

## **The Protection against Unfair Competition in the WTO/Trips agreement and the Paris Convention: Lessons for Nigeria**

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### **Abstract**

*Competition encourages innovation and economic growth. Competitors sometimes engage in dishonest commercial practices to gain unfair advantage over other competitors in the same field. Hence the need to regulate and protect competitors from such acts of competition which are contrary to honest practices, and also referred to as unfair competition. There is need for competition laws which seek to maintain competition to a certain degree by regulating, detecting and punishing anti-competitive practices. International instruments such as the Paris convention and WTO TRIPS Agreement are also used to control competition at the international level, with nations domesticating such laws. Under the Paris Convention, member states are obliged to provide protection against unfair competition. This obligation is reinforced by Article 2 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) that obliges members of World Trade Organization (WTO) to comply with the Paris Convention. In Nigeria, the Federal Competition and Consumer Protection (FCCP) Act provides for protection against unfair competition. The objective of this paper is to analyze the protection against unfair protection as contained in Article 10bis of the Paris Convention, the obligation of the TRIPS Agreement in ensuring compliance with the Paris Convention in the WTO nations and its applicability in Nigeria. This research adopted the doctrinal method, hence its reliance on primary and secondary sources such as textbooks, journals and mostly online materials. This research found that despite the fact that most nations have domesticated the provisions of Art 10bis of the Paris convention, there are still a whole lot of acts of unfair competition going on and most legal frameworks dwell on civil liabilities alone instead of criminal penalties. In conclusion, stiffer penalties should be meted out to those who engage in unfair competition practices.*

**Keywords:** Protection, Unfair competition, Trips, Paris Convention, Nigeria

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## 1. Introduction

Unfair Competition is a term and a branch of intellectual property law that applies to dishonest or fraudulent rivalry in trade and commerce. It addresses circumstances where consumers have been misled, or deceptive trade practices, as well as practices designed to restrict or alter a company's revenue. Acts of unfair competition are generally characterized by deception, bad faith, fraud, or oppression. The competition is such that the victim is thwarted or prevented from successfully engaging in trade. In all cases, the activity can legally give rise to a tort action. That is, the wrongful act is such that the perpetrators can and should be civilly liable in a court of law. Some forms of unfair competitions are crimes as well.<sup>1</sup>

Unfair competition doesn't mean the same thing in every situation. It can have different connotations in various business settings and depending upon nature of commerce. For example, unfair competition in a retail store setting can be a far different practice from what a pharmaceutical company might engage in. They are perceived as being against public policy because of their tendency to unduly hinder competition, and this affects the greater good of the public.<sup>2</sup> As a general rule, any act or practice carried out in the course of industrial or commercial activities contrary to honest practices constitute an act of unfair competition; the decisive criterion being "contrary to honest practices. In Belgium and Luxemburg, honest practices are referred to as "honest trade practices", in Switzerland and Spain as "the principle of good faith" and in Italy as "professional correctness".<sup>3</sup>

It is not easy to find a clear-cut and worldwide definition of what constitutes an act contrary to honest practices. Standards of 'honesty' and 'fairness' may differ from country to country to reflect the economic, sociological and moral concepts of a given society. Therefore, the notion of 'honesty' has to be interpreted by the judicial bodies of the country concerned.<sup>4</sup> Protection against unfair competition is an ever evolving notion that has to adapt to the evolution of trade, and the development of new principles and

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<sup>1</sup> S. Kane, 'What is Unfair Competition?' 2020 <<https://www.thebalancecareers.com/unfair-competition-2164416>> accessed 22 July 2021

<sup>2</sup> *ibid*

<sup>3</sup> ESA, 'Protection Against Unfair Competition' <<https://www.esu.int/About-Us/Law-at-ESA/Intellectual-Property-Rights/Protection-against-unfair-competition>> accessed July 24 2021

<sup>4</sup> *ibid*

obligations for participants in the business market. Originally designed to protect the ‘honest businessman’, the scope of protection against unfair competition has now been enlarged to include protection of the customer. Nowadays, laws against unfair competition aim to ensure fair competition in the interest of all concerned.<sup>5</sup> The focus in this paper will be on unfair trade practices which impact businesses and business owners. Consumers who are injured by deceptive trade practices generally seek the remedies provided by consumer protection laws.<sup>6</sup>

In analyzing the protection against unfair competition, it is also necessary to look at competition law. Competition law promotes and seeks to maintain market competition to a certain degree by regulating, detecting and punishing anti-competitive practices exercised by companies or other business organizations. Competition law stabilizes the market condition by regulating monopoly and unfair business practices. It is referred to as anti-trust law in the European Union and the United States.<sup>7</sup> Competition law creates confidence in an economy. It is a signal to investors and entrepreneurs that a market is fair and open.

