, Forced Relocation, Retirement and Health, Provision of Medical Care and Subsidies for Poor Families and to Protect the Less Privileged in the Society, a Bill for an Act to Provide for the Registration and Control of Orphanages and Other Institutions for the Boarding, Care and Maintenance of Orphans and Deserted Children, a Bill for an Act to Establish the National Social Security and Welfare Board and Vest it with Responsibility for the Control and Administration of Benefits and Assistance to Enhance the Welfare of Citizens, Especially Disadvantaged Persons, Children, Women, the Handicapped, the Sick, the Aged and the Unemployed, a Bill for an Act to Regulate the Establishment, Registration, Provision and Management of Services and Residential Facilities for Elderly Persons and a Bill for an Act to Protect the Elderly and Vulnerable Persons who Lack Reasonable Mental and Physical Capacity to Guard against Financial Abuse and for Other Related Matters (HBs 124, 126, 183, 324, . 602 and 822) — *Second Reading.***

Motion made and Question proposed, "That a Bill for an Act to Establish the National Council for Public Assistance to Widows, Dependent Children and Orphans; a Bill for an Act to Establish a Welfare Trust Fund and Management Commission for Effective Management of the Welfare of the Unemployed, People with Disability (Temporal/Permanent), Orphans, Widows, the Elderly and the Youths, Compensation for Citizens who are Deprived of Means of Livelihood as a Result of Population, Demolition, Forced Relocation, Retirement and Health, Provision of Medical Care and Subsidies for Poor Families and to Protect the Less Privileged in the Society, a Bill for an Act to Provide for the Registration and Control of Orphanages and Other Institutions for the Boarding, Care and Maintenance of Orphans and Deserted Children, a Bill for an Act to Establish the National Social Security and Welfare Board and Vest it with Responsibility for the Control and Administration of Benefits and Assistance to Enhance the Welfare of Citizens, Especially Disadvantaged Persons, Children, Women, the Handicapped, the Sick, the Aged and the Unemployed, a Bill for an Act to Regulate the Establishment, Registration, Provision and Management of Services and Residential Facilities for Elderly Persons and a Bill for an Act to Protect the Elderly and Vulnerable Persons

who Lack Reasonable Mental and Physical Capacity to Guard against Financial Abuse and for Other Related Matters (IIBs 124, 126, 183, 324, 602 and 822) be now read a Second Time" (*Hon. Ayuba Mohammed Bello — Jere Federal Constituency and 5 others*).

Debate.

Question that the Bill be read a Second Time — Agreed to.

Bill read the Second Time.

Bill referred to the Committee on Women Affairs and Social Development.

10. **A Bill for an Act to Establish the Federal Capital Territory (FCT) Traffic Management and Enforcement Authority (TMEA) to be Saddled with the Responsibility of Regulating, Controlling, Managing and Enforcing Road Traffic Violations within the Federal Capital Territory (FCT) and for Other Related Matters (IIB. 533) — Second Reading**

Motion made and Question proposed, "That a Bill for an Act to Establish the Federal Capital Territory (FCT) Traffic Management and Enforcement Authority (TMEA) to be Saddled with the Responsibility of Regulating, Controlling, Managing and Enforcing Road Traffic Violations within the Federal Capital Territory (FCT) and for Other Related Matters (IIB. 533) be now read a Second Time" (Hon. Uzoma Nkem-Abonta — Ukwa East/Ukwa West Federal Constituency).

Debate.

Bill withdrawn by leave of the House.

11. **A Bill for an Act to Amend the Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004 to Ensure Compliance with Current Realities and for Other Related Matters (IIB. 889) — Second Reading**

Motion made and Question proposed, "That a Bill for an Act to Amend the Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004 to Ensure Compliance with Current Realities and for Other Related Matters (IIB. 889) be now read a Second Time" (Hon. Saheed Akinade Fijabi — Ibadan Southwest/Ibadan Northwest Federal Constituency).

Debate.

Question that the Bill be read a Second Time — Agreed to.

Bill read the Second Time.

Bill referred to the Committee on Telecommunications.

12. **Need to Construct and Equip Jachi Dam Project in Mani Local Government Area of Katsina State**

Motion made and Question proposed;

The House:

Aware of Section 20 of the 1999 Constitution which provides that the State shall protect and improve the environment with regard to safeguarding and improvement of water facilities and other factors of human habitation;

Also aware that one of the basic needs of every living being is safe water for consumption be it man, plant or animal;

Concerned that the people of Jachi in Mani Local Government Area of Katsina State, who are predominantly peasant farmers, have been struggling with the challenge of accessing potable water and irrigation facilities over the years for growth of their agro-products and for their livestock;

Resolves to:

- (i) urge the Federal Ministry of Water Resources to ensure the provision of money in the 2017 budget for the construction of Jachi Dam; and
- (ii) mandate the Committees on Water Resources, and Legislative Compliance to ensure adherence (*Hon. Aminu Ashiru Mani — Bindawa/Mani Federal Constituency*).

Agreed to.

(HR. 55/2017).

Motion referred to the Committees on Water Resources, and Legislative Compliance, pursuant to Order Eight, Rule 9(5).

13. **Need for Investigation of the Allegations of Indiscriminate Issuance of “Certificate of No Objection” by the Bureau of Public Procurement (BPP)**

Motion made and Question proposed;

The House:

Notes that Sections 6 (1) (c) and 16 (1) (b) of the Public Procurement Act, 2007 empowers the Bureau of Public Procurement (BPP) to issue certificates of no objection to contracts awarded by relevant procurement entities;

Also notes that the vesting of the above powers on the BPP is aimed at ensuring that the letters and spirit of the Public Procurement Act is complied with, the government obtains value for money, contracts awarded are within relevant thresholds and are backed by budgetary allocations;

Observes that the BPP has consistently engaged in underhand dealings with respect to the grant of “certificates of no objection”, thereby abusing this power for pecuniary gains;

Also observes that such gross abuses and violation of the Public Procurement Act of 2007 has been exacerbated by the recent increase in arbitrary nomination to procuring entities of winners for tendering processes and where the procuring entity declines, the process is interjected and frustrated in bad faith and for flimsy reasons;

Concerned that if steps are not taken urgently to investigate these allegations and address any proven infractions, the BPP is likely to transform itself from a regulator to disrupt or which will endanger the entire public procurement system;

Resolves to:

Mandate the Committee on Public Procurement to investigate the above allegations and report back to the House within five (5) weeks for further legislative action (*Hon. Chukwuka Onyema — Ogbaru Federal Constituency*).

Debate.

Agreed to.

The House:

Noted that Sections 6 (1) (c) and 16 (1) (b) of the Public Procurement Act, 2007 empowers the Bureau of Public Procurement (BPP) to issue certificates of no objection to contracts awarded by relevant procurement entities;

Also noted that the vesting of the above powers on the BPP is aimed at ensuring that the letters and spirit of the Public Procurement Act is complied with, the government obtains value for money, contracts awarded are within relevant thresholds and are backed by budgetary allocations;

Observed that the BPP has consistently engaged in underhand dealings with respect to the grant of "certificates of no objection", thereby abusing this power for pecuniary gains;

Also observed that such gross abuses and violation of the Public Procurement Act of 2007 has been exacerbated by the recent increase in arbitrary nomination to procuring entities of winners for tendering processes and where the procuring entity declines, the process is interjected and frustrated in bad faith and for flimsy reasons;

Concerned that if steps are not taken urgently to investigate these allegations and address any proven infractions, the BPP is likely to transform itself from a regulator to disrupt or which will endanger the entire public procurement system;

Resolved to:

Mandate the Committee on Public Procurement to investigate the allegations and report back within five (5) weeks for further legislative action (IIR. 56/2017).

14. **Need for the Federal Government to Build Public Schools to Save School Age Children in Mairi-Kuwait in Jere Federal Constituency, Borno State from Falling into the Trap of Boko Haram Recruiters**

Motion made and Question proposed;

The House:

Notes that Mairi-Kuwait is a community in Jere Federal Constituency with a population of more than 35,000, settled around the University of Maiduguri and its Teaching Hospital, the UMTH;

Aware that due to the proximity of the area to the University, it is populated by various ethnic and religious groups and the entire area is almost built up by private individuals to provide accommodation for the staff and students of the University, which has raised the cost of landed assets around the area;

Worried that the only public school close to the area is located at the border area of Maisandari ward of M.M.C. and Mairi ward close to Shiekh Abba Aji Mosque which has little space to accommodate even those that are closer to the school, and as a result children from Mairi-Kuwait have to trek tens of kilometers before reaching the area, which consequently, discourage school attendance;

Concerned that Boko Haram insurgents are in the habit of using school age children to detonate explosive devices in public places and most of the children in the area who do not attend schools roam the streets and become easy targets for recruitment into the fold of suicide bombers;

Also notes that after the recent bomb blast incident at the University of Maiduguri, the "Inter-Ethnic and Inter-Religious Forum" in the area collaborated with my office to acquire land/properties for building of schools in the area;

Further notes that negotiations have reached ninety-five percent (95%) level of conclusion to pay compensation to owners of the land/properties through zonal intervention, thus making the land available for the school building projects to commence;

Resolves to:

- (i) call on the Presidential Initiatives on the North East (PINE) to ensure the appropriation of money in the 2017 budget for the building of primary and junior secondary schools on the acquired land; and
- (ii) mandate the Committee on Internally Displaced Persons (IDPs), Refugees and Initiatives on North East, in liaison with the Economic Development Sub-Committee of PINE to ensure compliance and report back within eight (8) weeks for further legislative action (*Hon. Ayuba Mohammed Bello — Jere Federal Constituency*).

Debate.

Amendment Proposed:

In Prayer (i), line 1, *leave out* the words "Presidential Initiative on North East (PINE)", and *insert* the words "Presidential Committee on the North East Initiative (PCNI)" (*Hon. Ezekiel Adaji — Ohimini/Otukpo Federal Constituency*).

Question that the amendment be made — Agreed to.

Question on the Motion as amended — Agreed to.

The House:

Noted that Mairi-Kuwait is a community in Jere Federal Constituency with a population of more than 35,000, settled around the University of Maiduguri and its Teaching Hospital, the UMTH;

Aware that due to the proximity of the area to the University, it is populated by various ethnic and religious groups and the entire area is almost built up by private individuals to provide accommodation for the staff and students of the University, which has raised the cost of landed assets around the area;

Worried that the only public school close to the area is located at the border area of Maisandari ward of M.M.C. and Mairi ward close to Shiekh Abba Aji Mosque which has little space to accommodate even those that are closer to the school, and as a result children from Mairi-Kuwait have to trek tens of kilometers before reaching the area, which consequently, discourage school attendance;

Concerned that Boko Haram insurgents are in the habit of using school age children to detonate explosive devices in public places and most of the children in the area who do not attend schools roam the streets and become easy targets for recruitment into the fold of suicide bombers;

Also noted that after the recent bomb blast incident at the University of Maiduguri, the "Inter-Ethnic and Inter-Religious Forum" in the area collaborated with my office to acquire land/properties for building of schools in the area;

Further noted that negotiations have reached ninety five percent (95%) level of conclusion to pay compensation to owners of the land/properties through zonal intervention, thus making the land available for the school building projects to commence;

Resolved to:

- (i) call on the Presidential Committee on the North East Initiative (PCNI), to ensure the appropriation of money in the 2017 budget for the building of the primary and junior secondary schools on the acquired land; and
- (ii) mandate the Committee on Internally Displaced Persons (IDPs), Refugees and Initiatives on North East, in liaison with the Economic Development Sub-Committee of PCNI to ensure compliance and report back within eight (8) weeks for further legislative action (**HR. 57/2017**).

15. Call to Improve Health Care Services in the Rural Communities

Motion made and Question proposed;

The House:

Notes that Nigeria's rural communities serve as the source of agricultural products which place them favourably in the quest to assure national food sustainability and security and about 80 per cent of those responsible for ensuring sustained agricultural output reside in the rural areas;

Also notes that agricultural development is pivotal to the diversification of Nigeria's economy, hence in August 2016, the Federal Government launched an Agricultural Sector Roadmap: The Green Alternative Policy 2016-2020 in order to "position agriculture as the arrowhead of Nigeria's economic recovery" and the policy is targeted at growing the agricultural sector at the rate of between six per cent and twelve percent yearly as well as raising the agricultural share of the Gross Domestic Product (GDP) to 23% with the aim of assuring national food security;

Further notes that the rural farming communities are key to government's agricultural expansion plans and this in turn is largely predicated on the farmers' maintenance of good health for productivity given that the health status of an adult underpins his ability to work, hence one of the critical factors to ensuring that the rural populace sustain the work pace in the agricultural sector is the provision of qualitative healthcare facilities and services in the rural communities;

Aware that the right to health is a basic human right and is fundamental to social and economic development and that the growing knowledge of the impact of good health of farmers to sustainability of agricultural production such as that expressed in the Federal Government's Green Alternative Policy 2016-2020, has prompted numerous studies on linkages between rural farmers' health and the implications on agricultural productivity on cycle of food production;

Also aware that several studies have highlighted that poor health condition is a serious constraint to agricultural productivity; while some other studies have also shown that there is an unequal distribution of health facilities between the urban centres and the rural areas;

Concerned that poor social and health indices of accessibility (for example geographical and financial), low life expectancy, high maternal and infant mortality, high under-five malnutrition etc, remain high due to lack of equity in planning and distribution of healthcare facilities in the rural communities and this is further compounded by the preponderance of abandoned health facilities in the rural areas across the country;

Also concerned that the desired sustainability of agricultural production and agriculture-induced development will be threatened if the government does not review its healthcare implementation strategies as it relates to rural healthcare facilities and services to both the peripheral and core rural areas to ensure that the rural farming communities have unhindered access to healthcare services;

Resolves to:

Mandate the Committees on Rural Development, and Healthcare Services to investigate the lack of healthcare facilities and services in the rural communities in Nigeria with a view to ensuring adequate provision of affordable healthcare facilities and services in those communities and report back to the House within eight (8) weeks for further legislative action (*Hon. Oladipupo Olatunde Adebutu — Ikenne/Sagamu/Remo North Federal Constituency*).

Debate.

Agreed to.

The House:

Noted that Nigeria's rural communities serve as the source of agricultural products which place them favourably in the quest to assure national food sustainability and security and about 80 per cent of those responsible for ensuring sustained agricultural output reside in the rural areas;

Also noted that agricultural development is pivotal to the diversification of Nigeria's economy, hence in August 2016, the Federal Government launched an Agricultural Sector Roadmap: The Green Alternative Policy 2016-2020 in order to "position agriculture as the arrowhead of Nigeria's economic recovery" and the policy is targeted at growing the agricultural sector at the rate of between six per cent and twelve percent yearly as well as raising the agricultural share of the Gross Domestic Product (GDP) to 23% with the aim of assuring national food security;

Further noted that the rural farming communities are key to government's agricultural expansion plans and this in turn is largely predicated on the farmers' maintenance of good health for productivity given that the health status of an adult underpins his ability to work, hence one of the critical factors to ensuring that the rural populace sustain the work pace in the agricultural sector is the provision of qualitative healthcare facilities and services in the rural communities;

Aware that the right to health is a basic human right and is fundamental to social and economic development and that the growing knowledge of the impact of good health of farmers to sustainability of agricultural production such as that expressed in the Federal Government's Green Alternative Policy 2016-2020, has prompted numerous studies on linkages between rural farmers' health and the implications on agricultural productivity on cycle of food production;

Also aware that several studies have highlighted that poor health condition is a serious constraint to agricultural productivity; while some other studies have also shown that there is an unequal distribution of health facilities between the urban centres and the rural areas;

Concerned that poor social and health indices of accessibility (for example geographical and financial), low life expectancy, high maternal and infant mortality, high under-five malnutrition etc, remain high due to lack of equity in planning and distribution of healthcare facilities in the rural communities and this is further compounded by the preponderance of abandoned health facilities in the rural areas across the country;

Also concerned that the desired sustainability of agricultural production and agriculture-induced development will be threatened if the government does not review its healthcare implementation strategies as it relates to rural healthcare facilities and services to both the peripheral and core rural areas to ensure that the rural farming communities have unhindered access to healthcare services;

Resolved to:

Mandate the Committees on Rural Development, and Healthcare Services to investigate the lack of healthcare facilities and services in the rural communities in Nigeria with a view to ensuring adequate provision of affordable healthcare facilities and services in those communities and report back within eight (8) weeks for further legislative action (HR. 58/2017).

16. Need to Investigate the Sharp Practices in Automated Teller Machines (ATMs)

Motion made and Question proposed;

The House:

Notes that the Central Bank of Nigeria (CBN) is the agency saddled with the responsibility to supervise the operations of commercial banks and other financial institutions in Nigeria;

Aware of the initiative of the CBN in the introduction of automated Teller Machines (ATM) for the purpose of rendering twenty-four hours services, including dispensing of cash to depositors;

Concerned that many bank customers who use the ATM services are being shortchanged by some faulty or malfunctioning ATMs, which, though unable to dispense cash, yet automatically debit the customer's accounts and is recorded in the bank's transactions and failure to complain may result in non-reversal in the case of many ignorant customers;

Aware that most of the ATMs involved in these "sharp practices" are owned and operated by commercial banks who may be aware that they are faulty or not adequately supplied with cash, this preparing the grounds for such "sharp practices" to be perpetrated;

Worried that many Nigerians may have unknowingly fallen victim, considering the sizeable population of persons who may not be alerted on phone or internet on transactions in their accounts;

Cognizant that if these sharp practices are not checked, they may erode the confidence of the banking public in ATMs which could adversely affect the cashless policy being promoted by the Central Bank of Nigeria;

Resolves to:

- (i) urge the CBN to direct various commercial banks and other financial institutions to put in place online monitoring mechanisms to determine the functionality of ATMs and vault cash levels with a view to minimizing if not totally eliminating the incidents of debits without dispensation of cash by Automated Teller Machines; and
- (ii) mandate the Committee on Banking and Currency to ensure implementation and report back within six (6) weeks for further legislative action (*Hon. Joseph Eghoghon Edionwele — Esan Central/Esan West/Igubeben Federal Constituency*).

Debate.

Agreed to.

The House:

Noted that the Central Bank of Nigeria (CBN) is the agency saddled with the responsibility to supervise the operations of commercial banks and other financial institutions in Nigeria;

Aware of the initiative of the CBN in the introduction of Automated Teller Machines (ATM) for the purpose of rendering twenty four hours services, including dispensing of cash to depositors;

Concerned that many bank customers who use the ATM services are being shortchanged by some faulty or malfunctioning ATMs, which, though unable to dispense cash, yet automatically debit the customer's accounts and is recorded in the bank's transactions and failure to complain may result in non-reversal in the case of many ignorant customers;

Aware that most of the ATMs involved in these "sharp practices" are owned and operated by commercial banks who may be aware that they are faulty or not adequately supplied with cash, this preparing the grounds for such "sharp practices" to be perpetrated;

Worried that many Nigerians may have unknowingly fallen victim, considering the sizeable population of persons who may not be alerted on phone or internet on transactions in their accounts;

Cognizant that if these sharp practices are not checked, they may erode the confidence of the banking public in ATMs which could adversely affect the cashless policy being promoted by the Central Bank of Nigeria;

Resolved to:

- (i) urge the CBN to direct various commercial banks and other financial institutions to put in place online monitoring mechanisms to determine the functionality of ATMs and vault cash levels with a view to minimizing if not totally eliminating the incidents of debits without dispensation of cash by Automated Teller Machines; and
- (ii) mandate the Committee on Banking and Currency to ensure implementation and report back within six (6) weeks for further legislative action (HR. 59/2017).

17. **Continuing Inability of Most Nigerian Law Students to Attend Law School because of the Exorbitant Fees, the Requirements and the Enormous Difficulties and Demeaning Circumstances Nigerians Endure to Obtain Funds for Law School Fees**
Motion made and Question proposed;

The House:

Aware that the Nigerian Law School was established in 1963 in line with the Legal Education Act of 1962 to provide practical legal training to law graduates from Nigeria and abroad intending to practice law in Nigeria and is consequently a prerequisite for any law graduate to attend the law school before practicing law in Nigeria;

Alarmed at the exponential increase in Law school fees over the last couple of years to a mind boggling basic school fees for the 2016/2017 session of ₦250,000 and ₦295,000 for Bar Part I and Bar Part II Nigerian Law graduates which with additional compulsory payments usually increases to between ₦320,000 to ₦350,000 respectively and a basic school fees of ₦1,145,000 and ₦620,000 for Bar Part I and Bar Part II Law graduates from abroad which increases to between ₦1,120,000 to ₦700,000 respectively when you include other compulsory payments, in addition to the compulsory requirement of a laptop for each student for the typically one year session and additional costs for feeding, academic materials and general upkeep;

Also alarmed that for an institution that is funded annually by the Federal Government, there appears to be no resolve to assuage the suffering of majority of Nigerian law graduates who cannot afford the fees and others who have to resort to borrowing, sale of properties and belongings, begging illegal, indecent and extremely demeaning actions, sometimes at the cost of their lives all in an attempt to raise the required amount for the fees which, in some instances, are more than what some law graduates paid for their entire undergraduate education;

Convinced that given the prevailing economic circumstances in the country and the insistence by some legal luminaries that the profession is elitist and the training capital intensive, it is imperative for the Federal Government and all stakeholders to stop paying lip service to the problem and initiate an emergency national discourse to safeguard the future of this noble profession and the plethora of prospective lawyers who are constrained to wait for up to two years for another opportunity if they default in the payment of fees;

Resolves to:

Mandate the Committees on Justice, Tertiary Education and Services, and Finance to interface with the Director General of the Nigerian Law School, the Council of Legal Education, the Nigerian Bar Association, the Ministers of Justice and Finance and all other relevant stake holders on the challenges and requirements of the law school, the reasons for the exorbitant fees and the possible solutions and report back within six (6) weeks for further legislative action (*Hon. Mark Terseer Gbillah — Gwer East/Gwer West Federal Constituency*).

Debate.

Agreed to.

