



**ENSURING COMPLIANCE WITH
PACKAGING AND LABELLING REGULATIONS:
A GUIDE FOR FAST-MOVING CONSUMER
GOODS MANUFACTURERS AND IMPORTERS**



ABSTRACT

It is no gainsaying that ensuring compliance with packaging and labelling regulations is crucial for Fast Moving Consumer Goods (FMCG) manufacturers and importers in Nigeria. More so, for FMCG manufacturers and importers operating in Nigeria, navigating these regulatory frameworks on labelling requirements related to product quantity, quality, and pricing information to safeguard consumer interests and promote transparency in the marketplace is sacrosanct.

On this wise, this article dives into the intricate details of packaging and labelling regulations in Nigeria, placing a special

emphasis on the stringent requirements set forth by NAFDAC, SON, and by extension, the FCCPC. Its primary goal is to empower FMCG manufacturers and importers with the essential knowledge and resources needed to guarantee compliance, effectively manage risks and sustain a competitive advantage within the market. By adhering to the guidance provided in this article, stakeholders can ensure that their products not only meet safety and compliance standards but also hold significant appeal for consumers, thereby playing a vital role in the expansion and advancement of the Nigerian FMCG industry.



Introduction

The packaging and labelling of Fast-Moving Consumer Goods (FMCGs) in Nigeria are subject to strict regulations aimed at safeguarding consumers and maintaining equitable trade practices. The National Agency for Food and Drugs Administration and Control (NAFDAC), the Standards Organisation of Nigeria (SON), and the Federal Competition and Consumer Protection Commission (FCCPC) serve as the primary regulatory bodies responsible for overseeing the enforcement of these regulations. Adherence to these regulations is of paramount importance for FMCG manufacturers and importers to forestall legal and financial repercussions, safeguard their reputations, and prevent harm to consumers.

Moreover, amidst a plethora of regulators, the NAFDAC regulations cover a wide range of aspects related to packaging and labelling. These include product identification and classification, ingredient disclosure, nutritional information, warning labels, product certifications, and environmental considerations. Manufacturers and importers need to understand and comply with these intricate regulations to ensure that their products meet the necessary standards.

¹ Cap N.1 LFN 2004.

LEGAL FRAMEWORKS FOR PRODUCT PACKAGING AND LABELLING AND THEIR REGULATORY BODIES

1. National Agency for Food and Drugs Administration and Control (NAFDAC) Act,¹ - administered by the National Agency for Food and Drugs Administration and Control.
2. Federal Competition and Consumer Protection Act, 2018 – administered by the Federal Competition and Consumer Protection Commission (FCCPC).
3. Standards Organisation of Nigeria Act 2015 – administered by the Standards Organisation of Nigeria (SON).

REGULATORY FRAMEWORK FOR PACKAGING AND LABELLING

NAFDAC Packaging Requirements

The provisions of Section 30 of the NAFDAC Act confer authority upon the governing Council of NAFDAC to formulate regulations, subject to the approval of the Minister of Health, to effectively execute and enforce the stipulations of the Act.² Under this, NAFDAC issued the NAFDAC Pre-Packaged Food (Labelling) Regulations, 2022 in Nigeria. These Regulations are designed to strengthen consumer protection measures by providing comprehensive guidelines for the labelling of pre-packaged food items. It includes detailed requirements for ingredient listing, nutritional information, net quantity declaration, and guidelines for allergen labelling.³ The objective is to ensure that consumers have access to accurate and clear information about the food products they buy, empowering them to make informed choices.⁴ Through the implementation of these Regulations, the objective is to uphold elevated food safety standards and establish a food industry characterised by enhanced transparency and a steadfast commitment to consumer welfare. The Regulations mandate that the labelling of pre-packaged food items adheres to the specified requirements:

1. Scope of Application: This Regulation applies to all pre-packaged food products in Nigeria, governing their manufacturing, importation, exportation, sale, distribution, and use. This includes a wide range of food items intended for human consumption, such as beverages, snacks, and ingredients.⁵

² Regulation 5, Pre-Packaged Food (Labelling) Regulations, 2022.