## 2. What is Unfair Competition

One of the main characteristics of a market economy is the presence of competition between various actors in the market. The question where the line should be drawn between fair competition and unacceptable competitive behavior has created abundant debate and literature.<sup>8</sup> As competitors are out to win, they may sometimes be tempted to use malicious means to gain unfair advantage such as making a direct attack against a competitor or misleading the public to the detriment of competitors.<sup>9</sup> Any act of competition contrary to

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<sup>5</sup> ibid

<sup>6</sup> FindLaw, ‘Unfair Competition 2016 <<https://www.findlaw.com/smallbusiness/business-laws-and-regulations/unfair-competition-htm>>| accessed 25 July 2021

<sup>7</sup> NE Yongyeh, LM YU, PP Dagadu and PK Anyomi ‘Unfair Competition in the Field of Intellectual Property Rights: Analyzing Concepts, Acts of Unfair Competition and Laws’ (2021) vol.14 Journal of Politics and Law. <<https://www.researchgate.net/publicatio/350187633-unfair-competition-in-the-Field-of-Intellectual-Property-Right-Analyzing-Concepts-Acts-of-Unfair-Competition-and-laws>>accessed 25 July, 2021

<sup>8</sup> M Hopperger and M Senftleben, Protection Against Unfair Competition at the International level- The Paris Convention, the 1996 Model Provisions and the Current Work of the World Intellectual Property Organization 2005 <<https://books.google.com/books/about/Law-Against-Unfair-Competition.html?Id=x-IXXLEK458C>> accessed 25 July 2021

<sup>9</sup> n3

honest practices in industrial or commercial matters constitutes acts of unfair competition.<sup>10</sup>

A wide interpretation can be given to ‘an act or practice contrary to honest practices’. For example, an omission to act can also be considered as an act of unfair competition. The WIPO Model provisions in Protection Against Unfair Competition defines “the failure to correct or supplement information concerning a product test published in a consumer magazine, thereby giving a wrong impression of the quality of the product offered on the market, or failure to give sufficient information concerning the correct operation of a product or concerning possible side-effects of a product”, as an act of unfair competition.<sup>11</sup>

WIPO also states that failure to comply with honest practices should arise “in the course of industrial or commercial activities”. This can be broadly understood as being activities of organizations providing goods or services, particularly the selling or buying of such products or services, and activities of professionals such as medical doctors or legal experts.<sup>12</sup>

From the forgoing, it can be said that unfair competition is essentially a deceptive or wrongful business practice that economically harms either consumers or business activities. At its core, unfair competition is a business tort designed to stop any unfair practices that might be happening in the context of a business setting. Federal and state laws are designed to protect the economic, intellectual, and creative investments made by businesses in distinguishing themselves and their products.<sup>13</sup>

The law of unfair competition serves five purposes. First, the law seeks to protect the economic, intellectual, and creative investments made by businesses in distinguishing themselves and their products. Second, the law seeks to preserve the good will that businesses have established with consumers. Third, the law seeks to deter businesses from appropriating the good will of their competitors. Fourth, the law seeks to promote clarity and stability by encouraging consumers to rely on a merchant's good will and reputation when evaluating the quality of rival products. Fifth, the law seeks to increase competition by providing businesses with

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<sup>10</sup> Article 10bis (2) Paris Convention for the Protection of Industrial Property

<sup>11</sup> World Intellectual Property Organization, 1996

<sup>12</sup> *ibid*

<sup>13</sup> n6

incentives to offer better goods and services than others in the same field.<sup>14</sup>

**a. Acts Classified as Unfair Competition**

Article 10bis (3)<sup>15</sup> of the Paris Convention classify unfair business practices into three broad categories:

**Acts causing confusion.**<sup>16</sup> An act or practice in the course of industrial or commercial activities that causes, or is likely to cause confusion with respect to another's enterprise or its activities, in particular, the products or services offered by such an enterprise constitutes an act of unfair competition.

