

# **An Evaluation of Regulatory Policies in Nigeria: A Case Study of National Agency for Food and Drug Administration and Control (NAFDAC) and Federal Character Commission (FCC)**

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## ***Abstract***

*This study comprises an evaluation of National Agency for Food and Drug Administration and Control and Federal Character Commission. The paper attempts to ascertain the extent regulatory policy of NAFDAC and FCC have impacted on Nigeria; to examine the extent regulatory policy of NAFDAC and FCC have been implemented to the benefits of Nigerians and the challenges militating against regulatory policies of NAFDAC and FCC. The methodology deployed in this study is qualitative. The secondary source of data was used, such as books, journal articles, newspapers and internet. The study discovered among others that the National Agency for Food and Drug Administration and Control is deficient in monitoring the preponderance of fake food and drugs. It also found out that the Federal Character Commission cannot ensure equitable distribution of appointments. The study concludes emphatically that there are imbalances in the nature of appointments as well as the incessant manufacturing of fake drugs and food everywhere. In the light of the foregoing, the study recommends that the National Assembly must not confirm nominees into choice positions whenever the list of nominees violates the principle of federal character. It also recommends that NAFDAC must beef up surveillance at all ports of entry and ensure water-tight security for officers.*

**Keywords:** NAFDAC, FCC, Nigerians, Regulatory policies.

## Introduction

In any society there is bound to be regulations. Regulation is one of the significant roles and functions of the government. Based on this, the federal government of Nigeria established NAFDAC in 1993 to checkmate illicit and counterfeit food and drug products. The National Agency for Food and Drug Administration and Control is a federal agency under the Federal Ministry of Health. The Act establishing NAFDAC are as follows:

- (a) to regulate and control the importation, exportation, manufacture, advertisement, distribution, sale and use of foods, drugs, cosmetics, medical devices, bottled water and detergent powder and chemicals;
- (b) undertake inspection of imported and regulated products;
- (c) compile standard specifications and guidelines for the production, importation and exportation of food;
- (d) undertake appropriate investigations into production premises; and
- (e) conduct appropriate tests and ensure compliance with standard specifications.

While the Federal Character Commission was set up in 1995. The Act establishing it spells out the following functions:

- (a) to work out equitable formula for the distribution of all cadres of

posts in the civil service and public services;

- (b) to promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and posts at all levels of government; and
- (c) to take such legal measures including the prosecution of the heads or staff of any ministry, extra ministerial department or agency which fails to comply with any federal character principle or formula.

With reference to regulatory policy, the term has been seen from various perspectives. In the opinion of Milakovich and Gordon (1980):

Regulatory policies promote restrictions on the freedom to act of these subject to the regulations. The most prominent of such policies pertain to business activities for example advertising, pollution control, natural gas, pricing practices and product liability.

From the above, one thing is clear: policies are meant for people, and more importantly they are meant to be obeyed. Regulatory policies are used as policing weapon on the part of government on the one hand. On the other hand, the people are meant to benefit from regulatory policies.

In the opinion of Ogbeide (2007) regulatory policies are those which comprise the setting of standards and rules to control activities of some individuals in society. It could also be used to police groups of people. In this connection, regulatory policies are used to ward off “undesired consequences” that would have negative impact on the people.

Aibieyi (2009:13) opines about regulatory policy this way:

Regulatory policies impose restrictions or limitations on the behaviour of individuals and group. That is, they reduce the freedom or discretion to act of those regulated, whether bankers, utility companies, meat-packers or saloon keepers.

In other words, regulatory policies are meant to impose limitations and restriction on regulated individuals. To the government, such policies are seen as policing strategies to guide and guard government decisions.

### **Statement of the Problem**

The issue of regulation is a very complex and difficult task. It becomes much more difficult in a country like Nigeria where there are diverse ethnic groups and diverse political and religious interests. However, some factors like corruption, insecurity, environmental, economic and political factors have led to poor implementation of regulatory policies

in Nigeria, leading to inefficiency of the regulatory agencies.