³ Section 30 NAFDAC Act, Cap N.1 LFN 2004

⁴ Regulation 1(e), Pre-Packaged Food (Labelling) Regulations, 2022.

⁵ Regulation 1, Pre-Packaged Food (Labelling) Regulations, 2022.

2. Product Identification: The pre-packaged food product's name must be prominently displayed on the Principal Display Panel (PDP) of the label. It should accurately represent the product's true nature and specifics in accordance with Codex Standards.⁶ The product name must be clear, concise, and not misleading.

3. Ingredient Disclosure: The label for the food product should contain a detailed list of all the ingredients used, including additives and preservatives.⁷ This list should be organised in descending order of proportion to provide consumers with clear information about the composition of the product.

4. Brand Name: All pre-packaged food items bearing a brand name or trademark are required to prominently display that name on the label. The displayed name should not mislead or misrepresent the true characteristics, quality, or contents of the food product.⁸ Additionally, should the brand name or trademark conflict with any regulations or requirements set forth by the relevant regulatory agency, the regulations or requirements of the Agency will take precedence.

5. Net Content Declaration: The net content of the pre-packaged food product must be clearly stated on the label, enabling consumers to make informed purchasing decisions.⁹ The net content must be expressed in metric units (grams, millilitres, or litres) and be accurate to within 5% of the actual content.

6. Manufacturer and Distributor Information: The label must contain the name and contact information of the manufacturer and distributor, facilitating traceability and accountability.¹⁰ This includes the address, phone number, and email address.

7. Storage Conditions and Date Marking: The product label must include specific storage conditions¹¹—such as "Store in a cool, dry place"—and date marking, for example, "Best Before" or "Best Quality Before Date,"¹² to inform consumers about the shelf life and storage requirements of the product. However, it is important to note that this requirement does not extend to fresh fruits and vegetables, unpeeled or uncut tubers, alcoholic beverages with a minimum of 10% alcohol by volume, vinegar, non-iodised food grade salt, and non-fortified solid sugar.¹³

8. Batch Number and Registration Number: The batch number¹⁴ and registration number¹⁵ must be displayed on the label, enabling effective product tracking and recall. For quality control and regulatory compliance, each production batch necessitates a unique batch number, and NAFDAC mandates the issuance of the registration number.¹⁶

⁶ Regulation 2, Pre-Packaged Food (Labelling) Regulations, 2022.

⁷ Regulation 5, Pre-Packaged Food (Labelling) Regulations, 2022.

⁸ Regulation 2,3,4 Pre-Packaged Food (Labelling) Regulations, 2022.

⁹ Regulation 7, Pre-Packaged Food (Labelling) Regulations, 2022.

¹⁰ Regulation 8, Pre-Packaged Food (Labelling) Regulations, 2022.

¹¹ Regulation 11, Pre-Packaged Food (Labelling) Regulations, 2022.

¹² Regulation 10(3), Pre-Packaged Food (Labelling) Regulations, 2022.

¹³ Regulation 10(9), Pre-Packaged Food (Labelling) Regulations, 2022.

¹⁴ Regulation 12, Pre-Packaged Food (Labelling) Regulations, 2022.

¹⁵ Regulation 13, Pre-Packaged Food (Labelling) Regulations, 2022.

¹⁶ Ibid.