Even the likelihood of confusion having a detrimental effect comparable to actual confusion constitutes an act of unfair competition and this widely enlarges the scope of protection. For instance, a trademark, whether registered or not, or a product's appearance may lead to confusion. Appearance of a product includes packaging, shape or non-functional characteristic features of the product.<sup>17</sup>

**Acts that are misleading.**<sup>18</sup> A misleading act can create a false impression of a competitor's product or services, leading to a consumer, acting on false information, suffering financial damage. Misleading acts can take the form of a statement giving incorrect indications or allegations about an enterprise or its products or services. For example, misleading statements concerning the manufacturing process of a product may relate to a product's safety and create a false impression.<sup>19</sup>

**Acts damaging goodwill or reputation.** Reducing the distinctive character, appearance, value or the reputation attached to a product could damage another's goodwill or reputation. For instance, any act that dilutes the effect of a trademark is considered unfair as it

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<sup>14</sup> Herrera-Partners, 'Unfair Competition, General Principles, Interference with Business Relations, Trade Name, Trademark, Service Mark, and Trade Dress Infringement 2021 <<https://law.jrauk.org/pages/10979/Unfair-Competition-General-Principles.html>>accessed 27 July, 2021

<sup>15</sup> Paris Convention for the Protection of Industrial Property, 1883

<sup>16</sup> Article 10bis (3)

<sup>17</sup> n3

<sup>18</sup> ibid

<sup>19</sup> ibid

could destroy the originality and distinctive character of a trademark.<sup>20</sup>

Other acts that could be classified as causing unfair competition include discrediting another's enterprise or its activities, industrial or commercial espionage, and acting unfairly with respect to confidential information such as breach of contract or breach of confidence.<sup>21</sup>

## **b. Types of Unfair Competition**

1. *Trademark Infringement*: It means stealing another's trademarked property. For example, if competitors want to increase their market share, they can use another person's logo or slogan to promote their product. So it is important to register your trademark.<sup>22</sup>
2. *False Advertising*: This involves making claims that are misleading or untrue, such a company making false claims about a drug's abilities to promote weight loss when such claims had never been proven.<sup>23</sup>
3. *Unauthorized Substitution*: This is when a seller replaces one brand of goods with another without authorization. This could be substituting a low-cost handbag for a designer handbag. It could also mean false advertising or false representation of products or services, such as exaggerating a software program's spell-check capabilities. In either case, consumers are not getting what they thought they were paying for.<sup>24</sup>
4. *Bait-and-Switch Tactics*: This deceptive practice is widely used in retail stores. Advertisers promote a product at an extremely low price and when consumers visit a store, they are told that it has run out of this product. Hence, they are offered to buy a similar product which costs more. Some states in the US consider this practice a crime.
5. *Misappropriation of Trade Secrets*: It means that a competitor found out another's secret recipe, strategy, or formula which was the advantage, and uses it to gain revenue. An employee

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<sup>20</sup> ibid

<sup>21</sup> ibid

<sup>22</sup> Sendpulse 'What is Unfair Competition?: Types-Definition 2021 <<https://sendpulse.ng/support/glossary/unfair-competition>> accessed 25 July, 2021

<sup>23</sup> n1

<sup>24</sup> (n7)

can be a source of information leakage in this case. A non-disclosure agreement regulates confidentiality clauses.<sup>25</sup>

6. *Rumor Mongering*: This is maligning competitors through written or oral communications, often placed strategically with the press and other outlets.
7. *Below-cost Selling*: This occurs when a company intentionally and willingly sells a product or service to consumers for less than the market rate. This type of situation is often temporary and is done with the intention of snatching business away from competitors who can't or are unwilling to compete.<sup>26</sup>
8. *Dumping*: This involves selling products abroad for far less than what they would fetch in a local market.<sup>27</sup>

### 3. Protection against Unfair Competition

Unfair competition laws have been established to protect consumers and businesses and to help to prevent illegal merchandising.<sup>28</sup> Federal and state laws are designed to protect the economic, intellectual, and creative investments made by businesses in distinguishing themselves and their products.<sup>29</sup>

Taking it back to the United States Constitution Article 1, Section 8, Clause 3 known as the "Commerce Clause", this section provides the basis for congress' regulation of unfair competition. Federal law also protects business owners in the areas of false advertising, copyrights, and trademarks under laws such as S.43 (a) of the Lanham Act, 15u.s.c.s1125 (a), a law which allows business competitors to privately sue advertisers for false advertising.<sup>30</sup>

