



Packaged Water Regulation and Consumption in Ekiti and Ondo States: Impact of National Food and Drug Administration and Control (NAFDAC) and Consumer Protection Council (CPC)

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ABSTRACT

The inability of governments at various levels to consistently provide adequate water contributed to the proliferation of the water manufacture in Nigeria. The study will examine the rationale for and framework of NAFDAC and CPC, determine the effect of the two agencies on the supplies and consumption of sachet water in the states, and examine the challenges confronting NAFDAC and CPC in regulating the supplies and consumption of sachet water in Ekiti and Ondo States. The study will employ primary and secondary sources of data. The primary data will be sourced through questionnaire administer on sampled general public, In-Depth Interview (IDI) with principal officers of NAFDAC and CPC, sachet water manufacturers and civil society groups, Focus Group Discussions (FGDs) will be conducted among vulnerable rural dwellers. Secondary data are sourced from relevant text, internet sources, and official publications on NAFDAC and CPC. Tables, graphs, chi-square and content analytical methods will employed for data analysis.

Keywords: NAFDAC, CPC, Water, Consumption, Service, Delivery

Introduction

The provision of drinking water that is not only safe, but tasteless, odourless and clean in appearance is top priority in any country that cares for good health and poverty alleviation towards sustainable development. In terms of quality and quantity of public water supply, the inadequacy of pipe borne water in Nigeria is almost endemic. Towards the Millennium Development Goals in 2003 which centred on action for water and environmental sanitation was considered timely in the light of the problem of poor availability and access to good drinking water in many countries of the world including Nigeria. Akunyili (2003) submits that about one-fifth of the world's population lack access to safe drinking water and about half lack adequate sanitation while about 40 percent of the World's population live in countries with moderate to high water stress.

The connectivity between poverty, hunger, availability, affordability and access to drinking water to sustainable development is succinctly described by the goals of this millennium declaration. It is obvious that the links between water, health and poverty are numerous and complex. However, water packed in sachet if improved upon has been suggested as low cost, readily available alternatives, water provision that could help bridge the gap and ultimately all contributions from local initiatives, the drive towards achieving the water target of the MDGs marked for 2015 (Dada, 2009). Sachet water is very easy to get and price is affordable but people worry about its purity in view of this, Dada (2009) remarks that There have been claims that it is sometimes poorly treated or oftentimes scooped directly from many burst water pipes lying in the seiners that typically run along the roads and streets in the nation.

Owing to the fact that the task of providing water for citizenry overtime has become a major concern of governments all over the world, especially the developing countries. The challenge informed private sector involvement in the provision of packaged water. Given the intense public patronage of packaged water and increase in numbers of providers both local and urban centres prompts an unravelled question on the genuineness of some of this sachet water at market disposal.

Basically, the challenge of availability and accessibility of portable water in Ekiti and Ondo States and every state of the federation subsists. It is observed that the importance of locally sourced, low-cost alternative water schemes in contributing to increased sustainable access in Nigeria cannot be over-emphasised. One of such initiatives in Nigeria, where public drinking water supply is endemic is packaged drinking water sold in sachets. However, it is expected that the injection of NAFDAC and CPC as regulatory bodies to prevent/eradicate hazardous products (sachets water inclusive) decades ago should have improved the service delivery of sachet water manufacturers.

The integrity of the hygienic environment and condition where majority of the water in sachets in the circulation are produced in all areas has been questioned, while the transmission of disease pathogens by vendors cannot be underestimated. Be that as it may, given the spate of risk of proliferation of sachet water and the attendant water borne diseases in our society, one may conclude that those agencies directly bestowed with the responsibility of regulating the supplies and consumption of goods like sachet water (NAFDAC and CPC) appeared to have failed the nation. Owing to the fact that consumers cannot by themselves ascertain the quality of sachet water in circulation, the regulation of packaged water becomes the sole responsibility of government.

On January 1, 1994 NAFDAC was officially established as a parastatal of the Federal Ministry of Health by decree No 15 (as amended) to control and regulate the manufacture, importation, distribution, advertisement, sales and use of food, drugs, cosmetics, chemical, detergents, medical devices and all drinks (including popular pure water). Under the Administration of President Olusegun Obasanjo, NAFDAC Act. Cap No 1 was enacted into the law of the federation in February 2004.