9. Language: The label shall be in English Language and in any other language that is easily understood by the intended consumers, ensuring accessibility and inclusivity. The language must be clear, concise, and unambiguous.¹⁷

10. Nutritional Information: The label on the food product packaging is required to display detailed nutritional information, which is aimed at empowering consumers to make well-informed decisions regarding their dietary and overall health.¹⁸ The nutritional information required must include the energy content, along with the amounts of macronutrients (such as protein, fat, and carbohydrates) and micronutrients (like vitamins and minerals). However, the Agency has the authority to provide exemptions for certain cases, such as small-quantity ingredients, excluding fats and oils, spices and herbs, small units measuring less than 10cm², nutritionally insignificant foods, and any other items as determined by the Agency.¹⁹

11. Allergen Warning: Food products that contain allergenic ingredients, including peanuts, tree nuts, fish, shellfish, milk, eggs, wheat, and soy, must include a clear warning statement.²⁰

12. Nutrition Claims: Any nutrition claims made on the label must be substantiated by scientific evidence and comply with NAFDAC's guidelines for nutrition claims.²¹

13. Labelling of Specialised Foods: Specialised foods, such as infant formula, baby foods, and foods for special dietary uses, must comply with additional labelling requirements.²²

Holistically, the 2022 NAFDAC Pre-Packaged Food (Labelling) Regulations are intended to uphold public health and safety by enforcing precise and transparent food product labelling in Nigeria. Adherence to these Regulations is mandatory for food manufacturers, importers, and distributors to preclude potential legal and regulatory ramifications.

¹⁷ Regulation 14, Pre-Packaged Food (Labelling) Regulations, 2022.

¹⁸ Regulation 18, Pre-Packaged Food (Labelling) Regulations, 2022.

¹⁹ Regulation 18 (2), Pre-Packaged Food (Labelling) Regulations, 2022.

²⁰ Paragraph 5(7), Pre-Packaged Food (Labelling) Regulations, 2022.

²¹ Paragraph 18(3), (4), (5), Pre-Packaged Food (Labelling) Regulations, 2022.

²² Paragraph 4(4), Pre-Packaged Food (Labelling) Regulations, 2022.



STANDARDS ORGANISATION OF NIGERIA (SON) AND ITS ROLE IN REGULATING PACKAGING AND LABELLING

Another relevant regulator on the subject is the Standards Organisation of Nigeria (SON). It is a key regulatory body responsible for ensuring product quality, safety, and conformity to standards within Nigeria. According to Section 4 (1) b of the SON Act 2015, the Standards Council of Nigeria²³ has the authority to establish and endorse standards on metrology, materials, commodities, structure, and processes for certifying products in adherence to standard specifications. Consequently, the Council has instituted the Nigerian Industrial Standards (NIS) as the Industrial Standards. The Nigerian Industrial Standard is delineated as a meticulously crafted and authoritative document formulated through consensus and sanctioned by the Standards Council of Nigeria. It outlines the criteria necessary to ensure the appropriateness of materials, products, or procedures for their intended purpose. The Act also elucidates the role of SON within this framework as follows:

1. Quality Control and Inspection: SON is responsible for conducting thorough product inspections and quality control checks. These checks encompass every aspect, from the packaging to the labelling of the

²³Section 3 of the Standards Organisation of Nigeria Act, 2015.

products. The primary objective of these inspections is to prevent any substandard or unsafe goods from entering the market.²⁴ By verifying compliance with labelling requirements, SON ensures that consumers receive accurate and reliable information about the products they purchase.²⁵

2. Certification and Standardisation: SON is responsible for establishing and approving standards for a wide range of products, materials, and processes. These standards encompass critical aspects such as quality, safety, and performance.²⁶ Through the certification of products, SON guarantees that they adhere to the necessary specifications and are safe for consumers.