Unfair competition law does not simply protect business nor is it solely the domain of large corporations. Small business owners and individual consumers can be hurt as well, as in bait-and-switch cases and instances involving unauthorized substitution.<sup>31</sup> Dishonest practices crumble businesses, thereby threatening the socio-economic order. It is a result of these that different countries and international conventions have provided for legislations and

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<sup>25</sup> (n1)

<sup>26</sup> ibid

<sup>27</sup> ibid

<sup>28</sup> ibid

<sup>29</sup> (n6)

<sup>30</sup> FindLaw, 'Unfair Competition' 2016 <<https://www.findlaw.com/smallbusiness/business-laws-and-regulations/unfair-competition-html>> accessed 26 July 2021

<sup>31</sup> (n3)

international instruments to protect the system. These are essentially directed at regulating behavior in competition.

States have also enacted laws regulating everything from misappropriation to counterfeit goods. Many states have adopted their own version of the Uniform Trade Secrets Act, which defines and protects trade secrets. The law essentially protects any information that gives a business a competitive edge in the same industry.<sup>32</sup> Every country has many laws that aim at regulating competition.<sup>33</sup>

A number of countries like the US, India, Liberia, Tonga, Korea, Trinidad and Tobago, among others have their protection against Unfair Competition Protection Act. Nigeria also recently passed into law a Federal Competition and Consumer Protection Act, 2019 (FCCP) Act. From observation, it is seen that most of these countries have adopted Article 10bis of the Paris Convention. The convention is open to all state instruments of ratification or accession and must be deposited with the Director General of WIPO.<sup>34</sup>

#### **4. Protection against Unfair Competition in the Trips agreement and the Paris Convention**

Article 10bis of the Paris Convention is the basic international norm in the field of unfair competition law. It embodies unfair competition law in a nutshell. By virtue of the reference in Article 2, paragraph 1 TRIPS members shall comply with Arts 11 through 12 and Art 19 of the Paris Convention (1967). It creates also an obligation among WTO members to ensure protection against unfair competition under the TRIPS Agreement.<sup>35</sup>

By providing an effective enforcement mechanism against unfair competition, the WTO upholds 'honest practices' in the course of trade, alleviating enforcement deficits in other areas of international law.<sup>36</sup>

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<sup>32</sup> n25

<sup>33</sup> n8

<sup>34</sup> Summary of the Paris Convention for the Protection of Industrial Property (1883) <<https://www.wipo.int/treaties/en/ip/paris/summary-paris.html>> accessed 29 July, 2021

<sup>35</sup> CF Fickentscher, 'Historical Origins and Opportunities for the Development of an International Competition Law in the TRIPS Agreement of the WTO and Beyond' in BEIER & SCHRICKER (eds)

<sup>36</sup> C. Riffel, *The Protection Against Unfair Competition in the WTO TRIPS Agreement* (Brill/hijhaf 2016)



Protection against unfair competition has been recognized as an element of industrial property protection for more than a century.<sup>37</sup> In 1900, the Brussels Conference for the Revision of the Paris Convention agreed that “nationals of the convention (...) shall enjoy, in all states of the Union, the protection granted to nationals against unfair competition.” The new international norm was laid down in Art.10bis. Subsequent diplomatic conferences went beyond the principle of national treatment.<sup>38</sup>

At the 1911 Revision Conference of Washington, agreement could be reached on an obligation among convention countries to assure effective protection. In 1925, the Revision Conference of The Hague defined this obligation in more specific terms by introducing a definition and two examples of acts of unfair competition in Art.10bis. The first example clarified that all acts creating confusion with the products of a competitor must be prohibited. Pursuant to the second example, false allegations discrediting the products of a competitor constitute forbidden acts of unfair competition.<sup>39</sup> At the 1934 London Conference, the scope of these examples was broadened by replacing the reference to a competitor’s products with the formula of “the establishment, the goods, the industrial or commercial activities of a competitor”. A proposal tabled by Denmark, France, Norway, Sweden and Switzerland which aimed to prohibit false allegation referring to the origin, nature, manufacture, sale of products, or the quality of the commercial establishment or to industrial awards, was rejected. At the 1958 Lisbon Conference, however, a similar proposal by Austria was adopted, which led to the incorporation of a further example of acts of unfair competition, namely acts concerning indications or allegations liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for their purpose or quantity of the goods.<sup>40</sup>

The present text of Art.10bis<sup>41</sup> mirrors the outlined stages of development. The first paragraph sets forth the obligation to ensure

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<sup>37</sup> GHC Bodenhausen, ‘Guide to the Application of the Paris Convention for the Protection of Industrial Property’ WIPO Publication No.611, 142-143 (Geneva 1969)

<sup>38</sup> The principle of national treatment as such does not impose on obligation on the members of the Paris Union to afford protection against acts of unfair competition.