The House:

Aware that the Nigerian Law School was established in 1963 in line with the Legal Education Act of 1962 to provide practical legal training to law graduates from Nigeria and abroad intending to practice law in Nigeria and is consequently a prerequisite for any law graduate to attend the law school before practicing law in Nigeria;

Alarmed at the exponential increase in Law school fees over the last couple of years to a mind boggling basic school fees for the 2016/2017 session of ₦250,000 and ₦295,000 for Bar Part I and Bar Part II Nigerian Law graduates which with additional compulsory payments usually increases to between ₦320,000 to ₦350,000 respectively and a basic school fees of ₦1,145,000 and ₦620,000 for Bar Part I and Bar Part II Law graduates from abroad which increases to between ₦1,120,000 to ₦700,000 respectively when you include other compulsory payments, in addition to the compulsory requirement of a laptop for each student for the typically one year session and additional costs for feeding, academic materials and general upkeep;

Also alarmed that for an institution that is funded annually by the Federal Government, there appears to be no resolve to assuage the suffering of majority of Nigerian law graduates who cannot afford the fees and others who have to resort to borrowing, sale of properties and belongings, begging illegal, indecent and extremely demeaning actions, sometimes at the cost of their lives all in an attempt to raise the required amount for the fees which, in some instances, are more than what some law graduates paid for their entire undergraduate education;

Convinced that given the prevailing economic circumstances in the country and the insistence by some legal luminaries that the profession is elitist and the training capital intensive, it is imperative for the Federal Government and all stakeholders to stop paying lip service to the problem and initiate an emergency national discourse to safeguard the future of this noble profession and the plethora of prospective lawyers who are constrained to wait for up to two years for another opportunity if they default in the payment of fees;

Resolved to:

Mandate the Committees on Justice, Tertiary Education and Services, and Finance to interface with the Director General of the Nigerian Law School, the Council of Legal Education, the Nigerian Bar Association, the Ministers of Justice and Finance and all other relevant stake holders on the challenges and requirements of the law school, the reasons for the exorbitant fees and the possible solutions and report back within six (6) weeks for further legislative action (**HR. 60/2017**).

18. **Continued Implementation of the Federal Capital Territory Statutory Appropriation Act 2016 and for Other Related Matters, Pursuant to Sections 122 and 299 of the Constitution of the Federal Republic of Nigeria, 1999**

Motion made and Question proposed;

The House:

Notes that the FCT Appropriation Bill, 2016 was passed on 20 July, 2016 and was assented to by the President of the Federal Republic of Nigeria on 1 September, 2016;

Concerned that the FCT Appropriation Act operated for only three (3) months before it lapsed on 31 December, 2016 as captured in the 2016 FCT Statutory Appropriation Act;

Observes that the Federal Capital Territory Administration (FCTA) has been inundated with complaints of non-payment for infrastructural development, Satellite Towns development and city cleaning services, due to budgetary constraints;

Also observes that the President, having assented to the budget on 1 September, 2016 took cognizance of the provision that an Appropriation Act shall run for a period of three hundred and sixty-five days;

Resolves to:

Call on the Federal Capital Territory Administration to continue to implement the 2016 Appropriation Act until 31 August, 2017, pursuant to sections 122 and 129 of the Constitution of the Federal Republic of Nigeria, 1999 (*Hon. Herman Hembé — Konshisha/Vandekiya Federal Constituency*).

Debate.

Agreed to.

The House:

Noted that the FCT Appropriation Bill, 2016 was passed on 20 July, 2016 and was assented to by the President of the Federal Republic of Nigeria on 1 September, 2016;

Concerned that the FCT Appropriation Act operated for only three (3) months before it lapsed on 31 December, 2016 as captured in the 2016 FCT Statutory Appropriation Act;

Observed that the Federal Capital Territory Administration (FCTA) has been inundated with complaints of non-payment for infrastructural development, Satellite Towns development and city cleaning services, due to budgetary constraints;

Also observed that the President, having assented to the budget on 1 September, 2016 took cognizance of the provision that an Appropriation Act shall run for a period of three hundred and sixty-five days;

Resolved to:

Call on the Federal Capital Territory Administration to continue to implement the 2016 Appropriation Act until 31 August, 2017, pursuant to sections 122 and 129 of the Constitution of the Federal Republic of Nigeria, 1999 (**HR. 61/2017**).

19. Consideration of Reports

(i) *Committee on Commerce:*

Motion made and Question proposed, "That the House do consider the Report of the Committee on Commerce on a Bill for an Act to Repeal the Consumer Protection Act, Cap. C25, LFN, 2004 to Establish the Federal Competition and Consumer Protection Commission and the Competition and Consumer Protection Tribunal for the Development and Promotion of Fair, Efficient and Competitive Markets in the Nigerian Economy, Facilitate Access by all Citizens to Safe Products, Secure the Protection of Rights for all Consumers in Nigeria and for Other Related Matters (HBs 1 and 60) and approve the recommendations therein" (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question agreed to.

Question that the House do resolve into the Committee of the Whole to consider the Report — Agreed to.

(HOUSE IN COMMITTEE)

(*Mr Deputy Speaker in the Chair*)

A BILL FOR AN ACT TO REPEAL THE CONSUMER PROTECTION ACT, CAP. C25, LFN, 2004, ESTABLISH THE FEDERAL COMPETITION AND CONSUMER PROTECTION COMMISSION AND THE COMPETITION AND CONSUMER PROTECTION TRIBUNAL FOR THE DEVELOPMENT AND PROMOTION OF FAIR, EFFICIENT AND COMPETITIVE MARKETS IN THE NIGERIAN ECONOMY, FACILITATE ACCESS BY ALL CITIZENS TO SAFE PRODUCTS, SECURE THE PROTECTION OF RIGHTS FOR ALL CONSUMERS IN NIGERIA AND FOR OTHER RELATED MATTERS

PART I — OBJECTIVES AND SCOPE OF APPLICATION

*Committee Recommendation:***Clause 1: Objectives of the Act.**

The objectives of this Bill are to —

- (a) promote and maintain competitive markets in the Nigerian economy;
- (b) promote economic efficiency;
- (c) protect and promote the interests and welfare of consumers by providing consumers with wider variety of quality products at competitive prices;
- (d) prohibit restrictive business practices or unfair business practices which prevents, restricts or distorts competition or constitutes an abuse of a dominant position of market power in Nigeria; and
- (e) contribute to the sustainable development of the Nigerian economy (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 1 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 2: Scope of application.**

- (1) Except as may be indicated otherwise, this Bill applies to all undertakings and all commercial activities within, or having effect within, Nigeria.
- (2) This Bill applies to and is binding upon —

- (a) a body corporate or agency of the Government of the Federation or a body corporate or agency of a subdivision of the Federation, in so far as such a body corporate or agency engages in commercial activities;
- (b) a body corporate in which a Government of the Federation or of a State of the Federation or a body corporate or agency of Government of the Federation or any State or Local Government has a controlling interest where such a body corporate engages in economic activities; and
- (c) all commercial activities aimed at making profit and geared towards the satisfaction of demand from the public (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 2 stand part of the Bill — Agreed to.

PART II — ESTABLISHMENT OF THE FEDERAL COMPETITION AND
CONSUMER PROTECTION COMMISSION

Committee Recommendation:

Clause 3. Establishment of the Federal Competition and Consumer Protection Commission.

- (1) There is established the Federal Competition and Consumer Protection Commission (in this Bill referred to as “the Commission”) for the purpose of carrying out the functions, duties and responsibilities as conferred upon it under the provisions of this Bill.
- (2) The Commission shall be independent in the exercise of its functions, powers, duties and responsibilities conferred upon it by virtue of the provisions of this Bill.
- (3) The Commission —
 - (a) is a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) may acquire, hold and dispose of property, whether movable or immovable.
- (4) The headquarters of the Commission shall be situated in the Federal Capital Territory, Abuja.
- (5) The Commission may establish other offices for the purpose of its business in any part of the Federal Republic of Nigeria, as the Commission may from time to time determine (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 3 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 4: Composition of the Commission.

- (1) The Commission shall comprise of —

- (a) an Executive Chairman ("the Executive Chairman") to be appointed from any one of the six geo-political zones of Nigeria, with at least fifteen years professional experience in any of the fields specified in subsection (4) of this section; and
 - (b) six full-time Commissioners ("the Commissioners") to be appointed from each of the six geopolitical zones of Nigeria with at least fifteen years professional experience in any of the fields specified in subsection (4) of this section.
- (2) The Executive Chairman and Commissioners shall be appointed by the President on the recommendations of the Minister, subject to confirmation by the Senate.
 - (3) Where the Executive Chairman and Commissioners are reappointed pursuant to the provision of section (5) of this Bill, the confirmation by the Senate referred to in subsection (2) of this section shall not be required.
 - (4) A person shall not be appointed the Executive Chairman or Commissioner unless the person is a Nigerian, possesses a degree in the humanities, social sciences and sciences.
 - (5) The Commission shall not be incapacitated from carrying out its powers or functions by virtue of any vacancy or any defect in the appointment of the Executive Chairman or any of the Commissioners.
 - (6) The Commission may as it deems fit, require representatives of sector regulatory agencies to participate in any of its proceedings and any such representatives shall participate in the Commission's proceedings on such terms and conditions as may be specified by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 4 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 5: Tenure of office.

The Executive Chairman and Commissioners shall hold office for a term of four years in the first instance and may be re-appointed for a further term of four years and no more (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 5 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 6: Resignation from the Commission.

The Executive Chairman or any of the Commissioners may resign their appointments by notice in writing addressed to the President through the Minister (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 6 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 7: Removal from office.

- (1) The President may remove the Executive Chairman or a Commissioner from office —
 - (a) for inability or failure to discharge the functions of the office, whether arising from infirmity of mind, body or any other cause;

- (b) upon conviction for any crime;
 - (c) upon disqualification and removal by a competent authority from the practice of the profession to which they belong;
 - (d) for any proven act of misconduct or gross misconduct as defined under the Public Service Rules;
 - (e) for failure to comply with the reporting obligations regarding personal and family assets as required by the Commission's Code of Conduct; or
 - (f) for fraudulent, unethical or other behavior in the performance of their official functions and duties.
- (2) Any exercise of the powers of the President under this section shall be subject to the approval of the Senate (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 7 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 8: Vacancies.

Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor into the offices of the Executive Chairman or a Commissioner in accordance with the provision of subsection (2) of section 4 of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 8 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 9: Emoluments of Members of the Commission.

- (1) The Executive Chairman and the Commissioners shall be paid from the funds of the Commission—
 - (a) such remuneration as may from time to time be approved for the Commission in accordance with the recommendations of the National Salaries, Income and Wages Commission; and
 - (b) such allowance as the Commission may from time to time determine, having regard to the recommendations of the National Salaries, Income and Wages Commission, to meet any reasonable expenses incurred in connection with the business of the Commission.
- (2) While making the recommendations for emoluments and other compensations, the National Salaries, Income and Wages Commission shall have due regard to the —
 - (a) specialized nature of work to be performed by the Commission;
 - (b) need to ensure the self-sufficiency of the Executive Chairman and the Commissioners;
 - (c) salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills; and

- (d) nature of expenses incurred, including national and international travel expenses (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 9 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 10: Administration of the Commission.

- (1) The Executive Chairman shall be the accounting officer and chief executive officer of the Commission and shall be responsible for the day to day administration of the Commission.
- (2) The President, on the recommendation of the Minister, shall designate one of the Commissioners as Vice - Chairman who shall perform the Executive Chairman's functions whenever the Executive Chairman is for any reason unable to perform the functions of his office (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 10 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 11: Proceedings of the Commission.

- (1) Subject to the provisions of this Bill and section 27 of the Interpretation Act, the Commission may make standing orders regulating its proceedings or those of any of its committees.
- (2) At any meeting of the Commission, the Executive Chairman shall preside and in his absence, the Vice - Chairman or in the absence of the Vice - Chairman, the Commissioners present shall appoint one of their numbers to preside at that meeting.
- (3) Where the Commission desires to obtain the advice of any person on a particular matter, the Commission may arrange for such a person to consult or attend proceedings with the Commission for such period as it deems necessary, but a person who is in attendance by virtue of this sub-section shall not be entitled to vote at such proceedings (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 11 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 12: Quorum.

The quorum of the Commission shall comprise the Executive Chairman, or the person presiding at the meeting and four other Members of the Commission, and the quorum of any committee of the Commission shall be determined by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 12 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 13: Validity of proceedings.

The validity of any proceedings of the Commission or of a committee appointed pursuant to section 15 of this Bill shall not be affected by —

- (a) a vacancy in the membership of the Commission or of a committee;

- (b) a defect in the appointment of a member of the Commission or of a committee; or
- (c) reason that a person, not entitled to do so took part in the proceedings of the Commission or of a committee (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 13 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 14: Conflicts of interest.

Any member of the Commission and any member of a committee appointed pursuant to the provisions of section 15 of this Bill who has a personal interest in any contract, arrangement or matter to be considered by the Commission or of a committee shall forthwith disclose such interest to the Commission or committee and shall not vote on any question relating to the contract, arrangement or matter (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 14 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 15: Committees.

- (1) The Commission may appoint one or more committees to carry out, on behalf of the Commission, such functions as the Commission may determine.
- (2) A committee appointed under subsection (1) of this section shall consist of such number of persons as the Commission may determine.
- (3) A decision of a committee shall be of no effect until it is confirmed by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 15 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 16: The Seal of the Commission.

- (1) The fixing of the seal of the Commission shall be authenticated by the signatures of the Executive Chairman or any person generally or specifically authorized by the Commission to act for that purpose.
- (2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Commission by the Executive Chairman or any person generally or specifically authorized by the Commission to act for that purpose.
- (3) Any document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 16 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 17: Functions of the Commission.**

(1) The Commission shall —

- (a) be responsible for the administration and enforcement of the provisions of this Bill and rules and regulations made pursuant to this Bill;
- (b) initiate broad based policies and review economic activities in Nigeria to identify anti-competition and restrictive practices which may adversely affect the economic interest of consumers;
- (c) advise the Federal Government generally on national policies and matters pertaining to all goods and services and on the determination of national norms and standards relating to competition and consumer protection;
- (d) report annually on market practices and the implications for consumer choice and competition in the consumer market;
- (e) carry out investigations or inquiries considered necessary or desirable in connection with any matter falling within the purview of this Bill;
- (f) advise the Federal Government on any matter relating to the operations of this Bill including making recommendations to the Federal Government for the review of policies, legislations and subsidiary legislations as considered appropriate or as may be requested by the Government of the Federation or any of its Ministries, Departments or Agencies for the eradication of anti-competition behaviours;
- (g) eliminate anti-competition agreements, misleading, unfair, deceptive or unconscionable marketing, trading and business practices;
- (h) resolve disputes or complaints, issue directives and apply sanctions where necessary;
- (i) give and receive advice from other regulatory authorities or agencies within the relevant industry or sector on consumer protection and competition matters;
- (j) create public awareness through seminars, workshops, studies and make available information with regard to the exercise of its functions and powers to the public;
- (k) authorize, with or without conditions, prohibit or approve mergers of which notice is received;
- (l) protect and promote consumer interests;
- (m) seek ways and means of removing or eliminating from the market, hazardous goods and services, and cause offenders to replace such goods or services with safer and more appropriate alternatives;

- (n) publish from time to time, list of goods and services whose consumption and sale have been banned, withdrawn, restricted or not approved by the Federal Government or foreign governments;
- (o) organize or undertake campaigns and other forms of activities capable of promoting increased private and public consumer awareness;
- (p) encourage trade, industry and professional associations to develop and enforce in their various fields quality standards designed to safeguard the interest of consumers;
- (q) cause all imported goods to be registered for traceability whenever the need arises;
- (r) collaborate with consumer protection groups and associations for consumer protection purposes;
- (s) ensure that consumers' interests receive due consideration at appropriate fora and provide redress to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals;
- (t) ensure the adoption of appropriate measures to guarantee that goods and services are safe for intended or normally safe use;
- (u) collaborate with international organizations and agencies, firms, organizations, group or persons for the purposes of exchange of information to locate the source of substandard goods;
- (v) undertake regular research, study and analysis of consumer product standards and services rendered to the consumer and publish relevant observations, findings and recommendations in journals or other forms of publications for the benefit and general information of consumers;
- (w) collaborate with government agencies or professional bodies in establishing and using laboratories, testing facilities, common procedures in ensuring or enforcing standards of consumer goods or in assessing the quantum of loss or damage;
- (x) act generally to reduce the risk and injuries which may occur from consumption of certain consumer items and other services rendered to consumers; and
- (y) ensure that all service providers comply with local and international standards of quality and safe service delivery (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 17 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 18: Powers of the Commission.

- (1) The Commission shall have power to —

- (a) establish specialized Departments and Units as are considered necessary for the effective and efficient discharge of its functions under this Bill,
 - (b) prevent the circulation of goods or services which constitute a public hazard or an imminent public hazard;
 - (c) compel manufacturers, suppliers, dealers, importers, wholesalers, retailers, providers of services and other undertakings to comply with the provisions of the Act;
 - (d) cause quality tests to be conducted on consumer goods as it deems necessary;
 - (e) compel a manufacturers, suppliers, dealers, importers, wholesalers, retailers, or other undertaking where appropriate to —
 - (i) certify that all standards are met in their goods and services; and
 - (ii) give public notice of any health hazards associated with their goods or services;
 - (f) seal up any premises on reasonable suspicion that such premises contain, harbor or are being used to produce or disseminate goods or services that are fake, substandard, hazardous or inimical to consumers' welfare; in collaboration with relevant sector regulators;
 - (g) undertake studies and publish reports or provide information on matters that affect the interest of consumers and co-operate with or assist any association or body of persons in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the provisions of this Bill; and
 - (h) make regulations relating to the charging and collection of fees, levies, fines and the imposition of administrative penalties.
- (2) The Commission shall make general information available to persons engaged in economic activities and for the guidance of consumers with respect to their rights and obligations under this Bill.
- (3) For the purpose of carrying out its functions under this Bill, it shall be lawful for the Commission to —
- (a) prohibit the making or carrying out of an agreement or arrangements to which this Bill relates;
 - (b) order the termination of any agreement or arrangement pertaining to the action envisaged under paragraph (c) of this subsection;
 - (c) prohibit the withholding of supplies or any threat relating thereto;
 - (d) declare any business practice as abuse of a dominant position of market power and prohibit the same, after carrying out necessary investigation;

- (e) prohibit the attachment of extraneous conditions to any transaction as it may deem appropriate;
 - (f) prohibit the discrimination or preferences in prices or other related matters;
 - (g) require the publication of transparent price lists; and
 - (h) do such other things as it considers necessary for the effective performance of its functions under this Bill.
- (4) The Commission shall have power to —
- (a) summon and examine witnesses;
 - (b) call for and examine documents;
 - (c) administer oaths;
 - (d) require that any document submitted to it be verified by affidavit;
 - (e) require the furnishing of returns or information as it may require within such period as it may specify by notice; and
 - (f) adjourn any investigation or inquiry from time to time (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 18 stand part of the Bill — Agreed to.

PART IV — MANAGEMENT AND STAFF OF THE COMMISSION

Committee Recommendation:

Clause 19: Secretary to the Commission.

- (1) There shall be appointed by the Commission, a secretary (hereinafter referred to as 'the Secretary') who shall be a legal practitioner with at least ten years post-call experience.
- (2) The Secretary shall be responsible for keeping the corporate records of the Commission and performing such other duties as the Executive Chairman or the Commission may, from time to time assign (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 19 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 20: Other staff of the Commission.

The Commission may appoint such other staff as is necessary for the proper and efficient performance of the functions and duties of the Commission under this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 20 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 21: Staff regulations.

- (1) The Commission may, subject to the provisions of this Bill, make staff regulations relating generally to the conditions of service of the employees of the Commission and without prejudice to the generality of the foregoing, such regulations may provide for —

- (a) the appointment, promotion and disciplinary control, including dismissal of employees of the Commission; and
 - (b) appeals by employees of the Commission against dismissal or other disciplinary measures and until such regulations are made, any instrument relating to the conditions of service of officers in the Public Service of the Federation shall be applicable.
- (2) Staff regulations made under subsection (1) of this section shall have effect upon publication in the Federal Gazette or such other medium as the Commission may determine as will enable the regulations to be brought to the notice of all affected persons (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 21 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 22: Application of the Pension Reform Act.

Service in the Commission shall be approved service for the purposes of pensions and accordingly, the officers, staff or employees of the Commission shall be entitled to pensions and other retirement benefits in accordance with the provisions of the Pension Reform Act, 2004 (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 22 stand part of the Bill — Agreed to.

PART V — FINANCIAL PROVISIONS

Committee Recommendation:

Clause 23: Fund of the Commission.

- (1) The Commission shall establish and maintain a fund (hereinafter referred to as "the Fund") from which shall be defrayed all expenditures incurred by the Commission and the Tribunal established under section 39 of the Act.
- (2) There shall be paid and credited into the Fund established under subsection (1) of this section —
 - (a) the initial take-off grant made available to the Commission by the Federal Government;
 - (b) such sums of money as may be appropriated to the Commission in annual budgetary allocation;
 - (c) such moneys as may, from time to time, be granted to the Commission by a government of the Federation;
 - (d) all fees, levies and charges statutorily chargeable by the Commission for approvals, testing, licenses, certification or any services, as may be provided by the Commission in the exercise of its functions under this Bill;
 - (e) all administrative fees and charges payable to the Tribunal under this Bill;

- (f) all sums of monies accruing to the Commission by way of grants-in-aid, gifts, testamentary dispositions and endowments and contributions from any other sources whatsoever provided that the condition for such grants are not inconsistent with the functions, duties and responsibilities of the Commission under this Bill;
 - (g) a percentage of all the fees chargeable for regulated industry regulators, application for license, processing and issuance of licenses as may be determined by the President on the recommendations of the Minister; and
 - (h) fees charged for the investigation into and resolution of all disputes brought before the Commission either due from the regulated industry regulators, individuals, corporate bodies or the government.
- (3) The Fund shall be managed in accordance with the rules made by the Commission and without prejudice to the generality of the power to make rules under these subsections; the rules shall in particular contain provisions —
- (a) specifying the manner in which the assets or the Fund of the Commission are to be held;
 - (b) regulating the making of payments into and out of the Fund; and
 - (c) requiring the keeping of proper accounts and records for the Fund in such form as may be specified in the rules (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 23 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 24: Expenditures of the Commission.

- (1) The Commission shall apply the proceeds of the Fund established pursuant to section 23 of this Bill to —
 - (a) the cost of administration of the Commission and the Tribunal; and
 - (b) the payment of salaries, fees, remuneration, allowances, pensions and gratuities payable to the members and the employees of the Commission, as the case may be;
 - (c) the payment for all consultancies, contracts, including mobilization, fluctuations, variations, legal fees and cost on contract administration as may be permissible under applicable laws;
 - (e) the payment for all purchases; and
 - (f) undertake such other activities as are connected with all or any of the functions of the Commission under this Bill.
- (2) Any excess of the Authority's revenue for any year over the approved expenditure for that year shall be remitted to the Consolidated Revenue Fund (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 24 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 25: Annual estimates and expenditure.**

- (1) The Commission shall not later than 30th September in each year submit to the Minister an estimate of the expenditure and income of the Commission during the succeeding year.
- (2) The Commission shall cause to be kept proper accounts of the Commission in respect of each year and proper records in relation thereto.
- (3) The Commission shall cause the accounts to be audited not later than six months after the end of each financial year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor - General for the Federation (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 25 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 26: Annual reports.**

The Commission shall prepare and submit to the Minister, not later than 30th June in each year, a report in such form as the Minister may direct on the activities of the Commission during the immediately preceding year, and shall include in the report a copy of the audited accounts of the Commission for that year and the auditors' report thereon (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 26 stand part of the Bill — Agreed to.