In view of the United Nations Guidelines on the legal framework for ensuring the protection of consumers rights in the world, the federal government of Nigeria established the Consumer Protection Council (CPC) Acts No. 66 of 1992 (Peter, 2004). By May 2005, Federal Government introduced a legislation empowering the CPC to regulate every product manufactured, imported, advertised, sold or distributed in Nigeria for the purpose of monitoring and supervising such product in terms of quality, safety and compliance with stipulated standards and regulation as well as to monitor and regulated all sales promotion in the country (Umery, 2006).

As it is, the performance of NAFDAC and CPC in view of ensuring safe drinking water supplies has not reflected the purpose and reason for their establishment, Nigerians still consume, on daily basis, unprecedented high level of contaminated water braded with pathogens and impurities that may be offensive or injurious to health. The account of what CPC could do in monitoring safe water is loaded with normative ideals, unlike NAFDAC that has practical knowledge with sophisticated equipment to discover any substandard food products in their laboratory.

Objectives of the Study

The main aim of this study is to examine the impact of NAFDAC and CPC regulation on the supplies and consumption of sachet water in Ekiti and Ondo States. The specific objectives of the study are to:

- a) examine the rationale for and framework of NAFDAC and CPC;
- b) determine the level of awareness of NAFDAC and CPC in Ekiti and Ondo States;
- c) determine the effects of NAFDAC and CPC on the supplies and consumption of sachet water in the study areas;
- d) examine the challenges confronting NAFDAC and CPC in regulating the supplies and consumption of sachet water in Ekiti and Ondo States.

Conceptual Clarification

Concept of NAFDAC

The National Agency for Food Drug Administration and Control (NAFDAC), was established by Decree No 15 of 1993 (as amended) to control and regulate the manufacture, importation, exportation, distribution, advertisement, sales and use of food, drugs, cosmetics, chemical detergents, medical devices and all drinks (sachet water popularly called pure water inclusive).

The coverage of this mandate bestow the responsibility of safeguarding public health on NAFDAC, and this impact on the life of every Nigerian. Another Decree empowered the Agency to regulated and control sachet water, drugs and related products (registration) decree no 19 of 1993 as amended by Decree No 20 of 1999. This decree prohibits the manufacture, importation, exportation, distribution, advertisement and sales of all NAFDAC regulated products unless they are registered.

Empowered by these Decrees, the Agency has developed the following regulations and guidelines to carry out its mandate (NAFDAC Manual, 1999).

- a) Bottled water advertisement regulations S.I. 17 of 1995, which prohibits the advertisement of any bottled water, imported into Nigeria or locally manufactured unless the bottled water has been registered by NAFDAC.
- b) Bottled water (labelling) regulation S.I. 18 of 1996, which stipulates that “No person shall set bottled water unless a label has been affixed on it”.
- c) Bottled water (registration) regulations S.I.18 of 1996, which states that “Every bottled water manufactured, imported, distributed, advertised and sold in Nigeria shall registered in accordance with the provision of these regulations”.

In view of the above mandate, the management of NAFDAC has resolved that fake drugs, wholesome water, food and other substandard regulated products must be brought to the barest minimum in this shortest possible time. The agency strongly stand to defend the mission to eradicate all ill emanate from substandard goods with a clear vision to safeguard public health, while the mission is to safeguard public health by ensuring that only the right quality products are manufactured, imported, exported, advertised, sold and used.

Goal of the Agency focuses on eradicating fake drugs and other substandard regulated products. NAFDAC has evolved some strategies aimed at eradicating fake products and creating a strong regulatory environment some of which include:

- a) Public enlightenment campaigns

- b) Streamlining and strict enforcement of registration guidelines and modernization of our regulatory processes
- c) Stopping the importation of fake drugs to Nigeria at source (countries of production).
- d) Beefing up of surveillance at all ports of entry.
- e) Mooping up what is already in circulation
- f) Monitoring Good Manufacturing Practice (GMP) of local manufacturers and Pharmaceutical Group of Nigeria (PIGMAN)
- g) The Agency's reforms have led to renewed confidence in increased patronage of drugs produced in Nigeria by other West African countries. This has resulted in the lifting of ban on "made in Nigeria drugs by some west African countries.
- h) There are cheering reports of declining number of kidney failure patients and death rates our hospitals. We are working in concert with all government hospital in Nigeria, by compiling the number of renal failure patients and death on monthly basis to establish a trend.
- i) From April 2001 till date, the Agency has carried out seventy destruction exercises of counterfeit and substandard product valued at over 60 billion (US \$43 million). 104 containers of regulated products were placed in 'Hold' at the Port-Harcourt and Lagos ports and most the owners absconded.
- j) NAFDAC monitors of salt iodization in Nigeria and in Africa to achieve universal salt iodization. We have 100% compliance at manufacturer's level, 98% and 88% at distribution and household level respectively.
- k) Immense public awareness created by agency on counterfeit drugs resulted in the participation of the regulated industries, consumers and other stakeholders in the promotion of food and drug regulation in Nigeria. These achievements among many others have awakened the international consciousness that Nigeria is no longer dumping ground for fake drugs and other substandard products.

Counterfeiting can also apply to generic goods, as a result, drug counterfeiting has been recognized as a significant public health concern that has spread throughout the world and is growing every day, with numerous view cases being recorded (Akinyandenu, 2013). On the other hand, it has been observed globally that counterfeit medications constitute an organized crime that brings in large sums of money for offenders. A poll that "criminals have found counterfeiting is relatively low risk and lucrative financially in many parts of the world. Consequently, the focus of organized crime has shifted from handling weapons and transporting drug to counterfeiting drugs (Akunyili, 2005).

In the same vein, the World Health Organization observed that high rates of mobility and mortality as well as low public trust in the global health system were as a result of counterfeit drugs in circulation. However, World Health Organization (WHO) defines "counterfeit drugs" as a medicine that has been purposefully and fraudulently mislabelled with respect to identity and/or source. Product having the correct or incorrect components, insufficient active substances, phony packaging, or both might be considered counterfeit (WHO, 2006).

Consumer is an individual who utilized the process of production and services. The study also reviewed and define product to include all types of eatable and non-eatable goods and what qualities a good is not selling but rather the delivery of goods to the consumers is what matters. Malerin (2008) further explained that the liability of the manufacturer is inherent in nature subject to the product defects, liability where the proof of reasonable warring can be established by the manufacturer. Ijawere (2007) opined that Nigerian consumers are ever ready to summon their efforts in order to seek for their rights and enjoyed their powers in the market. In a complementary manner, manufacturers too establish consumer protection unit in their organizations.

Kanyib (2000) observed and stated that the subject matter of negligence as an instrument of consumer protection which the author summarized his conclusions as follows: one liability base on negligence provide adequate protection to consumers, proof of negligence is difficult or even impossible especially if the product itself is damaged from accident or make effective by exposure prior to laboratory analysis, the consumer is disadvantaged by his lack of familiarity with the manufacturing or production process, especially if the manufacturer made an affirmation showing a full production process defect frequently occur even the absence of negligence.

Lastly, negligence is therefore impractical theory of liability for defective product. The author therefore recommended strict liability as an alternative base of liability in product cases. Under the strict Monye (2005) observed the issue involved in consumer protection in Nigeria, especially in the area of contractual liability of the seller or manufacturer, negligence in tout, the regulation mandate and enforcement powers of the regulatory bodies such as Standard Organization of Nigeria (SON), National Agency for Food and Drug Administration and Control (NAFDAC), and Nigerian Consumer Council (CPC). And her observation of the legal position is that the Nigerian consumer is fairly protected, at least on paper. The author also opined that there are some area whereby protection is virtually not in existence, particularly in the area of product defect. Be as it may the author recommended that there should be an enhance safety conscience of the manufacturer, offence establishment of legal unit in various regulatory agencies to prosecute offenders of their various offence rather than refer those cases to police. It was also recommended that there is need for significant increase in firm, to also grant award of compensation to an injured consumer in addition to criminal penalties of a manufacturer. In the same vein, Nyor (2004) submitted that producers at all stages of production, processing and distribution must be made accountable for safety of food and should establish food safety insurance programs while on the other hand plays the role of regulator.