3. Consumer Protection: SON's role involves protecting consumers by enforcing labelling regulations. Proper labelling offers vital information about a product, such as ingredients, instructions for use, and safety precautions. This transparency empowers consumers to make informed choices.²⁷ Furthermore, the Act prescribes that locally manufactured products in Nigeria give the required degree of satisfaction to consumers; and that products imported into Nigeria are safe and import conditions such as product packaging and labelling modalities are met.²⁸

4. Market Surveillance: Section 5(1)(a) of the Act empowers the SON to take all necessary measures to ensure compliance with approved standards. To achieve this, SON is responsible for consumer protection activities. As part of this effort, SON has established a Consumer Protection/Collaboration and Enforcement Unit²⁹ to apprehend or impound substandard products, whether locally manufactured or imported, especially if they deviate from relevant specifications, pose health hazards, or pose a threat to life and property. SON monitors the market to identify and address non-compliance with standards and collaborates with manufacturers, importers, and retailers to resolve issues related to packaging, labelling, and product quality.

SON serves as the preeminent standardisation body in Nigeria, responsible for the establishment, promotion, and enforcement of standards on products, services, and processes.³⁰ Since its establishment in 1971³¹, SON has been dedicated to the core objective of ensuring that products manufactured, imported, or distributed in Nigeria adhere to minimum

²³ Section 3 of the Standards Organisation of Nigeria Act, 2015.

²⁴ Section 5 b of the Standards Organisation of Nigeria Act, 2015.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Mandaa, "Consumer Protection Laws and Regulations Nigeria 2022," Accessed 24th July 2024.

²⁸ Dr. Nkiru J. Obumeme-Okafor, *The Standards Organisation of Nigeria (SON) and the Protection of the Consumer in Nigeria*: Accessed 24th July 2024.

²⁹ Ibid.

³⁰ Ibid.

³¹ The Standards Organisation of Nigeria (SON) Website <https://son.gov.ng/about-son/> accessed 24th July 2024

safety and quality standards. Through the regulation of packaging and labelling, SON endeavours to safeguard consumers from potentially hazardous or misleading products, foster equitable trade practices, bolster economic development, and augment Nigeria's competitiveness in global trade.

Conclusively, SON synergises with other regulators and fosters an alliance with them to ensure compliance with the key provisions of the law on product labelling and packaging and other related matters.³²

FEDERAL COMPETITION AND CONSUMER PROTECTION ACT, 2018 LABELLING REQUIREMENTS

The Federal Competition and Consumer Protection Commission (FCCPC), under the Federal Competition and Consumer Protection Act, 2018 (FCCPA), requires that product labels include relevant and material information that is consistent with generally accepted practices and other promotional information. In the same vein, the Commission has made stringent provisions on Product labelling and description requirements as follows:

1. Genuine Product Labelling and Description: Section 116 of the FCCPA provides that any undertaking specialised in the production of commodities must ensure that the product labels are shown near the goods in a way that clearly connects the label to the product, making it apparent that the label describes or designates the item. Furthermore, it provides that an undertaking must not intentionally use a misleading trade description on goods or alter, hide, or obscure any trade description or trade mark in a way that could deceive consumers.³³

Likewise, a business must not supply, offer, or display goods if it knows, should reasonably know, or suspects that the trade description on those goods is likely to mislead consumers.³⁴ In labelling its products, the manufacturers are also obligated to label or describe the goods in a manner that will be easily traceable to the manufacturer, importer or distributor.³⁵ From the aforementioned provisions, it is safe to say that the legislative intent behind these provisions in curbing deceptive representations and labelling of products is clear and cannot be over-emphasized.

³² Section 5(2) of the Standard Organisation of Nigeria Act, 2015.

³³ Section 116 of the Federal Competition and Consumer Protection Act, 2018

³⁴ Section 125 of the Federal Competition and Consumer Protection Act, 2018

³⁵ Section 134 of the Federal Competition and Consumer Protection Act, 2018

2. Penalty for Deceptive Representations: In a bid to alleviate illegal and deceptive product labelling, section 125 of the Act³⁶ states that a business or its representatives must desist from making false or misleading statements about their products or services and correct misunderstandings that lead to such statements. It further provides that they are liable for damages and may be required to provide monetary restitution to those harmed. More so, the Commission has gone further to introduce the FCCPC Administrative Penalties Regulation (APR) 2020 to reinforce compliance with the provisions of the FCCPA and also provide a mode of assessment for the quantum of these penalties once imposed.