PART VI — ENFORCEMENT WARRANTS AND REQUESTS FOR INFORMATION*Committee Recommendation:***Clause 27: Enforcement powers of the Commission.**

- (1) The Commission may for the purpose of ascertaining whether any undertaking has engaged, is engaging or is likely to engage in conduct constituting or likely to constitute a contravention of this Bill, require an authorized officer to —
 - (a) enter and search any premises; and
 - (b) inspect and remove from the premises any article, document or extract there from, in the possession or under the control of any person.
- (2) Except as otherwise directed by the Commission, an officer authorized by the Commission shall only exercise the powers conferred by subsection (1) of this section with a warrant issued pursuant to section 28 of this Bill.
- (3) The Commission shall, if there are grounds to believe that a violation, civil or criminal, of the provisions of this Bill or regulations made pursuant to this Bill, was, is being or will be committed, take any interim measures, including authorizing an authorized officer to exercise powers contained in subsection (1) of the section pending the issuance of a warrant to that effect (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 27 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 28: Issuance of Warrant.**

- (1) Where a Judge is satisfied on information on oath that there is reasonable ground for believing that any undertaking has engaged or is engaging or likely to engage in conduct constituting or likely to constitute the contravention of this Bill, the Judge may issue a warrant permitting an authorized officer to exercise the powers conferred by subsection (1) of this section in relation to any premises specified in the warrant.
- (2) An authorized officer who applied for a warrant shall, having made reasonable inquiries, disclose to the court—
 - (a) the details of every previous application for a warrant to search the place that the officer knows has been made within the preceding twelve months; and
 - (b) the result of the application.
- (3) A warrant issued under subsection (1) of this section shall specify a time-limit beyond which articles or documents removed shall not be detained.
- (4) The occupier or person in charge of any premises entered pursuant to this section shall provide the authorized officer with all reasonable facilities and assistance for the effective exercise of the officer's duty under this section.
- (5) A person who obstructs or impedes an authorized officer in the performance of his duties under this section commits an offence in accordance with the relevant laws and liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding Five Million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 28 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 29: Powers conferred by warrant.**

- (1) A warrant issued under subsection (1) of section 28 of this Bill shall authorize the person named in the warrant to request any police officer or public official to provide assistance to the person named in the warrant in the execution of the warrant.
- (2) The assistance to be provided pursuant to the provision of subsection (1) of this section shall be at the written request of the person named in the warrant.
- (3) The warrant shall confer powers —
 - (a) to enter and search the place or premises specified in the warrant on one occasion within thirty days of the date of issue of the warrant at a time that is reasonable in the circumstances;
 - (b) to use such assistance as is reasonable in the circumstances;
 - (c) to use such force for gaining entry and for breaking open any article or thing as is reasonable in the circumstances;

(d) to search for and remove documents or any article or thing that the person executing the warrant believes on reasonable grounds may be relevant;

(e) where necessary, to make copies of documents or extracts from documents, that the person executing the warrant believes on reasonable grounds may be relevant; and

(f) where necessary, to require a person to reproduce or assist any person executing the warrant to reproduce, in usable form, information recorded or stored in a document or retrieval system.

(4) Any police officer or public officer assisting the person executing the warrant also has the powers stated in paragraphs (c), (d) and (e) of subsection (3) of this section.

(5) A warrant shall be executed in accordance with such conditions as may be specified in the warrant when it is issued (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 29 stand part of the Bill — Agreed to

Committee Recommendation:

Clause 30: Duties of a person executing a Warrant.

(1) A person executing a warrant issued under subsection (1) of section 28 of this Bill shall

(a) be in possession of the warrant at the time of its execution;

(b) produce it on initial entry and, if requested, at any subsequent time; and

(c) produce a valid identification to the owner or occupier or person in charge of the place if that person is present.

(2) A person executing a warrant issued under subsection (1) of section 28 of this Bill shall on entry into any premises pursuant to a warrant, produce a valid identification document and the authority to enter

(3) A person executing a warrant issued under subsection (1) of section 28 of this Bill shall before leaving the premises, leave in a conspicuous place at the premises searched —

(a) in the case of a search carried out at a time when the owner or occupier was not present, a written notice stating —

(i) the date and time when the warrant was executed; and

(ii) the name of the person who executed the warrant and the names of the person or persons who rendered assistance in the course of executing the warrant, and;

(b) upon the completion of the search authorized by a warrant, where a document or article or thing was removed from the place being searched, leave a schedule containing a list of articles, documents, extracts or things removed from the premises during the search.

(4) Where it is not practicable to prepare a schedule before completing the search, or if the owner or occupier of the place being searched consents, the person executing the warrant —

(a) may, instead of leaving a schedule, leave a notice stating that documents, articles or things have been removed during the search and that, within seven days of the search, a schedule will be delivered, left, or sent stating the documents, articles or things that have been removed; and

(b) must, within seven days of the search —

(i) deliver a schedule to the owner or occupier;

(ii) leave a schedule in a prominent position at the place searched; or

(iii) send a schedule by registered mail to the owner or occupier of the place searched.

(5) Every schedule prepared pursuant to subsection (3) or (4) of this section shall state —

(a) the documents, articles and things that were removed;

(b) the location from which they were removed; and

(c) the location where they are being held.

(6) The Commission, or any person authorized by the Commission for that purpose, may inspect and make copies of any document or extract from such document, obtained pursuant to a warrant issued under subsection (1) of section 28 of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 30 stand part of the Bill — Agreed to!

Committee Recommendation:

Clause 31: Duties of Occupiers.

The occupier or person in charge of the place that an authorized officer, pursuant to a warrant issued under subsection (1) section 28 of this Bill, enters for the purpose of a search shall provide that authorized officer with all reasonable facilities and cooperation in executing the warrant (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 31 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 32: Request for information or documents.

(1) Where the Commission considers it necessary, desirable or expedient for the purpose of carrying out its functions under this Bill, the Commission may, by notice in writing served on any person, require that person to —

- (a) furnish to the Commission, in writing, signed by that person or, in the case of an undertaking, by a director or competent officer or agent of the undertaking, within the time and in the manner specified in the notice, any information or class of information as may be specified in the notice;
- (b) produce to the Commission or to a person specified in the notice acting on its behalf in accordance with the notice, any document or class of documents specified in the notice; or
- (c) appear before the Commission at a time and place specified in the notice to give evidence, either orally or in writing and produce any document or class of documents specified in the notice.
- (2) The Commission shall obtain such information as it considers necessary to assist it in its investigations or inquiries and where it considers appropriate, shall examine and obtain verification of documents submitted to it.
- (3) Where the information provided for in subsection (1) of this section is not furnished to the satisfaction of the Commission, the Commission may make findings on the basis of information available to it (*Hon. Sylvester Ogbaga Abakaliki/Izzi Federal Constituency*).
- Question that Clause 32 stand part of the Bill — Agreed to.*

Committee Recommendation:

Clause 33: Summons to attend and give evidence or to produce documents.

- (1) A summons to attend and give evidence or to produce documents before the Commission issued under the hand of the Secretary or any member of the Commission shall be served on the person concerned.
- (2) Hearings of the Commission shall take place in public, but the Commission may, whenever the circumstances warrant, particularly in order to preserve the business secrets of the undertaking concerned, conduct hearing in camera.
- (3) A person who without sufficient cause fails or refuses to—
- (a) appear before the Commission in compliance with a summons, or
- (b) produce a document which the person is required by such summons to produce,

commits an offence and liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding Twenty Million Naira or to both fine and imprisonment.

- (4) A person who willfully obstructs or interrupts the proceedings of the Commission commits an offence and liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding Twenty Million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 33 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 34: Procedures for handling of evidence by the Commission.**

- (1) For the purpose of carrying out its functions and powers under this Bill, the Commission may receive in evidence any statement, document, information or matter that may in its opinion assist it in dealing effectively with the matter before it, whether or not such evidence will otherwise be admissible in a court of law.
- (2) The Commission may take evidence on oath and for that purpose a member of the Commission, any employee or agent of the Commission duly authorized for that purpose may administer an oath.
- (3) The Commission may require the evidence to be furnished to be given on oath and for that purpose a member of the Commission or any officer of the Commission duly authorized for that purpose may administer an oath.
- (4) The Commission may permit a person appearing as a witness before it to give evidence by tendering a written statement and where the Commission deems fit, verify a written statement by oath.
- (5) Where a person has appeared as a witness before the Commission pursuant to a notice issued in that behalf or has given evidence before the Commission, whether pursuant to a notice or not, the Commission may, if it deems fit, order any sum to be paid to that witness on account of his or her traveling expenses.
- (6) The Commission shall ensure that business secrets of all parties concerned in investigation conducted by it are adequately protected during all stages of an investigation or inquiry.

- (7) The Commission may hear orally any person who in its opinion will be affected by an investigation or inquiry being carried out by it (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 34 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 35: Prohibition of disclosure of information, documents, etc.**

- (1) Subject to the provisions of subsection (2) of this section, the Commission may by order prohibit the publication or communication of any information or document or evidence which is furnished, given or tendered to, or obtained by the Commission in connection with its operations.
- (2) An order made by the Commission under subsection (1) of this section may be expressed to have effect for such period as is specified in the order, which shall not be less than two years, but no such order shall have effect where that order was made in connection with an investigation or inquiry conducted by the Commission, after the conclusion of that investigation or inquiry.
- (3) A person who, contrary to an order made by the Commission under subsection (1) of this section, publishes or communicates any information, document or evidence commits an offence and is liable on conviction to a fine not exceeding One Million Naira in the case of a person not being a body corporate, and Fifty Million Naira in the case of a body corporate (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 35 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 36: Destruction of records.**

A person who destroys any record which may be required by the Commission for the discharge of any of its functions under this Bill, with intent to mislead the Commission or to prevent or impede any investigation or inquiry under this Bill, commits an offence and liable on conviction to a term of three years imprisonment or to a fine not exceeding Fifty Million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 36 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 37: Discontinuance of inquiry or investigation.**

- (1) Where the Commission at any stage of an investigation or inquiry under this Bill is of the opinion that the matter being investigated or subject to inquiry does not justify further investigation or inquiry, the Commission may discontinue the investigation or inquiry.
- (2) Where the Commission discontinues an investigation or inquiry, it shall, within fourteen days thereafter, give written notice to the parties concerned in the investigation or inquiry, stating the reasons for discontinuing the investigation or inquiry (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 37 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 38: Appeals.**

- (1) Subject to regulations to be made by the Commission under subsection (2) of this section, appeals from any decision of the Commission shall lie to the Tribunal established under section 39 of this Bill.
- (2) The Commission shall adopt regulations specifying all relevant procedures and requirements in relation to appeals under subsection (1) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 38 stand part of the Bill — Agreed to.

PART VII -- THE COMPETITION AND CONSUMER PROTECTION TRIBUNAL*Committee Recommendation:***Clause 39: Establishment of the Competition and Consumer Protection Tribunal.**

- (1) There is established under this Bill, the Competition and Consumer Protection Tribunal ("the Tribunal").
- (2) The Tribunal shall adjudicate over conducts prohibited under this Bill and exercise the jurisdiction, powers and authority conferred on it under this Bill or any other enactment.
- (3) The Tribunal shall keep records of its proceedings and have jurisdiction throughout the Federation (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 39 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 40: Composition of the Tribunal.**

- (1) The Tribunal shall consist of the following members —
- (a) a Chairman, who shall be a legal practitioner and must possess such qualification and requirements to be eligible to be appointed as a judicial officer;
 - (b) six other members, one each from the six geopolitical zones, with not less than twelve years professional experience in any one or more of the following educational fields —
 - (i) competition and consumer protection law,
 - (ii) commerce and industry,
 - (iii) public affairs,
 - (iv) economics,
 - (v) finance,
 - (vi) business administration or management, or
 - (vii) sciences.
- (2) The Chairman and other members of the Tribunal shall be appointed by the President on the recommendation of the Minister subject to confirmation by the Senate (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 40 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 41: Tenure and terms of office.**

A member of the Tribunal shall hold office for a term of five years and no more from the date of assumption of office or upon the attainment of seventy years of age (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 41 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 42: Disqualification from membership of the Tribunal.**

A person shall not be qualified to serve on the Tribunal if the person is —

- (a) an un-discharged bankrupt;
- (b) under any order of a competent court, declared mentally unfit;
- (c) a convicted felon under the laws of Nigeria;
- (d) found guilty of serious misconduct incapacitating the person from carrying out the functions of the office; or
- (e) found to have been engaging in any activity that may undermine the integrity of the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 42 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 43: Removal from office.

- (1) A member of the Tribunal may by a written notice, addressed to the Minister, resign from office, provided that the member shall, unless permitted by the Minister to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of the notice conveying the resignation or until a person duly appointed as successor assumes office or until the expiry of the term of office, whichever is earlier.
- (2) A member of the Tribunal may be removed from office by the President —
 - (a) on grounds of gross misconduct, after due inquiry has been made and the member concerned informed of the reasons for the removal and given an opportunity of being heard in respect of the reasons;
 - (b) on grounds of incapacity on account of ill health; or
 - (c) for failure to satisfy the requirements of subsection (2) of section 41 of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 43 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 44: Filling of vacancies.

Where for reason other than temporary absence, any vacancy occurs in the Tribunal, a replacement may be appointed in accordance with the provisions of subsection (2) of section 40 of this Bill to fill the vacancy (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 44 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 45: Order constituting the Tribunal to be final.

The question as to the validity of the appointment of any person as a member of the Tribunal shall not be the cause of any litigation in any court or tribunal and no act or proceedings before the Tribunal shall be called into question in any manner on the ground merely of any defect in the constitution of the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 45 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 46: Secretary to the Tribunal.

The Minister shall appoint for the Tribunal, a Secretary who shall be a legal practitioner and must possess such qualification and requirements to be eligible to be appointed as a judicial officer. Subject to the general control of the Chairman, the Secretary shall —

- (a) be responsible for keeping records of the proceedings of the Tribunal;
- (b) be the head of the secretariat and responsible for —
 - (i) the day to day administration of the Tribunal, and

- (ii) the direction and control of all other employees of the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 46 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 47: Other staff of the Tribunal.

- (1) The Tribunal shall appoint such other employees as deemed necessary for the efficient performance of the functions of the Tribunal and the remuneration of persons so employed shall be determined by the National Salaries, Incomes and Wages Commission.
- (2) Employment in the Tribunal shall be subject to the provisions of the Pension Reform Act and, accordingly, officers and employees of the Tribunal shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 47 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 48: Jurisdiction of the Tribunal.

- (1) The Tribunal shall have power to —
- (a) hear appeals from or review any decision of the Commission taken in the course of the implementation of any of the provisions of this Bill as may be referred to it;
- (b) hear appeals from or review any decision from the exercise of the powers of the any sector specific regulatory authority in a regulated industry in respect of competition and consumer protection matters;
- (c) issue such orders as may be required of it under this Bill; and
- (d) make any ruling or such other orders as may be necessary or incidental to the performance of its functions under this Bill.
- (2) Notwithstanding the provisions of paragraph (b) of subsection (1) of this section, all appeals or request for review of the exercise of the power of a sector specific authority shall first be heard and determined by the Commission before such appeals can lie before or be determined by the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 48 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 49: Management of the work of the Tribunal.

- (1) The Chairman of the Tribunal shall be responsible for the management and assignment of cases before the Tribunal to the other members of the Tribunal.
- (2) For the purpose of subsection (1) of this section, members of the Tribunal shall be constituted into Panels of at least three members.
- (3) Further to the provision of subsection (2) of this section, the Chairman shall ensure that at least one member of each Panel has requisite legal training, experience and good knowledge of competition matters.

- (4) The Chairman shall designate a member to preside over proceedings of a Panel at any sitting.
- (5) Where as a result of withdrawal from a hearing for the reason stated in section 50 of this Bill, or for any other reason, a member of a Panel is unable to complete the proceedings in a matter assigned to that Panel, the Chairman shall —
 - (a) direct that the hearing of that matter proceed before the remaining members of the Panel, subject to the requirements of subsection (4) of this section; or
 - (b) terminate the proceedings before that Panel and constitute another Panel, which may include any member of the original panel and direct that Panel to conduct a new hearing.
- (6) The decision of a Panel on a matter referred to it must be in writing and include reasons for that decision.
- (7) The Tribunal may extend or reduce a period prescribed for the taken or doing of any action required to be done under this Part ('the prescribed period').
- (8) A decision of a Panel contemplated in subsection (6) of this section or of a majority of the members of a Panel shall be the decision of the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 49 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 50: Disclosure of interest by members of a panel.

- (1) A member of the Tribunal shall not be entitled to sit on a Panel if during the hearing; it appears to the Tribunal that the matter concerns a financial or other interest of that member.
- (2) A member affected by the provision of subsection (1) of this section shall —
 - (a) immediately and fully disclose the fact and nature of the interest to the Chairman and to the presiding member at that hearing; and
 - (b) withdraw from any further involvement in that hearing (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 50 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 51: Procedural Rules of the Tribunal.

- (1) The Tribunal may make rules regulating its procedures.
- (2) The Tribunal shall, for the purpose of discharging its function under this Bill, have power to —
 - (a) summon and enforce the attendance of any person including the power to examine a person under oath;
 - (b) require the discovery and production of documents;

- (c) call for and examine witnesses under oath;
- (d) receive evidence on affidavits; and
- (e) do anything which, in the opinion of the Tribunal, shall be deemed necessary to issue a final and reasoned decision on the merits of the matter before it (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 51 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 52: Powers of the Tribunal to impose penalties.

- (1) The Tribunal may impose administrative penalties only —
 - (a) for a prohibited practice under this Bill; or
 - (b) for the contravention of, or failure to comply with, an interim order of the Tribunal.
- (2) An administrative penalty imposed under subsection (1) of this section shall not exceed ten per cent of the undertaking's annual turnover in Nigeria and its exports from Nigeria during the preceding financial year.
- (3) When determining an appropriate penalty under subsection (1) of this section, the Tribunal shall consider the —
 - (a) the nature, duration, gravity and extent of the contravention;
 - (b) any loss or damage suffered as a result of the contravention;
 - (c) the behaviour of the defaulting party;
 - (d) the market circumstances in which the contravention took place;
 - (e) the level of profit derived from the contravention;
 - (f) the degree to which the defaulting party has co-operated with the Commission and the Tribunal; or
 - (g) whether the defaulting party has previously been found to be in contravention of any of the provisions of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 52 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 53: Powers of the Tribunal to order sale of assets.

- (1) The Tribunal may make an order directing any undertaking to sell any portion or all of its shares, interest or assets if the practice prohibited under this Bill —
 - (a) cannot adequately be remedied under any other provision of this Bill; or
 - (b) is substantially a repeat by that undertaking of conduct previously found by the Tribunal to be a prohibited practice.

- (2) An order made under subsection (1) of this section may provide for time-frame for compliance and any other terms that the Tribunal considers appropriate, having regard to the commercial interests of the parties concerned (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 53 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 54: Access to records of the Tribunal.

The Tribunal shall provide the parties to the proceedings before it and other members of the public reasonable access to the record of its proceedings, subject to any requirement to protect confidential information as required under the provisions of this Bill and regulations made under this Bill or any other enactment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 54 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 55: Registration and enforcement of the decisions of the Tribunal.

- (1) An order, ruling, award or judgment of the Tribunal shall be binding on the parties before the Tribunal.
- (2) A ruling, award or judgment of the Tribunal shall be registered with the Federal High Court for the purpose of enforcement only (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 55 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 56: Judicial review by the Federal High Court.

- (1) Any party to a proceeding dissatisfied with a ruling, award or judgment of the Tribunal may apply for judicial review to the Federal High Court upon giving notice in writing to the Secretary to the Tribunal within thirty days after the date on which the ruling, award or judgment was given.
- (2) A notice of judicial review filed pursuant to subsection (1) of this section shall set out all the grounds on which the review is sought.
- (3) Upon the receipt of a notice of judicial review under subsections (1) and (2) of this section, the Secretary to the Tribunal shall cause the notice to be given to the Chief Registrar of the Federal High Court along with the record of proceedings and exhibits tendered at the hearing before the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 56 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 57: Right to legal representation.

- (1) Any party to a proceeding before the Tribunal may either appear in person or authorize one or more legal practitioners or any of its officers to represent the party before the Tribunal.
- (2) Where a party or its representative is unable for good cause to attend a hearing before the Tribunal, the Tribunal may adjourn the hearing for such reasonable time as it deems fit, or admit the matter to be made by some other person or by way of a written address (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 57 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 58: Payment of allowances and other conditions of employment of the members of the Tribunal.

- (1) The Chairman and other members of the Tribunal shall be paid such allowances, emoluments and benefits as the Federal Government may from time to time approve.
- (2) Staff of the Tribunal shall be entitled to pension and other retirement benefits in accordance with the provisions of the Pension Reform Act (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 58 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 59: Funding of the Tribunal.

- (1) Subject to the provision of section 21 of this Bill, the Tribunal shall be funded from such sums of money as may be appropriated through annual budgetary provisions.
- (2) The Tribunal shall at the end of each accounting year submit its budget for the following year to the Minister.
- (3) The Minister shall ensure that adequate budgetary provision is made for the payment of emoluments and allowances of members and staff of the Tribunal including all other expenditures of the Tribunal for the efficient performance of the duties and responsibilities of the Tribunal under this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 59 stand part of the Bill — Agreed to.

PART VIII — RESTRICTIVE AGREEMENTS

Committee Recommendation:

Clause 60: Prohibition of agreements in restraint of competition.

- (1) Any agreement among undertakings or a decision of an association of undertakings that has the purpose of actual or likely effect of preventing, restricting or distorting competition in any market shall be unlawful and, subject to section 61 of this Bill, void and of no legal effect whatsoever.
- (2) The prohibited acts under subsection (1) of this section include in particular
 - (a) directly or indirectly fixing a purchase or selling price of goods or services, subject to section 108 of this Bill;
 - (b) dividing markets by allocating customers, suppliers, territories or specific types of goods or services;
 - (c) limiting or controlling production or distribution of any goods or services, markets, technical development or investment, subject to section of this Bill;
 - (d) engaging in collusive tendering, subject to section 110 of this Bill;
or

- (e) making the conclusion of an agreement subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such agreement (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 60 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 61: Agreements authorized by the Commission.

The provision of section 60 of this Bill shall not apply to an agreement among undertakings, or a decision of an association of undertakings, or a category of agreements or decisions of associations of undertakings, the entry into which is authorized by the Commission, provided that the Commission is satisfied that the agreement or decision —

- (a) contributes to the improvement of production or distribution of goods, or services or the promotion of technical or economic progress, while allowing consumers a fair share of the resulting benefit;
- (b) imposes on the undertakings concerned only such restrictions as are indispensable to the attainment of the objectives referred to in paragraph (a) of this section; and
- (c) does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services concerned (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 61 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 62: Prohibition of agreements containing exclusionary provisions.