Owing to the above comments and recommendations, scholars were in support of laudable plans of government to create safe environment for their citizens through the agencies, parastatal, policies and programmes within their ministries to function in managing natural catastrophes, safeguarding public health, property and environments, and defending economies. For instance, the National Food Safety is one such regulation that addresses the production of food and medications.

It is obvious that Nigerian remain potentially a very wealthy country due to large population that brings about dependable and stable market for producer. The challenge of turning these potentials into reality by distributing and producing quality products and timely distributed to avoid unnecessary scarcity becomes unattainable. With large domestic market and abundant raw materials, the country is set take-off on a high growth trajectory only if necessary regulation on production and consumption are undertaken. As it is, health cannot be sustained until all citizens (consumers) are guarantee timely and quality service. Producers must be held accountable for goods and services provide to the people they serve.

Methodology

The study will use both primary and secondary sources of data. The primary data is solely sourced through interviews. This will be done through field and research participants. Twenty interviews will be conducted by the trained field participants. While Focused Group Discussion will be conducted among vulnerable rural dwellers in twelve communities in the two states to gather information on the impact of regulatory bodies on the quality of water in their environments. However the secondary data will be sourced from reports and documentary evidence from research organization. The respondents will be purposively selected from 6 LGAs in Ekiti and 6 LGAs in Ondo States. 10 respondents will be selected from each LGA, making a total of 120 respondents. The interview will be sorted, coded, transcribed in the language they were done and translated to English. The analysis will be manually done by research assistant. They will extract themes from translated interviews which will create basis for discussion. This approach will allow the researcher to observe specific instances and seeking to establish generalization about phenomenon being investigated (Collid and Hussey, 2013; Gilgun, 2013).

Results and Analysis

One of the fundamental for establishing NAFDAC and CPC acts is to protect the citizens from unhealthy situation that could be brought about through consuming substandard products (pure water inclusive) that could be injurious to their health and to ensure appropriate and valid compensation for consumers that fall victim of any ill-health emanating from consumption of fake drugs or unhygienic water. Korede of Iropora-Ekiti (Ekiti Central) comments that, had it been a consumer is duly compensated in the case of sudden loss or hazard, with respect to a manufacturer's product. Consumers wouldn't have found an alternative in less quality product or inferior product. Mr. Ajayi of Osi-Ekiti (Ekiti Central) also expresses his unpleasant feeling, that this is the major reason while consumers indulge in cutting corners over service providers for telecom and power providers, leading to continuous sabotage of installations and outages. Holistically, all the respondents have stressed expressly that they have never experienced a situation where a consumer was compensated for manufacturer's errors.

Emyia and Abang (2018) posited that the Nigerian justice system is inclined to punishing offenders than compensating complainants. It is on record that the consumer protection act convict persons who aid or issue wrong advertisement about a product to a fine of ₦50,000. 00 or serve a 5 years jail term or both. Chief Ogunlusi expressed displeasure over non-compensation of consumer by saying that:

...over the existence of compensation of an injurious product to consumers. He made examples with a pure water company's saga over affected children whose parents fought in vain and left to cater for diarrheal caused by unhygienic water consumed by the children.

In another dimension Mr. Igbalajobi from Irun Akoko (Ondo North Senatorial district) attributed the uncontrollable situation to political interference under the auspices of administrative bottleneck, artificially created to frustrate consumer's efforts and stall any legal process that will liberate consumers.

Another fundamental challenge encounter by the consumers, especially in the rural areas is lack of awareness. Reports from various focused group discussions revealed that most consumers don't know that there are established regulatory bodies saddled with the roles of monitoring the activities of service provider's especially pure water. At Iju (Ondo South Senatorial District) Chief Ojo attributed the inability of seeking redress for compensation to the fact that consumers don't know their rights, due to lack of awareness.

Besides, Mr. Adigun from Ijare (Ondo Central) claimed that consumers are not aware that such fundamental rights vested on them ever exists. In the same vein, Mr. Arogundade (Irele-Ekiti, Ekiti North Senatorial District) said:

... at the intention of any issue so inclined involves the government and has links with police station and the court. The public tend to have phobia-for-and has been living in constant fear of such public institutions. He added that people may aware of their right but fear litigation and issue that will not allow them to go on their daily activities but concluded that if truly "police is your friend" and the "law is blind", consumers should be ever ready to seek redress anytime and under any justified circumstance.