In the first half of the year, the FCCPC issued warning orders to several multinationals in the consumer goods industry on product misdescription and deceptive product labelling. Most recently, the Commission released an Order on 29th July 2024 which alleged that a leading FMCG company and its licensee in Nigeria have been using misleading trade descriptions and engaging in unfair marketing practices for their products in violation of section 116 as well as section 124 1(a) of the FCCPA.

In addition to the penalties stated in section 125 of the FCCPA, a company if convicted for any of the offences in the relevant sections of the FCCPA will be subjected to a fine of ₦100,000,000 (One Hundred Million Naira) or 10% of its annual turnover, whichever is higher under section 155 of the FCCPA.

INTERNATIONAL BEST PRACTICES/COMPLIANCE STRATEGIES FOR PLAYERS IN THE INDUSTRY

1. Standardised packaging and labelling templates: Companies adopt pre-approved templates for packaging and labelling to ensure uniformity and adherence to regulations set by the relevant regulatory agencies. These templates encompass essential details, including product nomenclature, ingredients, nutritional information, and cautionary labels.

2. Regular product testing and inspection: Companies can ensure that their products meet the required standards by conducting thorough tests. These tests encompass quality, safety, and labelling accuracy. Additionally, inspections are carried out to verify compliance with Good Manufacturing Practices (GMPs).

³⁶Section 116(2) of the Federal Competition and Consumer Protection Act, 2018

3. Accurate records of packaging and labelling compliance: Companies can also meticulously maintain comprehensive records of their packaging and labelling processes, ensuring that all documentation complies with relevant regulations and standards. These detailed records serve a variety of purposes including internal audits, inspections conducted by regulatory bodies like NAFDAC, and facilitating product traceability throughout the supply chain.

4. Traceability and recall procedures: Traceability systems are important tools for companies as they allow the tracking of products from the moment of manufacturing to their distribution to the end consumer. By implementing such systems, companies can swiftly identify and locate any specific product within their supply chain, enabling rapid and targeted recalls in case of any issues or concerns. This capability is crucial for ensuring consumer safety and for complying with industry regulations and standards.

5. Quality control measures for packaging and labelling: Within companies, rigorous quality control processes can be put in place to meticulously verify the precision of packaging and labelling details. These processes encompass comprehensive checks on labelling information, packaging materials, and overall product quality. Additionally, dedicated quality control teams consistently conduct thorough audits to guarantee adherence to both regulatory requirements and the company's specific standards.

CONCLUSION

Adhering to packaging and labelling regulations is of utmost importance for Fast-Moving Consumer Goods (FMCG) manufacturers and importers in Nigeria, as non-compliance can result in legal, financial, and reputational loss. To uphold a competitive advantage and establish consumer confidence, companies must prioritise compliance with regulations stipulated by the NAFDAC, SON, and FCCP Acts. This can be accomplished by implementing the recommendations above. Following this guidance and remaining abreast of regulatory enhancements, FMCG manufacturers and importers can ensure compliance, safeguard consumers, and sustain a flourishing and esteemed enterprise in Nigeria's competitive market.

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THE AUTHORS



**Marvis
Oduogu**
Team Lead

Marvisoduogu@strenandblan.com



**Chibudike
Anene**
Associate

Chibukeanene@strenandblan.com



**Babatunde
Oyewole**
Associate

Babatundeoyewole@strenandblan.com



**David
Olajide**
Associate

Davidolajide@strenandblan.com

Stren & Blan Partners

+234 (0)702 558 0053

3 Theophilus Orji Street, Off Fola Osibo
Road, Lekki Phase 1, Lagos, Nigeria

www.strenandblan.com
contact@strenandblan.com
[@strenandblan](https://www.instagram.com/strenandblan)