An undertaking or association of undertakings shall not request another undertaking or association of undertakings to refuse to sell or purchase any goods or services with the intention of harming certain undertakings (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 62 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 63: Agreements by suppliers.

- (1) It is unlawful for any two or more undertakings to enter into any agreement whereby they undertake to —
- (a) withhold supplies of goods or services from dealers (whether parties to the agreement or not) who resell or have resold any goods or services in breach of any condition as to the price at which those goods or services may be resold; or
- (b) refuse to supply goods or services to the dealers referred to in paragraph (a) of this subsection except on terms and conditions that are less favourable than those applicable to other dealers carrying on business in similar circumstances.

- (2) It is unlawful for any two or more undertakings to enter into, or carry out, any agreement authorizing the recovery of penalties, however described, by or on behalf of the parties to the agreement from dealers who resell or have resold goods or services in breach of any condition described in paragraph (a) of subsection (1) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 63 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 64: Prohibition of minimum resale price maintenance.

- (1) Any term or condition of an agreement for the sale of any goods or services is void to the extent that it purports to establish or provide for the establishment of minimum prices to be charged on the resale of the goods or services in Nigeria.
- (2) Subject to the provisions of subsections (3) and (4) of this section, it is unlawful for an undertaking or its agent to —
- (a) include in an agreement for the sale of goods or services, a term or condition which is void by virtue of this Bill; or
- (b) notify dealers or otherwise publish on or in relation to any goods or services, price stated or calculated to be understood as the minimum price which may be charged on the resale of the goods or services in Nigeria.
- (3) The provisions of paragraph (a) of subsection (2) of this section does not affect the enforceability of an agreement except in respect of the term or condition which is void by virtue of this Bill.
- (4) Nothing in this section shall be construed as precluding an undertaking or an association or person acting on the undertaking's behalf, from notifying to dealers or otherwise publishing prices recommended as appropriate for the resale of goods or services supplied or to be supplied by that undertaking (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 64 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 65: Patented products.

- (1) The provisions of section 64 of this Bill shall apply to patented goods, including goods made by a patented process.
- (2) Notice of any term or condition which is void by virtue of the provisions of section 64 of this Bill, or which would be so void if included in an agreement relating to the sale of patented goods, is of no effect for the purpose of limiting the right of a dealer to dispose of those goods without infringement of the patent.
- (3) Nothing contained in this Bill or this section shall affect the validity, as between the parties to an agreement and their successors, of any term or condition of —
- (a) a licence granted by the proprietor of a patent or a licensee under any such licence; or

(b) any assignment of a patent so far as it regulates the price at which goods produced or processed by the licensee or assignee may be sold by him (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 65 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 66: Maintenance of minimum resale prices.

(1) It is unlawful for an undertaking to withhold supplies of any goods or services from a dealer seeking to obtain them for resale on the ground that the dealer —

(a) has sold goods or services obtained either directly or indirectly from that undertaking at a price below the resale price or has supplied them either directly or indirectly to a third party who had so done; or

(b) is likely, if the goods or services are supplied to that dealer, to sell them at a price below the resale price, or supply them either directly or indirectly to a third party who would be likely to do so.

(2) In this section, "the resale price" in relation to a sale of any description, means the price —

(a) notified to the dealer or otherwise published by or on behalf of a supplier of the goods or services in question, whether lawfully or not, as the price or minimum price which is to be charged on or is recommended as appropriate for a sale of that description; or

(b) prescribed or purporting to be prescribed for that purpose by an agreement between the dealer and any such supplier.

(3) Where, under this section, it would be unlawful for an undertaking to withhold supplies of goods or services, it is also unlawful for the undertaking to cause or procure any other undertaking to do so (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 66 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 67: Withholding of products from a dealer by a supplier.

(1) For the purposes of this Part, an undertaking shall be treated as withholding goods or services from a dealer if —

(a) the undertaking refuses to supply those goods or services to the order of the dealer;

(b) the undertaking refuses to supply those goods or services to the dealer except at prices or on terms or conditions as to credit, discount or other matters which are significantly less favourable than those at or on which the undertaking normally supplies those goods or services to other dealers carrying on business in similar circumstances; or

- (c) although the undertaking enters into an agreement to supply goods or services to the dealer, the undertaking treats the dealer in a manner significantly less favourable than that in which it normally treats other such dealers in respect of times or methods of delivery or other matters arising in the execution of the agreement.
- (2) An undertaking shall not be treated as withholding goods or services on any ground mentioned in this Part if, in addition to that ground, the undertaking has other grounds which, standing alone, would have led the undertaking to withhold those goods or services.
- (3) Subject to subsection (5) of this section, where in proceedings brought against an undertaking in respect of a contravention of the provisions of subsection (1) of section 66 of this Bill, the matters specified in subsection (4) of this section are proved, it shall be presumed, unless the contrary is proved, that the goods or services concerned were withheld on the ground that the dealer had acted or was likely to act as described in subsection (1) of section 66 of this Bill.
- (4) The matters referred to in subsection (3) are as follows —
- (a) supplies of goods or services were withheld from a dealer;
- (b) during a period ending immediately before the supplies were so withheld, the undertaking was doing business with the dealer or was supplying goods or services of the same description to other dealers carrying on business in similar circumstances; and
- (c) the dealer, to the undertaking's knowledge, had within the preceding six months, acted as described in paragraph (a) of subsection (1) of section 9 of this Bill or had indicated its intention to act in relation to the goods or services in question.
- (5) The provisions of subsections (3) and (4) of this section shall not apply where the proof that goods or services were withheld consists only of evidence of requirements imposed by the undertaking in respect of the time at which or the form in which payment was to be made for goods or services supplied or to be supplied (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 67 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 68: Complaints to and issuance of notice by the Commission on restrictive agreements.

- (1) Where the Commission determines that an agreement or decision contravenes the provisions of this Bill, it shall serve an order on the parties concerned stating the reasons for its decision and requiring the parties to cease their anti-competition practices.
- (2) Any person who has suffered a loss as a result of any restrictive agreement or decision may make a complaint to the Commission and the Commission may, if it is satisfied that the circumstances of the case so warrant, exercise any of the powers granted to it under this Bill as it deems fit, provided that

an aggrieved person may apply to the Tribunal for an order against the parties whose agreement or decision is anti-competitive and the Tribunal may by order determine the amount of compensation to be paid to the aggrieved person (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 68 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 69: Exceptions.

- (1) Nothing in this Bill prohibits —
 - (a) combinations or activities of employees for the reasonable protection of employees.
 - (b) arrangements for collective bargaining on behalf of employers and employees for the purpose of fixing minimum terms and conditions of employment;
 - (c) activities of professional associations designed to develop or enforce standards of professional qualifications.
 - (d) a contract or an arrangement among partners, none of whom is a body corporate, in so far as it contains provisions in relation to the terms of the partnership or the conduct of the partnership business or in relation to competition between the partnership and a party to the contract, arrangement or understanding while that party is, or after that party ceases to be a partner;
 - (e) a contract of service or a contract for the provision of services in so far as it contains provisions by which a person, not being a body corporate, agrees to accept restrictions as to the work, whether as an employee or otherwise, in which that person may engage during or after the termination of the contract. This period shall be no longer than two (2) years;
 - (f) a contract for the sale of a business or shares in the capital of a body corporate carrying on business in so far as it contains a provision that is solely for the protection of the purchases in respect of the goodwill of the body corporate; or
 - (g) any act done to give effect to a provision of a contract or an arrangement referred to in paragraphs (a) to (f) of this subsection.
- (2) With respect to professional services provided by professional associations listed in Schedule I to this Bill, the Commission may issue guidelines for the application of certain provisions of this Bill to the supply of services or conduct of business by members of such professional associations:
 - (i) for the purposes of this subsection, the Commission shall from time to time review professional associations to be included in the list in Schedule I to this Bill with a view to determining which associations are eligible to be accorded privileges and exemptions with respect to the application of any of the provisions of this Bill; and
 - (ii) any privileges or exemptions granted by the Commission under this subsection shall be consistent with the provisions of this Bill.

- (3) The Commission shall as considered appropriate develop and publish procedural rules to be applied to group inquiries (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 69 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 70: Offences and penalties under this Part.

- (1) An undertaking that makes or enters into an agreement or decision declared unlawful under this Part commits an offence and liable on conviction —
- (a) where the undertaking is a natural person, to imprisonment not exceeding a term of five years, or to a fine not exceeding Fifty Million Naira or to both fine and imprisonment;
- (b) where the undertaking is a body corporate, it shall be liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year;
- (2) Where the offence is committed by a body corporate, each director of the body corporate shall be liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of subsection (1) of this section.
- (3) An undertaking that fails to obey an order served by the Commission under subsection (1) of section 68 of this Bill commits an offence and —
- (a) where the undertaking is a natural person, it shall be liable on conviction to imprisonment for a term not exceeding three years, or to payment of a fine not exceeding fifty million Naira or to both fine and imprisonment; and
- (b) where the undertaking is a body corporate, liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year.
- (4) Where the offence is committed by a body corporate, each director of the body corporate shall be liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of subsection (1) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 70 stand part of the Bill — Agreed to.

PART IX — ABUSE OF A DOMINANT POSITION

Committee Recommendation:

Clause 71: Dominant position and abuse of dominant position in the relevant market.

- (1) For the purpose of this Bill, an undertaking will be generally considered to be in a dominant position if it is able to act without taking account of the reaction of its customers, consumers or competitors.
- (2) Abuse of dominant position in a relevant market occurs where an undertaking enjoys a position of economic strength enabling it to prevent effective competition being maintained on the relevant market and having the power to behave to an appreciable extent independently of its competitors, customers and ultimately of the consumers (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 71 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 72: Criteria for identifying the relevant market.

For the purpose of delineating the relevant market under this Bill, the criteria that shall be taken into account include —

- (a) the geographical boundaries that identify groups of sellers and buyers of goods or services within which competition is likely to be restrained;
- (b) the goods or services which are regarded as interchangeable or substitutable by the consumer by reason of their characteristics, prices and the intended use; and
- (c) the suppliers to which consumers may turn to in the short term, if the abuse of dominance leads to a significant increase in price or to other detrimental effect upon the consumer (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 72 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 73: Abuse of a dominant position prohibited.

- (1) Subject to the provisions of subsection (3) of this section, any abuse by one or more undertakings of a dominant position in a market is prohibited.
- (2) For the purpose of assessing market dominance, account shall be taken in particular of —
 - (a) the market share of the undertaking or undertakings concerned in the relevant market;
 - (b) its or their financial power;
 - (c) its or their access to supplies or markets;
 - (d) its or their links with other undertakings;
 - (e) legal or factual barriers to market entry by other undertakings;
 - (f) actual or potential competition by undertakings established within or outside the scope of application of this Bill;
 - (g) its or their ability to shift supply or demand to other goods or services; and
 - (h) as well as the ability of the opposite market side to resort to other undertakings.
- (3) An undertaking shall not be treated as abusing a dominant position if its conduct —
 - (a) contributes to the improvement of production or distribution of goods or services or the promotion of technological or economic progress, while allowing consumers a fair share of the resulting benefit;

- (b) is indispensable to the attainment of the objectives referred to in paragraph (a) of this subsection; and
 - (c) does not afford the undertaking the possibility of eliminating competition in respect of a substantial part of the goods or services concerned.
- (4) An undertaking may be considered as abusing its dominant position with regard to paragraph (c) of subsection (3) of this section if the Commission is satisfied that its activities —
- (a) have the effect of unreasonably lessening competition in a market; and
 - (b) impede the transfer or dissemination of technology.
- (5) For the purposes of this Bill —
- (a) "exclusive dealing" means any practice whereby an undertaking —
 - (i) as a condition of supplying goods or services to a customer, requires the customer —
 - (a) to deal only or primarily in goods or services supplied or designed by the undertaking or its nominee; or
 - (b) to refrain from dealing in a specified class or kind of goods or services, except as supplied by the undertaking or its nominee; or
 - (ii) induces a customer to meet a condition referred to in subparagraph (i) of paragraph (a) of this subsection by offering to supply goods or services to the customer on more favourable terms or conditions if the customer agrees to meet that condition;
 - (b) "exclusive dealing" also means any practice whereby an undertaking, as a condition of purchasing a specified class or kind of goods or services from a supplier, requires the supplier to refrain from supplying the same class or kind of goods or services to other undertakings; and
 - (c) "market restriction" means any practice whereby an undertaking, as a condition of supplying goods or services to a customer, requires that customer to distribute the goods or services only in a defined market or exacts a penalty of any kind from the customer if the customer distributes the goods or services outside a defined market (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 73 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 74: Consequences of abuse of a dominant position.

- (1) Where the Commission finds that an undertaking has abused or is abusing its dominant position in a market, the Commission shall prepare a report indicating the practices that constitutes the abuse and shall-

- (a) notify the undertaking of its findings accompanied by a copy of the report; and
 - (b) direct the undertaking to immediately cease the abusive practice.
- (2) The provisions of this section shall not apply to exclusive dealing arrangements or market restrictions between or among affiliated or interconnected undertakings.
- (3) An undertaking that abuses its dominant position in a market commits an offence under this Bill and shall on conviction be liable to a fine of not less than ten per cent of its turnover in the preceding business year or such higher percentage as the court may determine under the circumstances of the particular case (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 74 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 75: Penalties for failure to comply with a cease order.

- (1) An undertaking that fails to cease an abusive practice after receiving an order of the Commission to that effect commits an offence and on conviction liable to a fine not exceeding ten per cent of its turnover in the preceding business year or to such higher percentage as the court may determine given the circumstances of the particular case.
- (2) Any director of an undertaking found liable for an offence under subsection (1) of this section shall on conviction be liable to imprisonment for a term not exceeding three years, or to payment of a fine not exceeding Fifty Million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 75 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 76: Suspension of punishment.

Where upon receipt of the directive under subsection (1) of section 74 of this Bill, the undertaking or undertakings concerned submits or submit to the Commission the measures it or they propose to take to cease the abusive practice and a timetable for giving effect to the measures, and the Commission is satisfied as to the measures, the Commission may decide not to proceed with the institution of necessary action that will lead to the punishment and penalties prescribed in section 75 of this Bill against the undertaking or undertakings (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 76 stand part of the Bill — Agreed to.

PART X — MONOPOLY

Committee Recommendation:

Clause 77: Power of the Commission to investigate a monopoly situation.

Where it appears to the Commission that there are grounds for believing that a monopoly situation may exist in relation to the production or distribution of goods or services of any description, or in relation to exports of goods or services of any description from Nigeria, it shall cause an investigation to be held into a particular

sector of the economy or into a particular type of agreements across various sectors to determine the extent of the situation in relation to the market (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 77 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 78: Determination of a monopoly situation by the Commission.

For the purposes of this Part, a monopoly situation shall be taken to exist in relation to —

- (a) the supply of goods of any description,
- (b) the supply of services of any description, or
- (c) the exports of goods of any description from Nigeria, to the extent it has an effect on competition in a market in Nigeria,

as may be prescribed in regulations made from time to time by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 78 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 79: General powers of the Commission to obtain information.

When conducting a monopoly investigation under section 77 of this Bill, the Commission may —

- (a) exercise any of its powers, as contained under section 30 of this Bill.
- (b) require any person or body corporate to furnish the Commission with such information as the Commission may consider necessary for the purposes of conducting such investigation (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 79 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 80: Supplementary provisions as to the requirement to furnish information.

Any power conferred on the Commission under the provisions of this Bill to require a person or body corporate to furnish information shall be exercisable by notice in writing served on that person or body corporate (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 80 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 81: Penalties for refusal to furnish information to the Commission.

- (1) A person or body corporate who refuses or willfully neglects to furnish to the Commission information required under this Bill commits an offence and is liable on conviction to a fine not exceeding ten million Naira.

- (2) A person who furnishes information or makes a statement required by the Commission under this Bill knowing that such statement is false in any material respect or recklessly makes a statement which is false in any material way, commits an offence and liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding two million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 81 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 82: Order for monopoly investigation.

An order for a monopoly investigation under section 77 of this Bill shall —

- (a) specify the description of goods or services to which the order relates;
- (b) state whether it relates to the supply of goods or to export of goods from Nigeria or both where it relates to goods; and
- (c) specify the part of Nigeria in respect of which the investigation is to be limited where it is to be limited to a part of Nigeria (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 82 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 83: Request for a monopoly investigation.

- (1) Any person or body corporate may make a request for a monopoly investigation to the Commission.
- (2) A monopoly investigation may be referred to the Commission by a court, a body corporate, agency of the government of the Federation or any State or Local Government of the Federation.
- (3) In responding to a request or referral referred to in subsections (1) and (2) of this section, the Commission may limit its report to —
- (a) whether a monopoly situation exists in relation to the matters set out in their request or reference;
- (b) where a monopoly situation is determined to exist, which of the provisions of this Bill are applicable;
- (c) the undertaking or undertakings in whose favour the monopoly situation exists;
- (d) the acts taken by way of anti-competition practices or otherwise by the undertaking or undertakings concerned to exploit or maintain the monopoly situation or to further an anti-competitive practice; and
- (e) any action or omission on the part of the undertaking or undertakings concerned attributable to the existence of the monopoly situation and, if so, by what manner it is so attributable (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 83 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 84: Notification of a request for a monopoly investigation.**

Where the Commission gives a direction under this Bill with respect to a request for or a referral of a monopoly investigation, the Commission shall notify all relevant parties in writing and shall place a notice of such direction on the website of the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 84 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 85: Report on a monopoly investigation.**

- (1) The Commission shall furnish to the Tribunal reports on completed monopoly investigations at such times or intervals as may be agreed from time to time between the Tribunal and the Commission.
- (2) In making a report on a monopoly investigation, the Commission shall include in the report definite conclusions on the questions or issues that prompted the investigation, together with an account of the Commission's reasons for those conclusions.
- (3) Where the Commission finds that a monopoly situation exists and that facts found by the Commission in pursuance of its investigation operate or may be expected to operate against the public interest, its report shall specify those facts and the particular effects which in the Commission's opinion, those facts have or may be expected to have.
- (4) The Commission —
 - (a) shall, as part of any investigation under this Part, consider the actions to be taken to remedy or prevent any adverse effects resulting from a monopoly situation; and
 - (b) may, if it thinks fit, include in its report on a monopoly investigation recommendations in support of the actions to be taken.
- (5) The phrase "action to be taken" in paragraphs (a) and (b) of subsection (4) of this section means the action to be taken —
 - (a) by the Minister or any other Minister of the Government of the Federation or any department or agency of Government where the resulting adverse effects affects the sphere of responsibility or the statutory function of any Minister or of any of the departments or agencies of Government; or
 - (b) by the undertaking or undertakings in whose favour the monopoly situation in question exists (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 85 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 86: Time frame for a report on a monopoly investigation.**

- (1) Upon the commencement of a monopoly investigation under this Part, the Commission shall specify a period within which the Commission is to report on the monopoly investigation.

- (2) Where a report of the Commission is not made before the end of the period specified by the Commission under subsection (1) of this section, or if one or more extended periods allowed for making the report under subsection (3) of this section is not met before the end of that extended period or of the last of those extended periods, as the case may be, the investigation shall cease to have effect and no action or, if action has already been taken, no further action shall be taken in relation to that investigation.
- (3) Where a monopoly investigation cuts across the sphere of responsibilities of more than one Minister and the period of reporting on an investigation has already been extended once or more than once under any direction issued under this subsection, a joint directive of all the Ministers concerned may be issued allowing the Commission such extended period to report on the reference as may be specified in the direction (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 86 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 87: Powers of the Tribunal in relation to a report on a monopoly investigation.

- (1) The provisions of this section shall have effect where a report of the Commission on a monopoly investigation is referred to the Tribunal with the conclusions of the Commission that —
 - (a) a monopoly situation exists and that facts found by the Commission in its investigations operate or may be expected to operate, against the public interest; and
 - (b) a report of the Commission herein shall specify particular adverse effects adverse of the monopoly situation to the public interest.
- (2) The Tribunal may, based on the findings of the Commission pursuant to subsection (1) of this section exercise any of its powers under this Bill or make such orders as considered necessary for the purpose of remedying or preventing the adverse effects specified in the report.
- (3) An order of the Tribunal made under subsection (2) of this section may, in particular —
 - (a) declare an agreement to be unlawful to such extent and in such circumstances as may be provided by this Bill or regulations made under this Bill;
 - (b) require any party to any such agreement as may be specified or described in the order to terminate the agreement within such time as may be so specified, either wholly or to such extent as may be specified;
 - (c) require a person supplying goods or services to publish a list of prices, with or without such further information as may be specified or described in the order;
 - (d) prohibit or restrict the acquisition by any undertaking of the whole or part of another undertaking; or

- (e) provide for the division of any undertaking by the sale of any part of its shares, assets or otherwise for which purpose all the activities carried on by way of business by any one undertaking or by any two or more interconnected undertakings may be treated as a single business or for the division of any group of interconnected undertakings and for all such matters as may be necessary to effect or take account of the division, including-
- (i) the transfer or vesting of property rights, liabilities or obligation;
 - (ii) the adjustment of contracts, whether by discharge or reduction of any liability or obligation or otherwise;
 - (iii) the creation, allotment, surrender or cancellation of shares, stock or securities;
 - (iv) the formation or winding up of an undertaking or association, corporate or unincorporated, or the amendment of the memorandum and articles or other instruments regulating any undertaking or association;
 - (v) the extent to which and the circumstances in which provisions of the order affecting an undertaking or association in its share capital, constitution or other matters may be altered by the undertaking or association and the registration under any enactment of the order by undertakings or associations so affected; or
 - (vi) the continuation with any necessary change of parties of any legal proceedings.
- (4) The reference in paragraph (e) of subsection (3) of this section to the division of an undertaking shall be construed as including a reference to the separation by the sale of any part of any shares or assets concerned of undertakings which are under joint control.
- (5) In determining whether or not and to what extent or in what manner to exercise any of the powers referred to in subsection (2) of this section, the Tribunal shall take into account the objectives of this Bill.
- (6) Where a report made pursuant to subsection (1) of this section specifies that the undertaking in whose favour the monopoly situation exists is a body corporate fulfilling the following conditions, that is-
- (a) that the affairs of the body corporate are managed by its members, and
 - (b) that by virtue of any enactment, those members are appointed by a supervising Minister of that body corporate,

the Tribunal shall, if requested, receive representations from the Minister who appointed members of that body corporate and shall consider such representations before making any orders or exercising any powers.

- (7) In relation to any such undertaking as is mentioned in subsection (6) of this section, the powers exercisable by virtue of subsection (2) of this section shall not include the powers specified in paragraph (e) of subsection (3) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 87 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 88: General provisions relating to orders made under this Part.