<sup>39</sup> n8

<sup>40</sup> ibid

<sup>41</sup> n22

effective protection against Unfair Competition. In the second paragraph, acts of unfair competition are defined as “any act of competition contrary to honest practices in industrial or commercial matters.” The third paragraph contains the aforementioned examples of acts which in particular, must be prohibited: the causing of confusion with respect to a competitor’s establishment, goods or activities (item 1) the discrediting of competitor’s establishment, goods or activities (item 2), and the misleading of the public as to the nature or other characteristics of one’s own goods (item 3). The provision of Art.10bis is supplemented by Art.10ter which provides for appropriate legal remedies capable of effectively repressing acts of unfair competition.

The 1996 WIPO Model Provisions (WMP) seeks to implement Art.10b of the Paris Convention.<sup>42</sup> On the one hand, they define the principal acts or practices against which protection is to be granted, namely the causing of confusion with respect to another’s enterprise or its activities (Art.2), the damaging of another’s goodwill or reputation (Art.3), the misleading of the public (Art.4), the discrediting of another’s enterprise or its activities (Art.5). Unfair competition is respect of secret information (Art.6). On the other hand, they provide for a general clause (Art.1 para.1) which is intended to serve as a basis for protection against any other acts of unfair competition.<sup>43</sup>

The system of the Model Provisions thus follows Art.10bis. A general provision of Art.10bis (2)<sup>44</sup> PC and Art.1 (1)<sup>45</sup> WIPO Model Provisions can be seen as an indication of the objective to further concretize individual instances in which to provide protection. The concept of honest practices which plays a decisive role in the context of Art.10bis <sup>46</sup> PC was maintained in the WIPO Model Provisions. Pursuant to the general clause of Art.1 (1) (a)<sup>47</sup> WIPO Model Provisions, an act or practice “that is contrary to honest practices” constitutes an act of unfair competition.

## **5. Lessons for Nigeria**

Experience has indicated that fairness cannot be achieved in the market place exclusively on the free play of market forces. Fair

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<sup>42</sup> n11

<sup>43</sup> ibid

<sup>44</sup> n22

<sup>45</sup> n11

<sup>46</sup> n15

<sup>47</sup> n22

play in the market place can only be ensured by enactment of laws capable to protect honest businessmen, consumers and provide a level playing field for commercial practice in the market place.

A lot of unfair acts (such as violations of trade secrets) are not expressly protected by the various intellectual property laws in Nigeria. For instance, a company has developed a secret process that enables it to sell better quality of food, better than its competitors who did not have access to such a process. If fragments of this information were given to a competitor without permission of the owner, this will result in unfair competition. Therefore, a competition is necessary to supplement the existing intellectual property legislations to achieve fairness in the market place.<sup>48</sup>

The protection against unfair competition as provided in Art.10bis is applicable in Nigeria by virtue of the WTO/TRIPS Agreement. The TRIPS Agreement incorporates Art.10bis of the Paris Convention and ensures protection against unfair hearing among WTO member nations of which Nigeria is a member. Nigeria recently passed into law, a Federal Competition and Consumer Protection Act 2019 (FCCP Act). A preview of the law itemized three main objectives, the protection of business owners, consumers and allows free and fair competition between business owners in the market place; thus promoting economic efficiency. It is the comprehensive legal framework governing competition issues in Nigeria. It brought about a unified and codified set of rules that regulate competition law in Nigeria for the first time.<sup>49</sup>

The Federal competition and Consumer Protection Act 2018 makes provision for, **acts that are misleading<sup>50</sup> or Confusing**. Misleading is lying to consumers. This is provided for in Section 25(1) (a) (b) of FCCP Act. It is the most prevalent form of unfair competition and can have serious impacts: the consumer, relying on incorrect information, may suffer financial or even health challenges. The honest competitor then losses clients. The transparency of the market diminishes, with adverse effects on the economy as a whole. For example, if the public prefers foreign

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<sup>48</sup> T. Dottie, 'Importance and Benefit of the Federal Competition and Consumer Protection Act to Consumer and Business Owners in Nigeria' 2019 <<https://www.linkedin.com/pulse/importance-benefits-federal-competition-consumer-act-consumers-toju>> accessed 29 July, 2021