In the contrary, Mr. Badmus submits that, given the nature of economic activities; being mostly informal, consumers patronize outlets that are readily accessible or available at the time of need. The manufacturer in this case cannot oversee the entire sale of his product. This is in view of engaging manufacturers to establish wholesale or retail outlet to monitor copywriters and imitations. He stressed further that, seeking redress in most cases tends to be impossible. Mr. Badmus remarks that many at times he patronesses the closest and cheapest stores for products. He even purchases from hawkers who take advantage of pushing their wheelbarrow to every nook and cranny of the communities, so manufacturer cannot be blame for such mistake. As Emyia and Abang (2018) remarked that, consumer protection laws have remained in the lowest ebb even with presence of administrative and regulatory frameworks. Despite this, the consumers have exacerbated the situation with the nature of purchasing manufacturers products. Mr. Badmus and Ajao attributed such problems and seeking cheaper items and easy access. It will remain difficult task to seek redress in such a situation.

Mr. Ayoko from Odigbo (Ondo South Senatorial District) observed that the problems of consumers in Nigeria are not only on fear of litigation or awareness but also lack of confidence in the judicial system. He stressed further that today, it has been revealed that millions of Nigerians suffer from the consumption of adulterated, substandard and defective products. The results of this malady are injuries losses and damages to the Nigerian consumers. Here, the Nigeria legal system allows for private right of action as a means of seeking redress by a few advantaged consumers. Many consumers retire to their fate considering the litigation, time waste and value of compensation that may come back to them might not be commensurate. So they even allow God to judge at times and that the law, and court proceedings are made for the rich and bourgeoisies alone.

Conclusion and Recommendations

The imperative of water regulation is to protect the consumers from health risk such as water borne diseases, pathogen that may be offensive or injurious to health. The task of effectively regulating the myriads of sachet water producer in the nation given the spate of increase of inadequate

staffing capabilities of NAFDAC and CPC, lack of awareness, ignorance/illiteracy among others remains a big challenge to NAFDAC. Although opportunities abound for improvements in the current regulatory scheme, institutional capacity and collaborative efforts of all the stakeholders could make efficient use of regulation of the packaged water industry to better the lost of the consuming public.

To ameliorate the above challenges, the followings are recommended

There should be adequate publicity of the existence and functions of regulatory bodies among the general public, especially in the rural environment, consumers needs to be educated and sensitized about their rights, where to seek redress in case of poor services in terms of supply of substandard products.

More importantly, the complaint procedure should be made simple for uneducated easily understand and avoid unnecessary bottleneck, that may look too cumbersome. Also complaint centers should be available at the disposal of rural dwellers that will not demand travel far before such complaint could be lodged.

It is obvious that pure water manufacturers constitute a major part of the Small Medium Industries (SMIs) in Nigeria. Studies have revealed that about 10-15 per cent of total manufacturing output of Gross Domestic Product (GDP).

Packaged water especially the sachets (pure water) production is good poverty alleviation programme that need to be encouraged, it has potential of providing job opportunities.

However, it is recommended that the waste generated from the production and use of packaged water that has constituted to environmental health hazard must be tackled by all stakeholders. Government must create waste-to-wealth forum for the industries that engage in recycling programme that will generate employment and as well as boost the economy of the nation.

NAFDAC must insist on environmentally friendly disposal instruction on the packaged water before they are registered. Also, NAFDAC must encourage through their regulation and monitoring the production of well processed and properly packaged water that will be acceptable locally and internationally to boost the economy of the country.

Moreso, the manufacturers should put in place self regulatory measures to monitor the distribution and sales of their products, this will ensure product safety, quality, acceptability and marketability both locally and internationally.

NAFDAC has the mandate of promoting biodegradable packaging materials, that is cost-effective and enhance proper disposal, thus reducing public health risks. It is also recommended that packaged water companies in Nigeria should be mandated to incorporate HACCP safety plans which should address hazard analysis of the plant's processes and substantiation for each Critical Control Point (CCP) in vending and distribution programmes that affect the security of packaged water products outside the factory need to be addressed too.

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