- (1) The provisions of this section shall apply to an order made under section 87 of this Bill.
- (2) An order made under section 87 of this Bill declaring anything to be unlawful shall apply to all undertakings or to such undertakings as may be specified or described in the order.
- (3) Nothing in any order made under section 87 of this Bill shall have effect so as to apply to any undertaking in relation to its conduct outside Nigeria, unless that undertaking is —
- (a) a citizen of Nigeria; or
- (b) a body corporate incorporated under the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria, 2004, and carrying on business in Nigeria, either alone or in partnership with one or more other undertakings.
- (4) An order to which this section applies may be extended so as to prohibit the carrying out of any agreement already in existence on the date on which the order is made.
- (5) Nothing in any order to which this section applies shall have the effect as to restrict any act for the purpose of restraining an infringement of a Nigerian patent or so as to restrict any undertaking as to the conditions which it attaches to a licence to do anything the doing of which would, but for the licence, be an infringement of a Nigerian patent.
- (6) The Tribunal shall include in an order made under section 87 of this Bill the power to give any directive to a person, body corporate or association specified in the order —
- (a) to take such steps within its competence as may be specified or described in the direction for the purpose of carrying out, or securing compliance with the order; or
- (b) to do or refrain from doing anything so specified or described which the person, body corporate or association may be required by the order to do or refrain from doing, and may authorize the Minister in charge of the person, body corporate or association to vary or revoke any directives so given.
- (7) Prior to making any order under section 87 of this Bill, the Tribunal shall publish, in such manner as it deems appropriate, a notice —
- (a) stating its intention to make the order;

- (b) indicating the nature of the provisions to be embodied in the order; and
- (c) requesting any person, body corporate or association whose interest is likely to be affected by the order and who is desirous of making representations in respect of the order to do so in writing within thirty days from the date of publication of the notice for consideration by the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 88 stand part of the Bill — Agreed to.

PART XI — MERGERS

Committee Recommendation:

Clause 89: Merger defined.

- (1) For the purposes of this Bill —
 - (a) a merger occurs when one or more undertakings directly or indirectly acquire or establish direct or indirect control over the whole or part of the business of another undertaking; and
 - (b) a merger contemplated in paragraph (a) of this subsection may be achieved in any manner, including through —
 - (i) the purchase or lease of the shares, an interest or assets of the other undertaking in question;
 - (ii) the amalgamation or other combination with the other undertaking in question; or
 - (iii) a joint venture.
- (2) For the purposes of subsection (1) of this section, an undertaking has control over the business of another undertaking if it —
 - (a) beneficially owns more than one half of the issued share capital or assets of the undertaking;
 - (b) is entitled to cast a majority of the votes that may be cast at a general meeting of the undertaking or has the ability to control the voting of a majority of those votes, either directly or through a controlled entity of that undertaking;
 - (c) is able to appoint or to veto the appointment of a majority of the directors of the undertaking;
 - (d) is a holding company, and the undertaking is a subsidiary of that company as contemplated under the Companies and Allied Matters Act, Cap. C20, LFN, 2004;
 - (e) in the case of an undertaking that is a trust, has the ability to control the majority of the votes of the trustees, to appoint the majority of the trustees or to appoint or change the majority of the beneficiaries of the trust;

- (f) in the case of an undertaking that is a close corporation, owns the majority of members' interest or controls directly or has the right to control the majority of members' votes in the close corporation; or
 - (g) has the ability to materially influence the policy of the undertaking in a manner comparable to a person who, in ordinary commercial practice, can exercise an element of control referred to in paragraphs (a) to (f) of this subsection.
- (3) For the purposes of subsection (1) of this section, an undertaking shall not be deemed to exercise control over the business of another undertaking where —
 - (a) credit institutions or other financial institutions or insurance companies, the normal activities of which include transactions and dealing in securities for their own account or for the account of others, hold on a temporary basis securities which they have acquired in an undertaking with a view to reselling them, provided that they do not exercise voting rights in respect of those securities with a view to determining the competitive behaviour of that undertaking or provided that they exercise such voting rights only with a view to preparing the disposal of all or part of that undertaking or of its assets or the disposal of those securities and that any such disposal takes place within one year of the date of acquisition; that period may be extended by the Commission on request where such institutions or companies can show that the disposal was not reasonably possible within the period set;
 - (b) control is acquired by an office-holder according to the laws of the Federation relating to liquidation, winding up, insolvency, cessation of payments, compositions or analogous proceedings.
- (4) For the purposes of this Bill —
 - (a) a "small merger" means a merger with a value at or below the threshold stipulated by the Commission by regulations;
 - (b) a "large merger" means a merger with a value above the threshold stipulated by the Commission by regulations (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 89 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 90: Commission to approve mergers.

- (1) Subject to the notification threshold to be determined from time to time as set out in this Part, a proposed merger shall not be implemented unless it has first been notified to and approved by the Commission.
- (2) The Commission shall by regulations determine —
 - (a) a threshold of annual turnover for purposes of determining the categories of mergers contemplated in subsection (4) of section 93 of this Bill; and

- (b) a method for the calculation of annual turnover to be applied in relation to the threshold determined under paragraph (a) of this subsection.
- (3) Prior to making a determination contemplated in subsection (2) of this section, the Commission shall publish in the Federal Gazette a notice —
 - (a) setting out the proposed threshold and method of calculation for purposes of this section; and
 - (b) inviting written submissions on that proposal.
- (4) Within 60 days after publishing a notice as required under subsection (3) of this section, the Commission shall publish in the Federal Gazette a notice —
 - (a) setting out the threshold and method of calculation for purposes of this section; and
 - (b) the effective date of the threshold (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 90 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 91: Consideration by the Commission of effect of a merger on competition.

- (1) When considering a merger or a proposed merger, the Commission shall determine whether or not the merger is likely to substantially prevent or lessen competition, by assessing the factors set out in subsection (2) of this section.
- (2) When determining whether or not a merger or a proposed merger is likely to substantially prevent or lessen competition, the Commission shall assess the strength of competition in the relevant market and the probability that the undertakings in the market, after the merger, will behave competitively or co-operatively, taking into account any factor that is relevant to competition in that market, including —
 - (a) the actual and potential level of import competition in the market;
 - (b) the ease of entry into the market, including tariff and regulatory barriers;
 - (c) the level and trends of concentration, and history of collusion in the market;
 - (d) the degree of countervailing power in the market;
 - (e) the dynamic characteristics of the market, including growth, innovation, and product differentiation;
 - (f) the nature and extent of vertical integration in the market;
 - (g) whether the business or part of the business of a party to the merger or proposed merger has failed or is likely to fail; and

- (h) whether the merger or proposed merger will result in the removal of an effective competitor.
- (3) Where it appears that a merger or proposed merger is likely to substantially prevent or lessen competition, the Commission shall determine —
- (a) whether or not the merger or proposed merger is likely to result in any technological efficiency or other pro-competitive advantage which will be greater than, and offset, the effects of any prevention or lessening of competition, while allowing consumers a fair share of the resulting benefit; and
- (b) whether the merger or proposed merger can or cannot be justified on substantial public interest grounds by assessing the factors set out in subsection (4) of this section.
- (4) When determining whether a merger or proposed merger can or cannot be justified on grounds of public interest, the Commission shall consider the effect that the merger or proposed merger will have on —
- (a) a particular industrial sector or region;
- (b) employment; and
- (c) the ability of national industries to compete in international markets
(*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 91 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 92: Notification requirements for a small merger.

- (1) A party to a small merger —
- (a) is not required to notify the Commission of that merger unless the Commission requires it to do so in accordance with the provision of subsection (3) of this section; and
- (b) may implement that merger without approval, unless it is required to notify the Commission in accordance with the provisions of subsection (3) of this section.
- (2) A party to a small merger may voluntarily notify the Commission of that merger at any time.
- (3) Within six months after a small merger is implemented, the Commission may require the parties to that merger to notify it of the merger in the prescribed manner and form if, in the opinion of the Commission, having regard to the provisions of section 95 of this Bill, the merger may substantially prevent or lessen competition.
- (4) The notification of the merger referred to in subsection (3) of this section shall be published within five business days after receipt by the Commission.
- (5) A party to a merger to which subsection (4) of this section applies may take no further steps to implement that merger until the merger has been approved by the Commission with or without conditions.

- (6) Within twenty business days after parties to a small merger have fulfilled the notification requirement referred to in subsection (3) of this section, the Commission may extend the period in which it has to consider the merger by a single period not exceeding forty business days and, in that case, the Commission shall —
- (a) issue an extension notice to any party who notified it of the merger; or
 - (b) after having considered the merger as required under section 95 of this Bill, issue a report in the prescribed form —
 - (i) approving the merger;
 - (ii) approving the merger subject to any conditions;
 - (iii) prohibiting implementation of the merger, if it has not been implemented; or
 - (iv) declaring the merger to be prohibited.
- (7) Where upon the expiry of the twenty business days provided for in subsection (6) of this section, the Commission has not issued the extension notice referred to in paragraph (a) of the subsection or, upon the expiry of (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 92 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 93: Notification of a large merger.

- (1) A party to a large merger shall notify the Commission of the merger in the prescribed manner and form.
- (2) The notification of the merger referred to in subsection (1) of this section shall be published within five business days after receipt by the Commission.
- (3) The primary acquiring undertaking and the primary target undertaking shall each provide a copy of the notice contemplated in subsection (1) of this section to —
 - (a) any registered trade union that represents the employees in the acquiring and target undertakings respectively; or
 - (b) the employees or representatives of the employees of the acquiring and target undertakings, if there are no such registered trade unions.
- (4) The parties to a large merger shall not implement the merger unless approved, with or without conditions, by the Commission in accordance with the provisions of this Bill.
- (5) Any action undertaken by any party in violation of the provisions of subsection (3) of this section shall be void and of no legal effect.
- (6) The Commission may exercise any of the powers available to it under this Bill to render null and void any violation of the provisions of subsection (3) of this section.

- (7) An undertaking that violates the provision of subsection (3) of this section commits an offence and liable on conviction to a fine not exceeding ten per cent of turnover of the undertaking in the business year preceding the date of the commission of the offence or to such other percentage as the court may determine having regard to the circumstances of the case (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 93 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 94: Power of the Commission to extend the period of consideration of a larger merger.

- (1) Within sixty business days after the parties to a large merger have fulfilled all notification requirements referred to in section 97 of this Bill, the Commission-
- (a) may extend the period in which it has to consider the proposed merger to one hundred and twenty business days and issue an extension notice to all parties to the merger; or
 - (b) after having considered the merger in accordance with the provisions of this Bill, issue a report in the prescribed form —
 - (i) approving the merger;
 - (ii) approving the merger subject to conditions; or
 - (iii) prohibiting implementation of the merger.
- (2) Where upon the expiry of the sixty business day period provided for in subsection (1) of this section, the Commission has not issued an extension notice as provided for in that subsection or, upon the expiry of an extension period contemplated in paragraph (a) of subsection (1) of this section, the Commission has not issued a report referred to in paragraph (b) subsection (1) of this section, the merger shall be regarded as having been approved, subject to the provision of section 100 of this Bill.
- (3) Subject to the provisions of this Part, the Commission shall —
- (a) give to the parties applying for approval of a large merger its decision and cause a notice of the decision to be published in at least two national newspapers; and
 - (b) issue written reasons for its decision where —
 - (i) it prohibits or conditionally approves the merger; or
 - (ii) it is requested to do so by a party to the merger (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 94 stand part of the Bill — Agreed to.

- jurisdiction between the Commission and the relevant government agency, with the Commission having precedence over and above the relevant government agency.
- (3) For the purposes of this Bill, a government agency whose mandate includes enforcement of competition and consumer protection is hereby recognized as a regulatory agency for the avoidance of conflicts between the powers and functions of the Commission conferred by or under this Bill and the powers and functions of any other government agency as contained in any other law, rule or regulation in force.
 - (4) The Commission shall negotiate agreements with all government agencies whose mandate includes enforcement of competition and consumer protection for the purpose of coordinating and harmonizing the exercise of jurisdiction over competition and consumer protection matters within the relevant industry or sector, and to ensure the consistent application of the provisions of this Bill.
 - (5) A government agency or regulatory authority, which in accordance with the provision of an existing law or regulation has jurisdiction in respect of an industry or sector, shall commence negotiation of agreements with the Commission as anticipated in subsection (5) of this section and shall conclude such negotiations within one year thereof, and in respect of matters within its jurisdiction, may exercise its jurisdiction by way of such an agreement.
 - (6) An agreement in terms of subsections (4) and (5) must —
 - (a) identify and establish efficient procedures for the management of areas of concurrent jurisdiction;
 - (b) promote cooperation between the regulatory agency and the Commission;
 - (c) preserve the coordinating and leadership role of the Commission in relation to the exercise of the concurrent power as envisaged under this Bill.
 - (d) provide for the exchange of information and the protection of confidential information, and
 - (e) be published in the Federal Gazette.
 - (7) Where the negotiations contemplated by subsection (4) and (5) above are inconclusive, the areas of disagreement shall be referred to the Attorney General and Minister of Justice whose decision shall be binding on the Parties.
 - (8) In resolving the areas of disagreement as provided in (7), Attorney General of the Federation and Minister of Justice shall take into account the advice of the Tribunal (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 102 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 103: Exemption of regulated industries.

- (1) Whenever it is alleged that a provision of this Bill has been contravened by an undertaking acting or operating within any regulated industry designated pursuant to section 106 of this Bill, the undertaking against whom such allegation is made must demonstrate that the conduct in question was ordered or required by a regulatory agency possessing jurisdiction over that regulated industry.
- (2) Where the undertaking against whom an allegation referred to in subsection (1) of this section is made demonstrates that the conduct in question was ordered or required by a regulatory agency possessing jurisdiction over the regulated industry, the Commission may, subject to the agreement referred to in section 106, proceed with the issuance of a cease-and-desist order prohibiting the undertaking concerned from further violations of the provisions of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 103 stand part of the Bill — Agreed to.

PART XIII — SPECIFIC OFFENCES AGAINST COMPETITION**Committee Recommendation:****Clause 104: Price-fixing.**

- (1) An undertaking shall not directly or indirectly —
 - (a) by agreement, threat, promise or any other means, attempt to influence or conspire to influence upward or discourage the reduction of, the price at which any other undertaking supplies, offers to supply or advertises any goods or services; or
 - (b) refuse to supply goods or services to or otherwise discriminate against any undertaking because of the pricing policy of that undertaking.
- (2) The provision of paragraph (a) of subsection (1) of this section shall not apply if the undertaking attempting to influence the conduct of another undertaking and that other undertaking are interconnected undertakings as defined by this Bill or, as the case may be, principal and agent.
- (3) For the purposes of paragraph (a) of subsection (1) of this section, the publication by an undertaking, other than a retailer, of any notice or advertisement that mentions a resale price of any goods or services constitutes an attempt to influence upward the selling price of those goods or services, unless the resale price is so expressed as to make it clear to a reasonable person that the goods or services may be sold at a lower price.
- (4) An undertaking that violates any of the provisions of this section commits of an offence and —
 - (a) where the undertaking is a natural person, liable on conviction to imprisonment for a term not exceeding three years or to payment of a fine not exceeding ten million Naira or to both fine and imprisonment;

- (b) where the undertaking is a body corporate, liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year; and
- (c) in the case of a corporate body referred to in paragraph (b) of this subsection, each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of this subsection (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 104 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 105: Conspiracy.

- (1) An undertaking shall not conspire, combine, agree or arrange with another undertaking to —
 - (a) limit unduly the facilities for transporting, producing, manufacturing, storing or dealing in or supplying any goods or services;
 - (b) prevent, limit or reduce unduly, the manufacture or production of any goods or services or to unreasonably enhance the price of any goods or services;
 - (c) unduly reduce competition in the production, manufacture, purchase, barter, sale, supply, rental or transportation of any goods or services or in the price of personal or property insurance;
 - (d) otherwise unduly restrain or injure competition.
- (2) Nothing in subsection (1) of this section applies to a conspiracy, combination, agreement or arrangement which relates only to a service and to standards of competence and integrity that are reasonably necessary for the protection of the public —
 - (a) in the practice of a trade or profession relating to the service; or
 - (b) in the collection and dissemination of information relating to the service.
- (3) An undertaking that violates any provision of this section commits an offence and —
 - (a) where the undertaking is a natural person, liable on conviction to imprisonment for a term not exceeding three years, or to payment of a fine not exceeding ten million Naira or to both fine and imprisonment;
 - (b) where the undertaking is a body corporate, liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year; and

in the case of a body corporate referred to in paragraph (b) of this subsection, each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of this subsection (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 105 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 106: Bid-rigging.

- (1) Subject to subsection (2) of this section, it is unlawful for two or more undertakings to enter into an agreement whereby —
 - (a) one or more of them agree not to submit a bid in response to a call or request for bids or tenders; or
 - (b) as bidders or tenderers, they submit, in response to a call or request, bids or tenders that are arrived at by agreement between or among themselves.
- (2) This section shall not apply in respect of an agreement that is entered into or a submission that is arrived at only by undertakings each of which, in respect of every one of the others, is an affiliate.
- (3) An undertaking that violates any provision of this section commits an offence and —
 - (a) where the undertaking is a natural person, liable on conviction to imprisonment for a term not exceeding three years, or to payment of a fine not exceeding ten million Naira or to both fine and imprisonment;
 - (b) where the undertaking is a body corporate, liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year; and
 - (c) in the case of a body corporate referred to in paragraph (b) of this subsection, each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of this subsection (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 106 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 107: Obstruction of investigation or inquiry.

Any person, who, in any manner, impedes, prevents or obstructs any investigation or inquiry by the Commission under this Bill commits an offence and is liable, on summary conviction, to imprisonment for a term of not less than two years or to a fine of not less than two million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 107 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 108: Offence against records.**

- (1) An undertaking that —
- (a) refuses to produce any document or to supply any information when required to do so by the Commission under this Bill,
 - (b) destroys or alters any document or causes a document to be destroyed or altered; or
 - (c) intentionally withholds the production of a document within his possession or control, commits an offence under this Bill.
- (2) An undertaking that commits an offence under subsection (1) of this section is —
- (a) where the undertaking is a natural person, liable on conviction to imprisonment for a term not exceeding three years, or to payment of a fine not exceeding ten million Naira or to both fine and imprisonment.
 - (b) where the undertaking is a body corporate, it shall be liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year; and
 - (c) in the case of a body corporate referred to in paragraph (b) of this subsection, each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of this subsection (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 108 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 109: Giving of false or misleading information.**

An undertaking that gives to the Commission or an authorized officer of the Commission, any information which the undertaking knows to be false or misleading commits an offence and —

- (a) where the undertaking is a natural person, liable on conviction to imprisonment for a term not exceeding two years, or to payment of a fine not exceeding ten million Naira or to both fine and imprisonment;
- (b) where the undertaking is a body corporate, liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year; and
- (c) in the case of a body corporate referred to in paragraph (b) of this subsection, each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of this subsection (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 109 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 110: Failure to attend or give evidence.**

A person who has been required to appear before the Commission and —

- (i) without reasonable excuse, refuses or fails to appear; or
- (ii) refuses to take an oath or to make an affirmation as a witness or to answer a question put to him or her,

commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three years, or to a fine not exceeding ten million Naira or to both fine and imprisonment (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 110 stand part of the Bill — Agreed to.

PART XIV — CONSUMERS' RIGHTS

*Committee Recommendation:***Clause 111: Right to information in plain and understandable language.**

- (1) The producer of a notice, document or visual representation that is required under this Bill or any other law, to be produced, provided or displayed to a consumer must produce, provide or display that notice, document or visual representation —

- (a) in the prescribed form, if any, for that notice, document or visual representation; or
- (b) in plain language, if no form has been prescribed for that notice, document or visual representation.

- (2) For the purposes of this Bill, a notice, document or visual representation is in plain language if it is reasonable to conclude that an ordinary consumer of the class of persons for whom the notice, document or visual representation is intended, with average literacy skills and minimal experience as a consumer of the relevant goods or services, could be expected to understand the content, significance, and import of the notice, document or visual representation without undue effort, having regard to —

- (a) the context, comprehensiveness and consistency of the notice, document or visual representation;
- (b) the organization, form and style of the notice, document or visual representation;
- (c) the vocabulary, usage and sentence structure of the notice, document or visual representation; and
- (d) the use of any illustrations, examples, headings or other aids to reading and understanding.

- (3) The Commission may publish guidelines on methods for assessing whether a notice, document or visual representation satisfies the requirements of subsection (1) and (2) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 111 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 112: Disclosure of price of goods or services.**

- (1) An undertaking shall not display any goods or services for sale without adequately displaying to the consumer a price of those goods or services.
- (2) For the purposes of this subsection, a price is adequately displayed to a consumer if, in relation to any particular goods or services, a written indication of the price, expressed in the currency of the Federal Republic of Nigeria, is annexed or affixed to, written, printed, stamped or located upon, or otherwise applied to the goods or services or to any band, ticket, covering, label, package, reel, shelf, or other thing used in connection with the goods or services, or on which the goods or services are mounted for display or exposed for sale; or published in relation to the goods or services in a catalogue, brochure, newspaper, circular or similar publication available to the consumer, or to the public generally.
- (3) An undertaking shall not require a consumer to pay a price for any goods or services higher than the displayed price for those goods or services, or if more than one price is concurrently displayed, higher than the lower or lowest of the prices so displayed (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 112 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 113: Product labeling and trade descriptions.**

- (1) For the purposes of this section, a trade description is applied to goods if it is —
 - (i) applied to the goods, or to any covering, label or reel in or on which the goods are packaged, or attached to the goods;
 - (ii) displayed together with, or in proximity to, the goods in a manner that is likely to lead to the belief that the goods are designated or described by that description; or
 - (iii) is contained in any sign, advertisement, catalogue, brochure, circular, wine list, invoice, business letter, business paper, or other commercial communication on the basis of which a consumer may request or order the goods.
- (2) An undertaking shall not knowingly apply to any goods a trade description that is likely to mislead consumers as to any matter implied or expressed in that trade description or alter, deface, cover, remove or obscure a trade description or trade mark applied to any goods in a manner calculated to mislead consumers.
- (3) An undertaking shall not supply, offer to supply or display any goods if the undertaking knows, reasonably could determine, or has reason to suspect, that —
 - (i) a trade description applied to those goods is likely to mislead consumers as to any matter implied or expressed in that trade description; or

- (ii) a trade description or trade mark applied to those goods has been altered (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 113 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 114: Disclosure of re-conditioned or second-hand goods.

An undertaking that offers or agrees to supply, or supplies, any goods that have been used or are second-hand or have been re-conditioned, re-built or re-made, must apply a conspicuous notice to those goods stating clearly that they have been used or are second-hand or have been re-conditioned, re-built or re-made (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 114 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 115: Sales records.