<sup>49</sup> A. Idigbe, 'Overview of Development of Competition Law in Nigeria' 2019 <<https://www.mondaq.com/nigeria/antitrust-eu-competition-/848544/overview-of-development-of-competition-law-in-nigeria>> accessed 30 July, 2021

<sup>50</sup> Section 125(1)(b) Federal Competition and Consumer Protection Act, 2018

goods to domestic goods, a false declaration to the effect that domestic goods are imported is misleading even if the domestic goods are of a superior quality.<sup>51</sup> In respect of confusion, the FCCP Act is silent, however, it can be implied from section 125 of the Act that misleading acts can and will confuse consumers. The scope of confusion is wide as it includes any act in the course of trade, involving indications used to distinguish goods, services or businesses. It covers the appearance of goods and presentation of services which are relevant for the prevention of confusion.

Section 125(1) (a) (b)<sup>52</sup> of the FCCP Act provides that: 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 misleading misapprehension on the part of the consumer or prospective consumer, amounting to a false, misleading or deceptive representation or permit or require any person to do so.

The FCCP Act provides for protection against other unfair competition practices such as the abuse of dominant position<sup>53</sup> monopoly,<sup>54</sup> price fixing<sup>55</sup> and conspiracy.<sup>56</sup> The FCCP Act provides rules to minimize market distortions across all sectors.

The issue is, how effective the FCCP Act has been in creating a fair and efficient market that benefits Nigerian businesses and consumers alike.

In television, for example, DStv Nigeria was able to control pricing mechanism. Between 2009 and 2017, prices increased eight times.<sup>57</sup> Since after the FCCP Act came into force, DStv has still arbitrarily increased prices without repercussion.

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<sup>51</sup> n51

<sup>52</sup> n51

<sup>53</sup> S.70(1) (2) FCCP Act, 2018

<sup>54</sup> S.76 FCCP Act, 2018

<sup>55</sup> S.107 FCCP Act, 2018

<sup>56</sup> S.105 FCCP Act, 2018

<sup>57</sup> O P Obioma, 'How Nigeria's New Competition Law Will Benefit the Economy - and what to watch for 2020' <<https://theconversation.com/how-nigeria-s-new-competition-law-will-benefit-the-economy-and-what-to-watchout-for-144379>>accessed 30 July, 2021

Dangote, the major cement producer in Nigeria is the dominant player and is said to have forced the market price up in 2017.<sup>58</sup>

Competition exists when no single buyer or seller can control the price in the market. This occurs when there are enough agents active in the market. New agents can enter the market if they want to and price is thus determined by the market forces. Though one of the advantages of the FCCP Act is the Uniform Perspective and Jurisprudence in competition issues in Nigeria, some competition issues are sector based. This is why various government agencies have standards and laws for regulating competition in their specific sectors.<sup>59</sup>

For example, the Nigerian Electricity Regulatory Commission regulates the electricity sector while the Nigerian Communications Commission deals with the telecommunications sector. The Security and Exchange Commission regulates the capital market and the Central Bank of Nigeria oversees banking. The domination of the Act over sector specific legislation has the tendency to create an overlap and interfere with the roles and functions of these agencies.

To guard against this power tussle, the Act allows for negotiation of agreements with sector specific regulations.

Having enumerated the numerous provisions in the FCCP Act, in the protection against unfair competition in Nigeria, the very greater lesson for Nigeria is to domesticate the WTO/TRIPs Agreement and the Paris Convention in order to strengthen the protection of unfair competition in Nigeria by benefiting from the noble Articles in the Agreement and Convention.

## **6. Conclusion**

The protection against unfair competition is of great importance to the economy of any nation. The importance of the legal framework for competition regulation nationally and internationally can also not be overemphasized. An unregulated economy leaves the economy of any nation in a disadvantaged state and at the mercy of the rich and powerful. Small and medium scale enterprises will also not survive in such an economy. Trade secret protection should also be taken seriously as a lot of SMEs thrive on it. The enactment of the FCCP Act in Nigeria is a great development for the protection of competitors and consumers

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<sup>58</sup>    ibid

<sup>59</sup>    Ibid

irrespective of the little implementation gaps. However, it will be beautiful to domesticate the WTO/TRIPs Agreement and the Paris Convention which will meet international standard of protection in our Country and in turn encourage international trade and transfer of technology.