An undertaking shall provide a written record of each transaction to any consumer to whom any goods or services are sold or supplied, including in that record at least the following information —

- (a) the undertaking's full name, or registered business name;
- (b) the address of the premises at which, or from which, the goods or services were sold or supplied;
- (c) the date on which the transaction occurred;
- (d) a name or description of any goods or services supplied or to be supplied;
- (e) the unit price of any particular goods or services supplied or to be supplied;
- (f) the quantity of any particular goods or services supplied or to be supplied;
- (g) the total price of the transaction, before any applicable taxes;
- (h) the amount of any applicable taxes; and
- (i) the total price of the transaction, including any applicable taxes (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 115 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 116: Consumer's right to select suppliers.

An undertaking shall not require, as a condition of offering to supply or supplying any goods or services, or as a condition of entering into an agreement or transaction, that a consumer must —

- (a) purchase any other particular goods or services from that undertaking,
- (b) enter into an additional agreement or transaction with the same undertaking or a designated third party; or

- (c) agree to purchase any particular goods or services from a designated third party,

unless the undertaking can demonstrate that the convenience to the consumer in having those goods or services bundled outweighs the limitation of the consumer's right to choice, or that the bundling of those goods or services results in economic benefit for the consumer (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 116 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 117: Consumer's right to cancel advance reservation, booking or order.

- (1) A consumer shall have the right to cancel any advance booking, reservation or order for any goods or services, subject to a reasonable charge for cancellation of the order or reservation by the supplier or services provider.
- (2) For the purposes of this section, a charge is unreasonable if it exceeds a fair amount in the circumstances, having regard to —
- (i) the nature of the goods or services that were reserved, booked or ordered;
 - (ii) the length of notice of cancellation provided by the consumer;
 - (iii) the reasonable potential for the supplier or service provider, acting diligently, to find an alternative consumer between the time of receiving the cancellation notice, and the time of the cancelled reservation, booking or order; and
 - (iv) the general practice of the relevant industry.
- (3) A supplier or service provider may not impose any cancellation fee in respect of a booking, reservation or order if the consumer is unable to honour the booking, reservation or order because of the death or hospitalization of the person for whom, or for whose benefit the booking, reservation or order was made (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 117 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 118: Consumer's right to choose or examine goods.

- (a) Notwithstanding any statement or notice to the contrary, a consumer or potential consumer is not responsible for any loss or damage to any goods displayed by a supplier, unless the loss or damage results from action by the consumer amounting to gross negligence or recklessness, malicious behaviour or criminal conduct.
- (b) Where goods are displayed in or sold from open stock, a consumer has the right to select or reject any particular item from that stock before completing the transaction.

- (c) Where a consumer has agreed to purchase goods solely on the basis of a description or sample, or both, provided by the supplier, the goods delivered to the consumer must in all material respects and characteristics correspond to that which an ordinary alert consumer would have been entitled to expect based on the description, or on a reasonable examination of the sample, as the case may be.
- (d) Where the supply of goods is by sample, as well as by description, it is not sufficient that any of the goods correspond with the sample, if the goods do not also correspond with the description (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 119 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 119: Consumer's right to return goods.

In addition to the consumer's right to return unsafe or defective goods under any law or enactment, the consumer may return goods to the supplier and receive a full refund of any consideration paid for those goods, if the supplier has delivered —

- (a) goods intended to satisfy a particular purpose communicated to the supplier and within a reasonable time after delivery to the consumer, the goods have been found to be unsuitable for that particular purpose; or
- (b) goods that the consumer did not have an opportunity to examine before delivery, and the consumer has rejected delivery of the goods within a reasonable time after delivery to the consumer for the reason that the goods do not correspond with description, sample or that they are not of the type and quality reasonably contemplated in the sales agreement (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 119 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 120: General standards for the marketing of goods and services.

- (1) A producer, importer, distributor, retailer, trader or service provider shall not, in pursuance of trade and for the purpose of promoting or marketing, directly or indirectly, goods or services —
- (a) make any representation to a consumer —
- (i) in a manner that is likely to imply any false or incorrect representation concerning those goods or services;
- (ii) that is reasonably misleading or likely to be misleading in any material respect concerning those goods and services;
- (iii) in a manner that is erroneous, fraudulent or deceptive in any way, including in respect of —
- (1) the nature, properties, advantages or uses of the goods or services;
- (2) the manner in, or conditions on, which those goods or services may be supplied;

- (3) the price at which the goods or services may be supplied, or the existence of, or relationship of the price to, any previous price, or competitor's price for comparable or similar goods or services; or
 - (4) the sponsoring of any event; or
 - (5) any other material aspect of the goods or services;
- (iv) in the form of a statement, warranty or guarantee of performance, efficacy or length of life of products that is not based on an adequate and proper test of the goods or services, the proof of which lies on the person making the representation;
 - (v) in a form that purports to be a warranty or a guarantee of any goods or services, or a promise to replace, maintain or repeat an article or any part thereof or to repeat or continue service until it has achieved a specified result, if the form of purported warranty, guarantee or promise is materially misleading or there is no reasonable prospect that it will be carried out;
- (b) falsely represent to the public in the form of a statement, warranty or guarantee that services are of a particular kind, standard, quality or quantity, or are supplied by any particular undertaking or any undertaking of a particular trade, qualification or skill;
 - (c) make a materially misleading representation to the public concerning the price at which particular goods or services or like goods or services have been, are or will be ordinarily supplied.
- (2) For the purposes of this Bill, the following types of representations shall be deemed to be made to the public by and only by the undertaking who caused it to be expressed, made or contained, that is to say, a representation that is —
- (a) expressed on goods or services offered or displayed for sale;
 - (b) expressed on anything attached to, inserted in or accompanying goods offered or displayed for sale, their wrapper or container, or anything on which the goods are mounted for display or sale;
 - (c) expressed on a display in the place where the goods or services are sold;
 - (d) made in the course of selling goods or services to the ultimate consumer;
 - (e) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner made available to a member of the public.
- (3) Where the undertaking referred to in subsection (2) of this section is outside of Nigeria, the representation shall be deemed to be made.

- (a) in a case described in paragraphs (a), (b) or (e) of subsection (2) of this section, by the undertaking that imported the goods or services; and
- (b) in the case described in paragraph (c) of subsection (2) of this section, by the undertaking that imported the display into Nigeria (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 120 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 121: Right to fair dealings.

- (1) An undertaking or any person acting on its behalf shall not use physical force, coercion, undue influence or pressure, harassment, unfair tactics or any other similar conduct against any person in connection with —
 - (i) marketing of any goods or services;
 - (ii) supply of goods or services to a consumer;
 - (iii) negotiation, conclusion, execution or enforcement of an agreement to supply any goods or services to a consumer;
 - (iv) demand for, or collection of, payment for goods or services by a consumer; or
 - (v) the conduct of a legitimate business transaction.
- (2) In addition to any conduct contemplated in subsection (1) of this section, it shall be unlawful for an undertaking or any person acting on its behalf knowingly to take advantage of the fact that a potential consumer was substantially unable to protect the consumer's own interests because of physical or mental disability, illiteracy, ignorance, inability to understand the language of an agreement, or any other similar factor (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 121 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 122: False, misleading or deceptive representations.

- (1) Where in the marketing of any goods or services an undertaking or any person acting on its behalf by words or conduct,—
 - (a) directly or indirectly expresses or implies a false, misleading or deceptive representation concerning a material fact to a consumer or prospective consumer; or
 - (b) fails to correct an apparent misapprehension on the part of a consumer or prospective consumer, amounting to a false, misleading or deceptive representation or permit or require any other person to do so;

the undertaking shall be liable for damages to any person damaged thereby, and shall be ordered to make monetary restitution.

- (2) A person acting on behalf of a supplier of any goods or services must not —

- (a) falsely represent that the person has any sponsorship, approval or affiliation; or
- (b) engage in any conduct that the supplier is prohibited from engaging in under subsection (1) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 122 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 123: Representation test and publication testimonials.

- (1) An undertaking shall not, for the purpose of promoting, directly or indirectly, the supply or use of any goods or services or any business interest, make a representation to the public that a test as to the performance, efficacy or length of life of the goods or services has been made by any person or publish a testimonial with respect to the products, unless it can establish the matters specified in subsection (2) of this section
- (2) The matters referred to in subsection (1) of this section are —
 - (a) that the representation or testimonial was previously made or published by the person by whom the test was made or the testimonial was given, as the case may be; or
 - (b) that before the representation or testimonial was made or published, it was approved and permission to make or publish it was given in writing by the person who made the test or gave the testimonial, as the case may be, and it accords with the representation or testimonial previously made, published or approved (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 123 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 124: Unfair, unreasonable or unjust contract terms.

- (1) An undertaking shall not —
 - (a) offer to supply, supply, or enter into an agreement to supply, any goods or services at a price that is manifestly unfair, unreasonable or unjust, or on terms that are unfair, unreasonable or unjust;
 - (b) market any goods or services, or negotiate, enter into or administer a transaction or an agreement for the supply of any goods or services, in a manner that is unfair, unreasonable or unjust; or
 - (c) require a consumer, or other person to whom any goods or services are supplied at the direction of the consumer, to waive any rights, assume any obligation, or waive any liability of the undertaking, on terms that are unfair, unreasonable or unjust, or impose any such terms as a condition of entering into a transaction.
- (2) Without limiting the generality of the provision of subsection (1) of this section, a transaction or agreement, a term or condition of a transaction or agreement, or a notice to which a term or condition is purportedly subject, is unfair, unreasonable or unjust if —

(a) it is excessively one-sided in favour of any person other than the consumer or other person to whom goods or services are to be supplied;

(b) the terms of the transaction or agreement are so adverse to the consumer as to be inequitable;

(c) the consumer relied upon a false, misleading or deceptive representation or a statement of opinion provided by or on behalf of the undertaking that supplied the goods or services concerned, to the detriment of the consumer; or

(d) the fact, nature and effect of that term, condition or notice was not drawn to the attention of the consumer (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 124 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 125: Notice required for certain terms and conditions.

Any notice to consumers or potential consumers, or provision of a consumer agreement, which purports to —

(a) limit in any way the risk or liability of an undertaking supplying goods or services or any other person,

(b) constitute an assumption of risk or liability by the consumer,

(c) impose an obligation on the consumer to indemnify an undertaking supplying goods or services or any other person for any cause, or

(d) be an acknowledgement of any fact by the consumer,

must be drawn to the attention of the consumer in a conspicuous manner and form that is likely to attract the attention of an ordinarily alert consumer having regard to the circumstances. Before the consumer enters into the transaction, or is required or expected to offer consideration for the transaction or agreement, the consumer shall be given adequate opportunity in the circumstances to receive and comprehend the provision or notice (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 125 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 126: Prohibited transactions, agreements, terms or conditions.

(1) An undertaking shall not make a transaction or agreement subject to any term or condition if —

(a) its general purpose or effect is to defeat the purposes and policy of this Bill, mislead or deceive the consumer, or subject a consumer to fraudulent conduct;

- (b) it directly or indirectly purports to waive or deprive a consumer of a right to return defective goods or any right set out in this Bill, avoid the undertaking's obligation or duty in terms of this Bill, set aside or override the effect of any provision of this Bill; authorize the undertaking to do anything that is unlawful in terms of this Bill, or fail to do anything that is required under this Bill;
- (c) it purports to limit or exempt the undertaking from liability for any loss directly or indirectly attributable to the gross negligence of the undertaking or any person acting for or controlled by the undertaking, or constitute an assumption of risk or liability by a consumer for the said loss; or impose an obligation on a consumer to pay for damage to, or otherwise assume the risk of handling any goods displayed by the supplier;
- (d) it falsely expresses an acknowledgment by the consumer that before an agreement was made, no representations or warranties were made in connection with the agreement by the undertaking or a person acting on behalf of the undertaking; or the consumer has received goods or services, or a document that is required by this Bill to be delivered to the consumer; and
- (e) it expresses an agreement by the consumer to deposit with the undertaking, or with any other person at the direction of the undertaking, an identity document, credit or debit card, bank account or automatic teller machine access card, or any similar identifying document or device; or provide a personal identification code or number to be used to access an account.

- (2) A purported transaction or agreement, provision, term or condition of a transaction or agreement, or notice to which a transaction or agreement is purported to be subject, is void to the extent that it contravenes the provisions of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 126 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 127: Rights pertaining to the quality and safety of goods and services.

- (1) When an undertaking agrees to perform any services for or on behalf of a consumer, the consumer has a right to —
- (a) the timely performance and completion of those services, and timely notice of any unavoidable delay in the performance of the services;
- (b) performance of the services in a manner and quality that reasonable persons are generally entitled to expect;
- (c) the use, delivery or installation of goods that are free of defects and of a quality that persons are generally entitled to expect, if any such goods are required for performance of the services; and

(d) the return of any property or control over any property of the consumer in at least as good a condition as it was when the consumer made it available to the undertaking for the purpose of performing the services, having regard to the circumstances of the supply, and any specific criteria or conditions agreed between the undertaking and the consumer before or during the performance of the services.

(2) Where an undertaking fails to perform a service to the standards contemplated in subsection (1) of this subsection, the consumer may require the undertaking to either —

(i) remedy any defect in the quality of the services performed or goods supplied; or

(ii) refund to the consumer a reasonable portion of the price paid for the services performed and goods supplied, having regard to the extent of the failure (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 127 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 128: Consumers' rights to safe, good quality goods.

(1) Every consumer has a right to receive goods that —

(a) are reasonably suitable for the purposes for which they are generally intended;

(b) are of good quality, in good working order and free of defects;

(c) will be useable and durable for a reasonable period of time, having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply; and

(d) comply with any applicable standards set by industry sector regulators.

(2) In addition to the right set out in subsection (1) of this section, if a consumer has specifically informed an undertaking of the particular purpose for which the consumer wishes to acquire any goods, or the use to which the consumer intends to apply those goods, and the undertaking ordinarily offers to supply such goods or acts in a manner consistent with being knowledgeable about the use of those goods, the consumer has a right to expect that the goods are reasonably suitable for the specific purpose that the consumer has indicated (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 128 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 129: Implied warranty of quality.

(1) In any transaction or agreement pertaining to the supply of goods to a consumer there is an implied warranty that the goods comply with the requirements and standards contemplated in subsections (1) and (2) of section 132 of this Bill.

(2) Within three months after the delivery of any goods to a consumer, the consumer may return the goods to the undertaking that supplied those goods, without penalty and at the undertaking's risk and expense, if the goods fail to satisfy the requirements and standards contemplated in subsection (1) of section 132 of this Bill and the undertaking must either repair or replace the failed, unsafe or defective goods or refund to the consumer the price paid by the consumer for the goods (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 129 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 130: Safety monitoring and recall.

- (1) The Commission shall promote the development, adoption and application of industry-wide codes of practice providing for effective and efficient systems to —
- (a) receive notice of consumer complaints or reports of product failures, defects or hazards; the return of any goods because of a failure, defect or hazard; personal injury, illness or damage to property caused wholly or partially as a result of a product failure, defect or hazard; and other indication of failure, defect or hazard;
 - (b) monitor the sources of information contemplated in paragraph (a), and analyze the information received with the object of detecting or identifying any previously undetected or unrecognized potential risk to the public from the use of or exposure to those goods;
 - (c) conduct investigations into the nature, causes, extent and degree of the risk to the public;
 - (d) notify consumers of the nature, causes, extent and degree of the risk pertaining to those goods; and
 - (e) if particular goods are unsafe, recall those goods for repair, replacement or refund.
- (2) Where the Commission has reasonable grounds to believe that any goods may be unsafe, or that there is a potential risk to the public from the continued use of or exposure to the goods, and the undertaking that produced, distributed or imported those goods has not taken any steps required by an applicable code contemplated in subsection (1) of this section, the Commission, by written notice, may require that undertaking to recall the goods on any terms required by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 130 stand part of the Bill — Agreed to.

PART XV — DUTIES OF MANUFACTURERS, IMPORTERS, DISTRIBUTORS
AND SUPPLIERS OF GOODS AND SERVICES

Committee Recommendation:

Clause 131: Duty to label goods properly.

A manufacturer, importer or distributor of goods shall label or describe the goods in a manner that will be easily traceable to the manufacturer, importer or distributor (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 131 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 132: Duty to withdraw hazardous goods from the market.

- (1) Upon becoming aware of any unforeseen hazard arising from the use of goods already placed on the market, the manufacturer or distributor of such goods shall notify the general public immediately of such risk or danger and cause such goods to be withdrawn from the market.
- (2) An undertaking that violates the provisions of section 135 of this Bill or subsection (1) this section commits an offence and —
 - (a) where the undertaking is a natural person, is liable on conviction to imprisonment for a term not exceeding three years or to payment of a fine not exceeding Ten Million Naira or to both fine and imprisonment; and
 - (b) where the undertaking is a body corporate, is liable on conviction to a fine not exceeding ten per cent of its turnover in the preceding business year;
- (3) In the case of a body corporate referred to in paragraph (b) of subsection (2) of this section, each director of the body corporate is liable to be proceeded against and on conviction dealt with as specified in paragraph (a) of subsection (2) this subsection.
- (4) Where a consumer suffers loss or injury by the violation of any person of provisions of section 135 of this Bill or subsection (1) of this section, the consumer shall have a right to be awarded compensation by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 132 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 133: Liability for defective goods.

- (1) Where any damage is caused wholly or partly by defective goods or the supply of a service, the undertaking that supplied the goods or service shall be liable for the damage.
- (2) For the purpose of this Bill, damage includes personal injury and damage to the consumer's property.
- (3) An undertaking that supplied the defective goods or service shall be liable whether or not the user or consumer bought the goods or service from or entered into any contractual agreement with the undertaking.
- (4) A person affected by the defective goods or service has with the right to sue under this section.
- (5) The liability of any undertaking under this section shall not be excluded or restricted (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 133 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 134: Liability arising from sale or supply of goods not to be excluded.**

- (1) In the case of goods of a type ordinarily supplied for private use or consumption, where loss or damage arises from the goods proving defective while in consumer use or results from the negligence of an undertaking concerned in the manufacture or distribution of the goods, liability for the loss or damage cannot be excluded or restricted by reference to any contract term or notice contained in or operating by reference to a guarantee of the goods.
- (2) For the purpose of this section —
 - (a) goods are to be regarded as "in consumer use" when a person is using them or has them in his or her possession for use, otherwise than exclusively for the purposes of a business; and
 - (b) anything in writing is a guarantee if it contains or purports to contain some promise or assurance (however worded or presented) that defects will be made good by complete or partial replacement, or by repair, monetary compensation or otherwise (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 134 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 135: Liability for breach of implied obligations by law.**

- (1) Liability for breach of the obligations arising from a seller's implied undertaking as to title not be excluded or restricted by reference to any contract term.
- (2) As against a person dealing as a consumer, liability for breach of the obligations arising from seller's implied undertakings as to conformity of goods with description or sample, or as to their quality or fitness for a particular purpose, shall not be excluded or restricted by reference to any contract term.
- (3) As against a person dealing otherwise than as a consumer, the liability specified in subsection (2) of this section may be excluded or restricted by reference to a contract term only in so far as the term satisfies the requirement of reasonableness (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 135 stand part of the Bill — Agreed to.

*Committee Recommendation:***Clause 136: Liability for misrepresentation.**

Where a contract contains a term which excludes or restricts any liability to which a part of a contract may be subject by reason of any misrepresentation made before the contract was made, or any remedy available to another party to the contract by reason of such a misrepresentation, that term shall have no effect (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 136 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 137: Evasion by means of secondary contract.**

- (1) A person is not bound by any contract term prejudicing or taking away the person's rights arising under, or in connection with, the performance of another contract, so far as those rights extend to the enforcement of another's liability which this Bill prevents that other from excluding or restricting.
- (2) This Bill prevents —
 - (a) the exclusion or restriction of any liability;
 - (b) making any liability or its enforcement subject to restrictive or onerous conditions;
 - (c) excluding or restricting any right or remedy in respect of the liability or subjecting a person to any prejudice in consequence of the person pursuing any such right or remedy; and
 - (d) excluding or restricting rules of evidence or procedure.
- (3) An agreement in writing to submit present or future differences to arbitration is not to be treated under this Bill as excluding or restricting any liability (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 137 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 138: Supply of services.**

- (1) A contract is a contract for the supply of a service for the purposes of this Bill whether or not goods are also transferred or to be transferred, or bailed or to be bailed by way of hire, under the contract and whatever is the nature of the consideration for which the service is to be carried out.
- (2) For the purposes of this Bill, a contract for apprenticeship is not a contract for the supply of a service.
- (3) In a contract for the supply of a service where the supplier is acting in the course of a business, there is an implied term that the supplier will carry out the service with reasonable care and skill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 138 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 139: Implied term about time for execution of contract.**

Where under a contract for the supply of a service by a supplier acting in the course of a business, the time for the service to be carried out is not fixed by the contract, left to be fixed in a manner agreed by the contract or determined by the course of dealing between the parties, it is implied that the supplier will carry out the service within a reasonable time (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 139 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 140: Exclusion of implied terms.**

- (a) Where a right, duty or liability would arise under a contract for the supply of a service, it may be negated or varied by express agreement or by the course of dealing between the parties or by such usage as binds both parties to the contract provided that an express term does not negate a term implied by this section unless inconsistent with it.
- (b) A supplier of service shall not, where dealing with a consumer, exclude or restrict its liability for breach of any term implied under sections 143 (3) and 144 of this Bill.
- (c) Nothing in this section shall prejudice any rule of law which imposes on the supplier a duty stricter than that imposed by sections 143 and 144 of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 140 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 141: Onus of proof.**

Where it is alleged that goods or services are defective, the onus of proof shall lie on the undertaking that supplied the goods or services (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 141 stand part of the Bill — Agreed to.

PART XVI — ENFORCEMENT OF CONSUMERS' RIGHTS**Committee Recommendation:****Clause 142: Enforcement of rights by a consumer.**

A consumer may seek to enforce any right under this Bill, a transaction or agreement, or otherwise resolve any dispute with an undertaking that supplied goods or services to the consumer by —

- (a) referring the matter directly to the undertaking that supplied the goods or services;
- (b) referring the matter to the applicable industry sector regulator with jurisdiction, if the undertaking is subject to the jurisdiction of any such sector regulator;
- (c) filing a complaint directly with the Commission; or
- (d) approaching a court with jurisdiction over the matter (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 142 stand part of the Bill — Agreed to.

Committee Recommendation:**Clause 143: Conclusion by industry sector regulator.**

Where an industry sector regulator concludes that there is no reasonable probability of the parties resolving their dispute through the process provided for in the relevant industry code, the industry sector regulator may terminate the process by notice to the parties and the party who referred the matter to the industry sector regulator may then file a complaint with the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 143 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 144: Enforcement of rights by the Commission.

- (1) A consumer shall file a complaint with the Commission in the prescribed manner and form, alleging that an undertaking has acted in a manner inconsistent with the provisions of this Bill.
- (2) The Commission shall directly initiate a complaint concerning any allegedly prohibited conduct on its own motion, an industry sector regulator or an accredited consumer protection group.
- (3) Upon initiating or receiving a complaint under this Bill, the Commission may —
 - (a) issue a notice of non-referral to the complainant in the prescribed form, if the complaint appears to be frivolous or vexatious or does not allege any facts which would constitute grounds for a remedy under this Bill;
 - (b) refer the complaint to an industry sector regulator with jurisdiction over the matter for investigation and/or resolution;
 - (c) direct an inspector to investigate the complaint as quickly as practicable.
- (4) At any time during investigation, the Commission may designate one or more persons to assist the inspector conducting the investigation.
- (5) After receiving a report of an investigation into a complaint, the Commission shall —
 - (a) issue a notice of non-referral to the complainant in the prescribed form;
 - (b) make an order; or
 - (c) issue a compliance notice (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 144 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 145: Consent order.

- (1) Where a matter has been investigated by the Commission, and the Commission and the respondent agree on the proposed terms of an appropriate order, the agreed terms shall be made an order of the Commission.
- (2) The Commission may, if it deems fit, register the order in a court of competent jurisdiction and the court, without hearing any evidence, may confirm that agreement as a consent order.

- (3) An order of the Commission or a consent order confirmed pursuant to the provision of this section may include an award of damages to the complainant (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 145 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 146: Compliance notice.

- (1) The Commission may issue a compliance notice in the prescribed form to an undertaking or association of undertakings whom the Commission on reasonable grounds believes has engaged in prohibited conduct provided that before issuing a notice to a member of a regulated industry, the Commission shall consult with the industry sector regulator that issued a licence to that regulated entity.
- (2) A compliance notice shall set out —
- (a) the undertaking or association of undertakings to whom the notice applies;
 - (b) the provisions of this Bill that have not been complied with;
 - (c) details of the nature and extent of the non-compliance;
 - (d) any steps that are required to be taken and the period within which those steps must be taken; and
 - (e) the penalty that may be imposed under this Bill if those steps are not taken.
- (3) A compliance notice issued pursuant to the provisions of this section remains in force until it is set aside by a court, or until the Commission issues a compliance certificate upon being satisfied that there has been sufficient compliance with the compliance notice.
- (4) If an undertaking or association of undertakings to whom a compliance notice has been issued fails to comply with the notice, the Commission shall —
- (a) shut down or close any premises from which the notice continues to be breached until the breach or non-compliance is remedied;
 - (b) impose the appropriate administrative fine; or
 - (c) refer the matter to a court of competent jurisdiction for prosecution (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 146 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 147: Redress by civil society groups.

- (1) The Commission may collaborate with, facilitate, or otherwise support any of the following activities carried out by a consumer protection group:
- (a) consumer advice and education activities and publications;

- (b) research, market monitoring, surveillance and reporting;
 - (c) promotion of consumers' rights and advocacy of consumers' interests;
 - (d) representation of consumers, either specifically or generally, in court;
 - (e) alternative dispute resolution through mediation or conciliation; and
 - (f) participation in national and international associations, conferences or forums concerned with consumer protection matters.
- (2) An accredited consumer protection group may —
- (a) commence or undertake any act to protect the interests of a consumer individually, or of consumers collectively, in any matter or before any forum contemplated in this Bill; and
 - (b) intervene in any matter before any forum contemplated in this Bill, if the interests of consumers represented by that group are not otherwise adequately represented in that forum.
- (3) In addition to any other authority set out in this Bill, an accredited consumer protection group may direct a generally stated concern or complaint to the Commission in respect of any matter within the purpose of this Bill.
- (4) The Commission may accredit a consumer protection group if that group —
- (a) functions predominantly to promote or represent the interests of all or a specific category of consumers generally;
 - (b) is committed to achieving the purposes of this Bill; and
 - (c) engages in, or makes a realistic proposal to engage in, actions to promote and advance the consumers' interests.
- (5) The Commission may impose reasonable conditions for the accreditation of a consumer protection group to provide the objectives of this Bill and shall monitor the effectiveness of any such accredited consumer protection group and may reasonably require any accredited consumer protection group to provide information necessary for monitoring purposes (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 147 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 148: Redress by the court.

Where upon an investigation by the Commission of a complaint by a consumer, it is proved that —

- (a) the consumer's right has been violated, or

- (b) that a wrong has been committed by the way of trade, provision of services, supply of information or advertisement thereby causing injury or loss to the consumer,

the consumer shall in addition to the redress which the Commission may impose, have a right of civil action for compensation or restitution in a court of competent jurisdiction (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 148 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 149: Power to obtain satisfactory written assurance.

- (1) Where it appears to the Commission that an undertaking has in the course of business persisted in a course of conduct which is detrimental to the interests of consumers, the Commission shall use its best endeavors to obtain from the undertaking concerned a satisfactory written assurance that it will refrain from a continuation of that course of conduct.
- (2) Where the Commission is unable to obtain from the undertaking in question the assurance referred to in subsection (1) of this section, or if that undertaking has given such assurance and it appears to the Commission or the States office that the undertaking has failed to observe the assurance, the Commission shall cause proceedings to be commenced against such undertaking in a court of competent jurisdiction to refrain the undertaking from continuing that course of conduct.
- (3) The Commission shall have power to order a temporary closure of any premises or facilities reasonably believed to be carrying on in a manner detrimental to the interest of consumers until the Commission is satisfied otherwise or pending the commencement of action (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 149 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 150: Compensation order.

- (1) A court by or before which an undertaking is convicted of an offence under this Bill may in addition to dealing with such undertaking in any other way make an order requiring the undertaking to pay compensation for any personal injury, loss or damage resulting from that offence of such amount as it may deem fit or as assessed by competent professional authority.
- (2) In determining whether to make a compensation order against any undertaking, and in determining the amount to be paid by any undertaking under such an order, the court shall have regard to the means of the undertaking in so far as they appear or are known to the court (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 150 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 151: Contravention of consumer rights.

Except where otherwise provided for in this Bill, any person who contravenes any consumer rights commits an offence under this Bill:

- (a) in the case of a natural person, liable on conviction to imprisonment for a term not exceeding five years, or to payment of fine not exceeding ten million Naira or to both fine and imprisonment;
- (b) in the case of a body corporate, liable on conviction to a fine of not less than One Hundred Million Naira or ten per cent of its turnover in the preceding business year, whichever is higher; and
- (c) in the case of a body corporate referred to in paragraph (b) of this section, each director of the body corporate is liable to be proceeded against and dealt with as specified in paragraph (a) of this section (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 151 stand part of the Bill — Agreed to.

PART XVII — MISCELLANEOUS PROVISIONS

Committee Recommendation:

Clause 152: Limitation of suits against the Commission and the Tribunal.

- (1) Subject to the provisions of this Bill, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member or employee of the Commission or the Tribunal.
- (2) Further to the provisions of subsection (1) of this section, no suit shall lie or be instituted in any court against any member of the Commission, the Secretary or any other officer or employee of the Commission or the Chairman, members, staff, officers or employees of the Tribunal for any act done in pursuance or execution of the provisions of this Bill or any other enactment or law, or of any public duty or authority in respect of any alleged neglect or default in the execution of the provision of this Bill or such enactment or law, duty or authority unless —
 - (a) it is commenced within three months next after the act, neglect or default complained of; or
 - (b) in the case of a continuation of damage or injury, within six months next after the cessation thereof.
- (3) No suit shall be commenced against any member of the Commission, the Secretary or any other officer or employee of the Commission or the Chairman, members, staff, officers or employees of the Tribunal before the expiration of a period of thirty days after written notice of intention to commence suit shall have been served upon the Commission or Tribunal by the intending plaintiff, or the agent or other lawful representative of the plaintiff.
- (4) The notice referred to in subsection (3) of this section shall clearly and explicitly state, the —
 - (a) cause of action;
 - (b) particulars of the claim;
 - (c) name and address of the intending plaintiff; and

- (d) relief sought by the plaintiff (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 152 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 153: Issuance of Notices by or on behalf of Commission.

- (1) Any notice given by the Commission under or for the purpose of this Bill shall be —
- (a) given in writing, under the seal of the Commission signed by the Executive Chairman, or by one or more of the members of the Commission, or by any person purporting to act under the direction of the Commission; and
- (b) served in accordance with section 159 of this Bill on the person or persons primarily concerned therewith or on any person or persons deemed by the Commission to represent the person or persons primarily concerned therewith.
- (2) All documents purporting to be signed by or on behalf of the Commission or to be sealed with the seal of the Commission shall, in all courts and in all proceedings under this Bill, be deemed to have been so signed or sealed with due authority unless the contrary is established (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 153 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 154: Service of notices.

- (1) Any notice or other document required or authorized to be served on or given to any person for the purpose of this Bill may be served or given by delivering it to that person, or by leaving it at that person's usual or last known place of residence or business or at the address specified by that person in any notice, application, or other document made, given or tendered to the Commission under this Bill, or by posting it by registered mail to the person at that place of residence or business or at that address.
- (2) Where any notice or other document is sent to a person by registered mail, then, unless the contrary is shown, it shall be deemed to have been delivered to the person when it would have been delivered in the ordinary course of posting a mail, unless the contrary is established.
- (3) In proving the delivery contemplated under subsection (2) of this section, it shall be sufficient to prove that there is return post office slip showing actual delivery.
- (4) Where, for any purpose under this Bill, a notice or document is required to be served on an undertaking, the notice or document may be served on the secretary, executive officer, manager, or other officer holding a similar position in the undertaking and for the purpose of this Bill, service on an association or body shall, unless otherwise directed by the Commission, be deemed to be service on all persons or undertakings who are members of the association or body or who are represented on the association or body by those members (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 154 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 155: Offences under this Part.

- (1) Subject to the provisions of this Bill, a person shall not —
 - (a) without reasonable excuse, refuse or fail to comply with a notice issued under section 158 and section 159 of this Bill;
 - (b) in purported compliance with such a notice, furnish information, or produce a document, or give evidence, knowing it to be false or misleading; or
 - (c) resist, obstruct, or delay an employee of the Commission acting pursuant to a warrant issued under subsection (3) of section 30 of this Bill.
- (2) A person shall not attempt to deceive or knowingly mislead the Commission in relation to any matter before it.
- (3) A person, having been required to appear before the Commission pursuant to the provision of subsection (2) of section 29 of this Bill, shall not without reasonable excuse refuse —
 - (a) or fail to appear before the Commission to give evidence;
 - (b) to take an oath or make an affirmation as a witness; or
 - (c) to produce to the Commission any book or document that required to be produced by the Commission.
- (4) Subject to the provision of subsection (3) of this section, a person who violates any of the provisions of this section commits an offence and is liable on summary conviction—
 - (a) in the case of an natural person, to a fine not exceeding one million Naira or to a term of imprisonment not exceeding three months, or to both fine and imprisonment; and
 - (b) in the case of a body corporate, to a fine not exceeding Ten Million Naira (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 155 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 156: Decisions of the Commission to be in writing.

- (1) Any finding or decision given by the Commission under or for the purpose of this Bill shall be sufficiently given if in writing under the seal of the Commission or if signed by one or more members of the Commission or by an officer or employee of the Commission authorized for that purpose.
- (2) A copy of a finding or decision of the Commission, certified to be a true copy by an officer or employee of the Commission authorized in that behalf to certify copies of determinations or decisions of the Commission shall be received in all courts as evidence of the determination or decision.

- (3) A document purporting to be a copy of a determination or decision of the Commission and certified to be a true copy in accordance with subsection (2) of this section shall, unless the contrary is established, be deemed to be such a copy and to be so certified (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 156 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 157: Delegation by the Commission.

- (1) The Commission may delegate any of its powers subject to such conditions and restrictions as it may think fit, and the delegation may be made either generally or in relation to any particular matter or class of matters.
- (2) A person to whom the Commission delegates its power shall be either a member or an officer of the Commission.
- (3) Subject to any general or special directions given or conditions or restrictions imposed by the Commission, any person to whom any power or function is delegated may exercise the power or function in the same manner and with the same effect as if it had been conferred directly by this Bill.
- (4) Any person purporting to act pursuant to any delegation pursuant to this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.
- (5) Delegation of any power or function pursuant to this section shall not prevent the exercise of that power or function by the Commission.
- (6) Until it is revoked or amended, every delegation shall continue in force according to its terms (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 157 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 158: Civil or criminal proceedings in respect of any action of the Commission.

- (1) No proceedings, civil or criminal, shall lie against the Commission for anything it may do or fail to do in the course of the exercise or intended exercise of its functions, unless it is shown that the Commission acted without reasonable care or in bad faith.
- (2) No civil proceedings shall lie against any member of the Commission, or any officer or employee of the Commission, for anything that member, officer or employee may do or say or fail to do or say in the course of carrying out of the functions of the Commission, unless it is shown that the person acted without reasonable care or in bad faith.
- (3) A person shall not be excused from —
 - (a) complying with any requirement to furnish information, produce documents, or give evidence under this Bill,
 - (b) appearing before the Commission,

- (c) answering any question or producing any document,
on the ground that to do so might tend to incriminate that person or another person.
- (4) Except as may be required under any law, rule or regulation, no court or person shall be entitled to require any member of the Commission, or any officer or employee of the Commission or any other person present at any meeting of the Commission, to divulge or communicate any information furnished or obtained, documents produced, obtained or tendered, or evidence given, in connection with the functions of the Commission.
- (5) Anything said, or any information furnished, or any document produced or tendered, or any evidence given by any person to the Commission shall be privileged in the same manner as if that statement, information, document, or evidence were made, furnished, produced, or given in proceedings in a court (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 159 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 159: Power to make regulations.

- (1) The Commission may make regulations and issue guidelines and notices for the effective implementation and operation of the provisions of this Bill, and in particular, prescribing —
- (a) the procedures to be followed under this Bill with regard to applications, notices to and proceedings of the Commission;
 - (b) the forms of applications and related documents required for the purposes of this Bill;
 - (c) fees, administrative penalties, charges or levies and such other related matters; and
 - (d) how information required can be obtained or access to confidential information.
- (2) The regulations, guidelines and notices referred to in subsection (1) of this section may include procedural and enforcement rules, and regulations or guidelines —
- (a) for the application of Part VIII of this Bill prohibiting restrictive agreements;
 - (b) for the application of Part IX of this Bill prohibiting abuse of a dominant position;
 - (c) on monopoly investigations under Part X of this Bill;
 - (d) on the assessment of Mergers under Part XII of this Bill;
 - (e) on the consumer protection regulation under Parts XV-XVII of this Bill;
 - (f) on market definition;

- (g) on leniency programme; and
- (h) any other regulations, guidelines and notices as may be needed for the implementation of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 159 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 160: Application of other enactments.

The provisions of any other enactment, including the Investment and Securities Act, No. 29 of 2007, Laws of the Federation of Nigeria, regulations or subsidiary laws in force relating to or connected with the subject matter of this Bill shall be read with such modifications as are necessary to bring them in conformity with the provisions of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 160 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 161: Repeals and savings.

- (1) The Consumer Protection Council Act, Cap. C25, Laws of the Federation of Nigeria, 2004 is repealed.
- (2) Without prejudice to section 6 of the Interpretation Act, the repeal of the Act specified in subsection (1) of this section, shall not affect anything done under or pursuant to the Act.
- (3) There shall be vested in the Commission established under section 3 of this Bill and without further assurance other than this Bill, all assets, funds, resources and other immovable properties which before the commencement of this Bill were vested in the Consumer Protection Council established under the repealed enactment.
- (4) All rights, interest, obligations and liabilities of the Consumer Protection Council under the repealed enactment in place before the commencement of this Bill, under any contract or instrument, or in law or equity shall by virtue to this Bill be assigned to and vested in the Commission established under this Bill.
- (5) Any contract or instrument referred to in subsection (4) of this section shall be of the same force and effect against or in favour of the Commission established under this Bill and shall be enforceable as fully and effectively as if, instead of the Consumer Protection Council under the repealed enactment, the Commission established under this Bill had been named or had been a party.
- (6) The Commission established under this Bill shall be subject to all obligations and liabilities to which the Consumer Protection Council under the repealed enactment was subject to before the commencement of this Bill.
- (7) Any proceeding or course of action pending or existing before the commencement of this Bill against the Consumer Protection Council under the repealed enactment in respect of any right, interest, obligation or liability of the Consumer Protection Council under the repealed enactment may be

continued, or as the case may require, be commenced and the determination of any court of law or other authority or person may be enforced by or against the Commission established by this Bill to the same extent that such course of action or determination might have continued, or enforced by or against the Consumer Protection Council under the repealed enactment.

- (8) Any regulation, order, by-law or notice made or issued or deemed to be made or issued by, or for the purposes, of the Consumer Protection Council under the repealed enactment existing before the commencement of this Bill shall be deemed to have been made or issued by or for the purposes of the Commission established under this Bill and shall continue in force until revoked or amended, subject to such modifications as may be applicable to the Commission established under this Bill.
- (9) As from the commencement of this Bill, any disciplinary proceeding pending or existing against any staff or employee of the Consumer Protection Council shall be continued and completed by the Commission established under this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 160 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 161: Transitional Provisions.

- (1) Subject to the provisions of this Bill, all employees and staff of the Consumer Protection Council are deemed to have transferred to the Commission established under this Bill.
- (2) Subject to the provisions of this Bill, the Director-General of the Consumer Protection Council established under the repealed Act is deemed to have been transferred to the Commission established under this Bill under the same conditions as Director-General (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 161 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 162: Consequential amendment.

- (1) Sections 118, 119, 120, 121, 122, 123, 124, 125, 126, 127 and 128 of the Investments and Securities Act, No 29 of 2007 are deleted.
- (2) Without prejudice to section 6 of the Interpretation Act, the consequential amendments of the Investments and Securities Act, No 29 of 2007 specified in subsection (1) of this section, shall not affect anything done under or pursuant to the deleted sections (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that Clause 162 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 163: Interpretation.

- (1) In this Bill, unless the context otherwise requires —
- "acquiring undertaking" means an undertaking that —

- (a) as a result of a merger within the meaning of section 93 of this Bill would directly or indirectly acquire, or establish, direct or indirect control over the whole or part of the business of another undertaking; or
- (b) as a result of a merger within the meaning of section 93 of this Bill has direct or indirect control over the whole or part of the business of an undertaking referred to in paragraph (a) (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "acquiring undertaking" be as defined in the interpretation to this Bill — Agreed to.

"Act" means the Federal Competition and Consumer Protection Act, 2013 (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Act" be as defined in the interpretation to this Bill — Agreed to.

"agent" means a person who is authorized to act for another person ("the principal") through employment or by contract, whether express or implied (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "agent" be as defined in the interpretation to this Bill — Agreed to.

"agreement" includes a contract, arrangement, understanding, written or oral, and a concerted practice (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "agreement" be as defined in the interpretation to this Bill — Agreed to.

"authorized officer" means any person appointed as such by the Commission for the purposes of implementation of the provisions of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "authorized officer" be as defined in the interpretation to this Bill — Agreed to.

"business" includes any activity that is carried on for gain or reward; or in the course of which goods or services are acquired or supplied or any interest in land is acquired or disposed of, otherwise than free of charge (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "business" be as defined in the interpretation to this Bill — Agreed to.

"business secret" means trade, business or industrial information that belongs to a person which has a particular economic value and is not generally available to or known by others (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "business secret" be as defined in the interpretation to this Bill — Agreed to.

"close corporation" means a corporation whose shares are not publicly traded and are held by a limited number of persons (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "close corporation" be as defined in the interpretation to this Bill — Agreed to.

"Code of Conduct" means a set of moral principles or rules of conduct or behavior drawn up by the Commission for the Commission its employee and a person acting through the authority of the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "Code of Conduct" be as defined in the interpretation to this Bill — Agreed to.

"company" includes any entity registered under the Nigeria Companies and Allied Matters Act or the laws of any other country (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "company" be as defined in the interpretation to this Bill — Agreed to.

"complainant" means a person who initiates a complaint (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "complainant" be as defined in the interpretation to this Bill — Agreed to.

"Commission" means the Federal Competition and Consumer Protection Commission established under section 3 of this Bill and 'members of the Commission' means the Executive Chairman and the Commissioners of the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Commission" be as defined in the interpretation to this Bill — Agreed to.

"concerted practice" means a practice involving direct or indirect contacts between competitors falling short of an actual agreement (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "concerted practice" be as defined in the interpretation to this Bill — Agreed to.

"consumer" includes —

- (a) any person who purchases or offers to purchase goods otherwise than for the purpose of resale but does not include a person who purchases any goods for the purpose of using them in the production or manufacture of any other goods or articles for sale; or
- (b) any person to whom a service is rendered (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "consumer" be as defined in the interpretation to this Bill — Agreed to.

"Court" means the Federal High Court of Nigeria (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Court" be as defined in the interpretation to this Bill — Agreed to.

"dealer" means a person who buys goods or services for resale (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "dealer" be as defined in the interpretation to this Bill — Agreed to.

"document" means a document in any form, whether signed or otherwise authenticated by its maker or not, and includes —

- (a) any writing on any material;
- (b) any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored;
- (c) any label, marking, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- (d) any book, map, plan, graph, or drawing; and
- (e) any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "document" be as defined in the interpretation to this Bill — Agreed to.

"enterprise" means any person involved in business (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "enterprise" be as defined in the interpretation to this Bill — Agreed to.

"Executive Chairman" means the Executive Chairman of the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "Executive Chairman" be as defined in the interpretation to this Bill — Agreed to.

"Federal" refers to the Federal Republic of Nigeria (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Federal" be as defined in the interpretation to this Bill — Agreed to.

"function" includes powers and duties (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "function" be as defined in the interpretation to this Bill — Agreed to.

"give effect to", in relation to a provision of a contract, arrangement or understanding, includes:

- (a) doing an act in pursuance of or in accordance with that provision; and
- (b) enforce or purport to enforce that provision (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "give effect to" be as defined in the interpretation to this Bill — Agreed to.

"goods"—

- (a) when used with respect to particular goods, includes any other goods that are reasonably capable of being substituted for them, taking into account ordinary commercial practice and geographical, technical and temporal constraints;
- (b) includes —
 - (i) ship, aircraft, and vehicles;
 - (ii) minerals, trees, and crops, whether on, under, or attached to land or not;
 - (iii) gas and electricity (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "goods" be as defined in the interpretation to this Bill — Agreed to.

"Government of the Federation" means the Federal, States and any of the Local Governments of the Federation (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "Government of the Federation" be as defined in the interpretation to this Bill — Agreed to.

"Judge" means Judge of the Federal High Court (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Judge" be as defined in the interpretation to this Bill — Agreed to.

"merger" means a transaction falling under the definition of section 93 of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "merger" be as defined in the interpretation to this Bill — Agreed to.

"Minister" means, unless otherwise stated, the Minister responsible for trade matters (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Minister" be as defined in the interpretation to this Bill — Agreed to.

"President" means the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "President" be as defined in the interpretation to this Bill — Agreed to.

"person", includes any natural or legal person, whether incorporated or not (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "person" be as defined in the interpretation to this Bill — Agreed to.

"prescribed" means prescribed by regulations under this Bill or by the Commission (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "prescribed" be as defined in the interpretation to this Bill — Agreed to.

"price" includes any charge or fee or valuable consideration in any form, whether direct or indirect; and includes any consideration that in effect relates to the acquisition or supply of goods or services or the acquisition or disposition of any interest in land, although ostensibly relating to any other matter or thing (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "price" be as defined in the interpretation to this Bill — Agreed to.

"principal" means a person who authorizes or empowers another person to act as its representative or agent (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "principal" be as defined in the interpretation to this Bill — Agreed to.

"products" includes goods or services (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "products" be as defined in the interpretation to this Bill — Agreed to.

"Public Service Rules" means the version of the Public Service Rules currently in force (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "Public Service Rules" be as defined in the interpretation to this Bill — Agreed to.

"respondent" means a person against whom a complaint is made (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "respondent" be as defined in the interpretation to this Bill — Agreed to.

"restrictive practices" means practices in restraint of trade or which otherwise hinder competition (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "restrictive practices" be as defined in the interpretation to this Bill — Agreed to.

"retailer" means a person who sells goods or services to consumers (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "retailer" be as defined in the interpretation to this Bill — Agreed to.

"repealed enactment" includes sections 118, 119, 120, 121, 122, 123, 124, 125, 126, 127 and 128 of the Investments and Securities Act, No. 29 of 2007 (as amended) and the Consumer Protection Council Act, Cap. C25 Laws of the Federation of Nigeria, 2004 (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "repealed enactment" be as defined in the interpretation to this Bill — Agreed to.

"service" includes —

- (a) a service of any description, whether industrial, trade, professional or other;
- (b) the sale of goods, where the goods are sold in conjunction with the rendering of a service (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "service" be as defined in the interpretation to this Bill — Agreed to.

"sale" includes advertisement for sale, display for sale, and offer for sale, and "sell", "selling", and "sold" have corresponding meanings (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "sale" be as defined in the interpretation to this Bill — Agreed to.

"share" means a share in the share capital of a company or other body corporate, whether or not it carries the right to vote at general meetings, and includes:

- (a) a beneficial interest in any such share;
- (b) a power to exercise, or control the exercise of, a right to vote attaching to any such share that carries the right to vote at meetings of the company;
- (c) a power to acquire or dispose of, or control the acquisition or disposition of, any such share;

- (d) a perpetual debenture and perpetual debenture stock (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "share" be as defined in the interpretation to this Bill — Agreed to.

"State office" means an official position, division or agency of a Local, State or Federal Government (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "State office" be as defined in the interpretation to this Bill — Agreed to.

"supplier" means a person who supplies goods or services to another person (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "supplier" be as defined in the interpretation to this Bill — Agreed to.

"supply", in relation to goods, includes supply, or re-supply by way of gift, sale, exchange, rent, lease, hire, or hire purchase; and in relation to services, includes provide, grant, or confer and "supply" as a noun, and "supplied" have corresponding meanings (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "supply" be as defined in the interpretation to this Bill — Agreed to.

"target undertaking" means an undertaking, which —

- (a) as a result of a merger within the meaning of section 93 of this Bill, the whole or part of whose business would be directly or indirectly controlled by an acquiring undertaking; or
- (b) as a result of a merger within the meaning of section 93 of this Bill would directly or indirectly transfer control of the whole or part of, its business to an acquiring undertaking (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the words "target undertaking" be as defined in the interpretation to this Bill — Agreed to.

"turnover" means the amount of money taken by the business in a determined period (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "turnover" be as defined in the interpretation to this Bill — Agreed to.

"trade" includes any business, industry, profession, occupation, activity of commerce or undertaking relating to the supply or acquisition of goods or services or to the disposition or acquisition of any interest in land (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "trade" be as defined in the interpretation to this Bill — Agreed to.

"Tribunal" means the Competition and Consumer Protection Tribunal established under section 39 of this Bill (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "Tribunal" be as defined in the interpretation to this Bill — Agreed to.

"undertaking" includes any person involved in the production of, or the trade in, goods, or the provision of services (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the meaning of the word "undertaking" be as defined in the interpretation to this Bill — Agreed to..

- (2) In this Bill, a reference to "engaging in conduct" shall be read as a reference to doing or refusing to do any act, including the entering into, or the giving effect to a provision of, a contract or arrangement.
- (3) In this Bill —
 - (a) a reference to the "acquisition of goods" includes a reference to the acquisition of property in, or rights in relation to, goods in pursuance of a supply of the goods;
 - (b) a reference to "the supply or acquisition of goods or services" includes a reference to agreeing to supply or acquire goods or services;
 - (c) a reference to "the supply or acquisition of goods" includes a reference to the supply or acquisition of goods together with other property or services or both;
 - (d) a reference to "the supply or acquisition of services" includes a reference to the supply or acquisition of services together with property or other services or both.
- (4) For the purposes of this Bill, any two undertakings or associations of undertakings are to be treated as affiliated if —
 - (a) one of them is an undertaking of which the other is a subsidiary; as such subsidiary is understood pursuant to the provisions of the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria, 2004;
 - (b) both of them are subsidiaries (within the meaning of those sections) of the same undertaking; or
 - (c) both of them are affiliated with undertakings that, in accordance with paragraph (a) or paragraph (b) of this subsection, are affiliated;

- (5) In this Bill, "competition" means workable or effective competition in relation to the supply and demand of goods or services in any given market and unless the context otherwise requires, references to the lessening of competition include references to the hindering or preventing of competition.
- (6) For the purposes of this Bill, the effect on competition in a market shall be determined by reference to all factors that affect competition in that market, including competition from goods or services supplied or likely to be supplied by undertakings not resident or not carrying on business in Nigeria.
- (7) For the purposes of this Bill —
- (a) a provision of a contract or arrangement shall be deemed to have had, or to have, a particular purpose if:
- (i) the provision was or is included in the contract or arrangement or is required to be given, for that purpose or purposes that included or include that purpose; and
- (ii) that purpose was or is a substantial purpose;
- (b) a person shall be deemed to have engaged, or to engage, in conduct for a particular purpose or a particular reason if that person engaged or engages in that conduct for that purpose or reason or for purposes or reasons that included or include that purpose or reason, and that purpose or reason was or is a substantial purpose or reason.
- (8) In this Bill —
- (a) a reference to a contract shall be construed as including a reference to a lease of, or a license in respect of, any land or a building or part of a building, and shall be so construed notwithstanding any express reference in this Bill to any such lease or license, but shall not mean a reference to the memorandum of association or articles of association of a company;
- (b) a reference to making or entering into a contract, in relation to such a lease or license, shall be read as a reference to granting or taking the lease or license;
- (c) a reference to a party to a contract, in relation to such a lease or license, shall be read as including a reference to any person bound by, or entitled to the benefit of, any provision contained in the lease or license.
- (9) For the purposes of this Bill, any contract or arrangement entered into by an association or body shall be deemed to have been entered into by all the persons or undertakings who are members of the association or body;
- (10) Nothing in subsection (9) of this section shall apply to —
- (a) any member of an association or body who expressly notifies the association or body in writing that he disassociates himself from the contract, or arrangement or any provision thereof and who does so disassociate himself;

- (b) any member of an association or body who establishes that he had no knowledge and could not reasonably have been expected to have had knowledge of the contract, arrangement, or understanding.
- (11) In this Bill, reference to —
- (a) Federal Government means the Federal Government of the Federal Republic of Nigeria;
- (b) State Government means the Government of one or any of the States that constitute the territories of the Federal Republic of Nigeria, as recognized by the Constitution of the Federal Republic of Nigeria, 1999 (as altered);
- (c) Local Government means the authority and the territories relating to one or any of the local government recognized by the Constitution of the Federal Republic of Nigeria, 1999 (as altered).
- (12) Every reference in this Bill to the term "market" is a reference to a relevant market in Nigeria for goods or services as well as other goods or services that, as a matter of fact and commercial common sense, are substitutable for them and the meaning of the term relevant market shall be based on examination of demand substitutability, supply substitutability and potential competition.
- (13) For the purpose of this Bill, the term —
- (a) "regulatory agency" shall mean any government agency established to regulate the terms and conditions for demand and supply of goods and services in any given industry and in this respect, the regulatory agency in question is one established either by Federal or any State Government;
- (b) "regulated industry" shall mean an industry which is designated as such by the Commission and which is under the regulatory authority of a regulatory agency.
- (14) For the purpose of this Bill, the term "professional association" shall mean associations mentioned in Schedule I of this Bill.

(Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency).

Question that Clause 163 stand part of the Bill — Agreed to.

Committee Recommendation:

Clause 164: Short Title.

This Bill may be cited as the Federal Competition and Consumer Protection Bill, 2017 *(Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency).*

Question that Clause 164 stand part of the Bill — Agreed to.

SCHEDULES

SCHEDULE I

PROFESSIONAL ASSOCIATIONS

[Section 167 (14)]

The associations and their governing bodies established by the under listed enactments are professional associations for the purposes of this Bill —

- (a) Architects (Registration, etc.) Act, Cap. A19, Laws of the Federation of Nigeria, 2004;
- (b) Institute of Chartered Accountants Act, Cap. I11, Laws of the Federation of Nigeria, 2004;
- (d) Dental Technologists (Registration, etc.) Act, Cap. D6, Laws of the Federation of Nigeria, 2004;
- (e) Engineers (Registration, etc.) Act, Cap. E11, Laws of the Federation of Nigeria, 2004;
- (f) Estate Surveyors and Valuers (Registration, etc.) Act, Cap. E13, Laws of the Federation of Nigeria, 2004;
- (g) Legal Practitioners Act, Cap. L11, Laws of the Federation of Nigeria, 2004;
- (h) Medical and Dental Practitioners Act, Cap. M8, Laws of the Federation of Nigeria, 2004;
- (i) Nigerian Institute of Marketing Act;
- (j) Nursing and Midwifery (Registration, etc.) Act, Cap. N143, Laws of the Federation of Nigeria, 2004;
- (k) Pharmacists Commission of Nigeria Act, Cap. P11, Laws of the Federation of Nigeria, 2004;
- (l) Quantity Surveyors (Registration, etc.) Act, Cap. Q1, Laws of the Federation of Nigeria, 2004;
- (m) Surveyors Registration Commission of Nigeria Act, Cap. S18, Laws of the Federation of Nigeria, 1990;
- (n) Town Planners (Registration, etc.) Act, Cap. T7, Laws of the Federation of Nigeria, 2004;
- (o) Veterinary Surgeons Act, Cap. V3, Laws of the Federation of Nigeria, 2004; and
- (p) any other professional association created by any law and designated as such by the Commission, provided that any designation of an association as a professional association shall be published by the Commission by regulations for the purpose of inclusion in this Schedule (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the provisions of Schedule I stand part of the Bill — Agreed to.

SCHEDULE II

TRANSITIONAL PROVISIONS

Transfer of Assets

1. (1) All Assets and funds which immediately before the commencement of this Bill were vested in the Consumer Protection Council (hereinafter referred to as "the Council") shall by virtue of this Bill be vested in the Federal Competition and Consumer Protection Commission herein after referred to as "the Commission").
- (2) All bonds, hypothecations, securities, deeds, contracts, instruments, documents, and working arrangements with respect to the assets transferred, that subsisted immediately before the commencement of this Bill and to which the Council was a party shall be as fully effective and enforceable against or in favour of the Commission as if, instead of the Council, the Commission had been named therein.
- (3) Any cause of action or proceeding which existed or was pending with respect to the assets transferred by or against the Council immediately before commencement of this Bill, shall be enforced or continued, as the case may be, by or against or in favour of the Commission in the same way that it might have been enforced or continued by or against the Council had this Bill not been passed.
- (4) No action or other proceeding shall be commenced against the Commission in respect of an employee or asset that has been transferred to the Commission, if had there been no transfer, the time for commencing the action or other proceeding would have expired.
- (5) Nothing in this Bill and nothing done as a result of a transfer under subparagraph (1) of this paragraph shall create any new cause of action in favour of —
 - (a) a holder of a debt instrument that was issued by the Council before the commencement of this Bill;
 - (b) a party to a contract with the Council that was entered into before the commencement of this Bill.
- (6) Any guarantee or surety-ship given or made by the Federal Government or any other person in respect of any debt or obligation of the Council, and which was effective immediately before the transfer of the principal debt or obligation, shall remain fully effective against the guarantor or surety on and after the transfer date in relation to the payment of the debt or the performance of the obligation, as the case may be, by the Commission, to which the principal debt or obligation was transferred.

Transfer of Employees

2. (1) Upon the commencement of this Bill, such number of persons employed by the Council, as may be required by the Commission shall be deemed to be staff of the Commission and shall be transferred to the service of the Commission on a merit and value basis and on terms not less favourable than those enjoyed immediately prior to the transfer.
- (2) The service rendered by an employee transferred pursuant to subparagraph (1) of this paragraph to the Council shall be deemed to be service with the Commission for the purpose of determining employment related entitlements as specified in the relevant laws of employment in Nigeria.

- (3) Until such time as conditions of service are drawn up by the Commission —
- (a) the terms and conditions of service applicable to employees of the Council shall continue to apply to every person transferred to the Commission as if every such person were still in the service of the Council; and
 - (b) the Commission shall continue to contribute towards any pension scheme to which the Council was contributing in respect of persons in the employment of the Council prior to the transfer date.
- (4) Nothing in this paragraph shall operate so as to prevent any employee of the Council from resigning or being dismissed from service.
- (5) Nothing in this paragraph shall operate so as to create an entitlement for any employee of the Council to become an employee of the Commission.

Directions to the Council

3. (1) The Minister may give the members of the Board of the Council directions in writing in order to ensure the proper transfer of the assets of the Council to the Commission and the Council shall without delay, comply with every such direction.
- (2) Without derogating from subparagraph (1) of this paragraph, directions given under that subparagraph may provide for:
- (a) the cessation of all or any of the functions of the Council;
 - (b) the termination of any contract entered into between the Council and any person, provided that no such direction shall authorize the Council to commit an unlawful breach of any such contract; and
 - (c) the production of any report and the provision of any information concerning the conduct of the Council or the members of the board of the Council or anything done by or on behalf of the Council or the members of the Council (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Question that the provisions of Schedule II stand part of the Bill — Agreed to.

Long Title:

A Bill for an Act to Repeal the Consumer Protection Act, Cap. C25, LFN, 2004, Establish the Federal Competition and Consumer Protection Commission and the Competition and Consumer Protection Tribunal for the Development and Promotion of Fair, Efficient and Competitive Markets in the Nigerian Economy, Facilitate Access by All Citizens to Safe Products, Secure the Protection of Rights for All Consumers in Nigeria and for Other Related Matters (*Hon. Sylvester Ogbaga — Abakaliki/Izzi Federal Constituency*).

Agreed to.

Chairman to report Bill.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in Committee of the Whole, considered the Report of the Committee on Commerce on a Bill for an Act to Repeal the Consumer Protection Act, Cap. C25, LFN, 2004 to Establish the Federal Competition and Consumer Protection Commission and the Competition and Consumer Protection Tribunal for the Development and Promotion of Fair, Efficient and Competitive Markets in the Nigerian Economy, Facilitate Access by all Citizens to Safe Products, Secure the Protection of Rights for all Consumers in Nigeria and for Other Related Matters (HBs 1 and 60) and approved Clauses 1 - 164, the Schedules I and II, and the Long Title of the Bill.

Question that the House do adopt the Report of the Committee of the Whole — Agreed to.

- (ii) *Ad-hoc Committee on the Investigation of the Award of Contract for the Installation of Closed-Circuit Television (CCTV) Cameras in Lagos and Abuja:*
Motion made and Question proposed, "That the House do resume consideration on the Report of the Ad-hoc Committee on the Investigation of the Award of Contract for the Installation of Closed-Circuit Television (CCTV) Cameras in Lagos and Abuja and approve the recommendations therein (HR. 102/2015)" (Hon. Ahmed Yerima — Misau/Dambam Federal Constituency).

Question agreed to.

Question that the House do resolve into the Committee of the Whole to consider the Report — Agreed to.

(HOUSE IN COMMITTEE)

(Mr Deputy Speaker in the Chair)

Recommendation (i):

"That the Executive Arm of Government should not privatise the National Public Security Communication-System (NPSCS). It should be ceded to the Office of the National Security Adviser (NSA) which is the statutory body saddled with the responsibility of overseeing the activities of all security agencies in the country. The Office of the NSA should set up a department that will report directly to the NSA whose mandate would be to direct the activities of the NPSCS by utilizing the trained Engineers on the system from NIGCOMSAT and the Nigeria Police Force to maintain the active elements, as well as training of other security agencies to join the operations and to supervise the activities of Managed Service Providers" (Hon. Ahmed Yerima — Misau/Dambam Federal Constituency)

Agreed to.

Recommendation (ii):

"That in view of the compelling need to address the nation's nagging security challenges, as well as to capacitate all security agencies to fight and contain the rising criminality in the country, the Executive Arm of Government should provide funds for the Office of the National Security Adviser to power the network nationwide. The commercialized excess capacity of the network should be sold to operators and the revenues to be derived therefrom should be used to defray the cost of maintaining and operating the network" (Hon. Ahmed Yerima — Misau/Dambam Federal Constituency)

Agreed to.

Recommendation (iii):

"That all stakeholders, particularly all Security Agencies, the Military, Nigeria Customs Service, Nigeria Immigration Service, Nigeria Prisons Service, Federal Fire Service, Federal Road Safety Commission, Nigerian National Petroleum Corporation (NNPC), Central Bank of Nigeria (CBN), Electricity Generation and Distribution Companies, amongst others, should utilize the network of the NPSCS" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (iv):

"That the Office of the National Security Adviser should supervise the activities of NigComSat, Nigeria Police Force and ZTE Nigeria Limited to ensure operationalization of the system before issuance of the Final Acceptance Certificate (FAC) to the contractor" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (v):

"That the Executive Arm of Government should direct the National Frequency Management Council (NFMC) and the Nigerian Communications Commission (NCC) to immediately release the 450 MHz Frequency of the NPSCS project to the Office of the National Security Adviser (ONSA) in the interest of national security. The NCC should also release any other frequency required for the NPSCS project upon request" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (vi):

"That the Central Bank of Nigeria, in collaboration with NigComSat Limited, should open an account into which the proceeds from commercialization of excess capacity of NPSCS network will be deposited, and subsequent repayments of loan should be made from it" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (vii):

"That the Debt Management Office (DMO) should take advantage of the grace period in the Loan Agreement to enable the Federal Government derive maximum benefits from the Agreement" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (viii):

"That ZTE Nigeria Limited should refund the discrepancy amount certified after the audit exercise or supply necessary equipment and spares of commensurate value as may be required by the Ministry, otherwise, the figure should be deducted from the outstanding debt of US\$20,247,172.00 (Twenty Million, Two Hundred and Forty Seven Thousand, One Hundred and Seventy Two United States Dollars) certified by the Federal Ministry of Police Affairs as being owed ZTE for running the network from January to June 2013" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (ix):

"That a forensic audit of the outstanding debt being owed ZTE for running the system for several months should be conducted and the actual cost be verified and considered at the exchange rate of US Dollar at that period (2013). Thus, the equivalent of the cost established after the verification in USD in year 2013 should be calculated and paid to ZTE to save the country the extra cost" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (x):

"That the number of cameras should be increased, those vandalised be replaced, as well as expanding the geographical coverage of the cameras to increase surveillance and security in Nigeria. The second phase of the VSS camera expansion should include more cities in the country, especially the cities that have witnessed severe security challenges such as Kano, Kaduna, Port Harcourt, Onitsha, Aba, Ibadan, Jos, Maiduguri, Yola, Bauchi and border towns like Seme, Idiroko (Ogun State), Illela (Sokoto State), Belel, Toungo (Adamawa State) etc. A third phase of the expansion of the VSS camera should cover all States Capitals and other cities facing security challenges" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (xi):

"That the motive for disengagement of BCTEK Engineering Limited and subsequent replacement with Netlink Broadband Networks Limited/Netlink Technologies Limited should be further investigated by relevant Security Agencies" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (xii):

"That the Federal Government should revoke and/or cancel the engagement of Netlink Broadband Networks/Netlink Technologies Limited" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (xiii):

"That the formation and engagement of Special Purpose Vehicle (SPV) to commercialize the excess capacity of the network should be undertaken through a competitive and transparent process to be supervised by relevant Government Agencies" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (xiv):

"That there should be a management audit of the Spectrum to include the activities of Regulators (NCC) and all the Operators including Openskys Services Limited, BCTEK Engineering Limited, and Netlink Technologies Limited" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*)

Agreed to.

Recommendation (xv):

"That all monies accrued to the project through the activities of BCTEK Engineering Limited and Netlink Technologies Limited should be returned to the Federal Government" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*).

Agreed to.

Recommendation (xvi):

"That the former Ministers and officials of the defunct Federal Ministry of Police Affairs (who served between 2010 and 2014) should be prosecuted over the rational and motive for the removal and or disappearance of the operational and maintenance costs of the project from its initial proposals, as that singular act contributed to the non-performance of the network" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*).

Agreed to.

Amendment Proposed:

Leave out Recommendation (xvi) (Hon. Ezekiel Adaji — Ohimini/Otukpo Federal Constituency).

Question that the amendment be made — Agreed to.

Recommendation (xvii):

"That the former Permanent Secretary, defunct Federal Ministry of Police Affairs, Mr James Obeigbu be prosecuted for deliberately refusing to release the approved funds in the amount of Three Billion Naira (₦3 Billion) meant for network operations and maintenance" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*).

Agreed to.

Recommendation (xviii):

"That the Committee on Legislative Compliance should ensure implementation of this Resolution by the Executive Arm" (*Hon. Ahmed Yerima — Misau/Dambam Federal Constituency*).

Agreed to.

Chairman to report progress.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in Committee of the Whole, considered the Report of the *Ad-hoc* Committee on the Investigation of the Award of Contract for the Installation of Closed-Circuit Television (CCTV) Cameras in Lagos and Abuja and approved Recommendations (i) - (xv), rejected Recommendation (xvi), and approved Recommendations (xvii) and (xviii) of the Report.

Question that the House do adopt the Report of the Committee of the Whole — Agreed to.

20. Adjournment

That the House do adjourn till Tuesday, 7 March, 2017 at 11.00 a.m. (Hon. Iriase Pally Isumafe — Esan Central/Esan West/Igubeben Federal Constituency).

The House adjourned accordingly at 3.55 p.m.

Yakubu Dogara
Speaker