With regard to the Federal Character Commission, it is worrisome that the body cannot monitor equitable distribution of positions and appointments in the public service. The same is applicable to the civil service. It is much more worrisome to note the inability of the commission to enforce principles of proportion or equitable sharing of socio-economic services and amenities. It is most worrisome that since its inception nobody has been prosecuted for violating federal character principle (Okeke, 2019, Agbodike, 1998; Adegoke, 2020; Agwu, 2014).

Concerning NAFDAC, it is disheartening that the agency has not been so successful in the control and regulation of imported drugs, cosmetics, medical items, chemicals and packaged water. It is a thing of sadness that the agency has not been able to eradicate the issue of fake drugs and substandard items and goods from the market (Amadi and Amadi, 2014; Akunyili, 2004).

### **Objectives of the Study**

The objectives of this study were to:

1. ascertain the extent regulatory policies of NAFDAC and FCC have impacted on Nigerians;
2. examine the extent regulatory policies of NAFDAC and FCC have been implemented to the benefit of all Nigerians;
3. ascertain the challenges militating against regulatory

- policies of NAFDAC and FCC; and
4. to make appropriate recommendations for the effectiveness of these agencies

### **Methodology**

For the purposes of this study, secondary source of data collection was used such as books, journal, newspapers and the internet.

### **Definition of Terms**

1. Regulatory policy: Is formulated by government to impose control and restrictions on certain specific activities.
2. Regulation: A rule or directive made and maintained by an authority.
3. Regulated products: means food, drugs, detergents, cosmetics, medical devices, bottled water and chemicals.
4. Fulanisation: It is a term made popular by former President Olusegun Obasanjo meaning that the Fulanis are trying to take over both the economic and political sectors of the country.
5. Islamisation: Denotes the fact that the Fulanis are trying to propagate or spread the Islamic religion throughout the country. This is reminiscent of Usman Dan Fodio Jihad.

### **THEORETICAL FRAMEWORK**

This paper is based on regulatory capture theory. This theory was propounded by George Stigler (1971),

a Nobel Laureate in Economics. According to Stigler (1971), this occurs:

when a political entity, policy makers, or regulatory agency is co-opted to serve the commercial, ideological, or political interests of a minor constituency, such as a particular geographic area, industry profession, or ideological group.

The Federal Government of Nigeria has set up these two agencies: NAFDAC and FCC to monitor the activities of what Stigler refers to as “minor constituency”.

It is noteworthy, however, as Stigler points out that these “regulators” must be given what he calls “the state’s coercive power” to carry out the duties. Stigler calls the government regulatory agencies as the “capture agencies”. Stigler (1971) is quick to point out that regulators should be overprotected from “outside influence as much as possible. This is because the regulated “constituency” is good at lobbying. Stigler (1971) theory of regulation argued that government agencies were often “captured” by the very industries they were supposed to regulate. He contended that regulation come to represent the interests of the regulated industry, not the broader public.

NAFDAC and FCC are regulatory bodies. NAFDAC was set up to regulate and control the activities of drug and food counterfeiters. While the FCC was set up to regulate

employment opportunities and appointments into political offices.

### **LITERATURE REVIEW**

Agwu (2014), concentrates on the organizational culture and employees' performance in the National Agency. It assumes that a positive organizational culture serves to enhance employees' input as it determines and influences the way employee thinks and behaves.

Adegoke, Osokoya and Adegoke (2020) investigate the various NAFDAC sensitization programme on counterfeit and substandard medicines and level of consumers' knowledge application in identifying counterfeit and substandard drugs. According to them, it is imperative for consumers to examine carefully both the package and its content before purchase or use. Amadi and Amadi (2014) have shown that the weakest point in Nigeria's drug regulation is in the area of implementation and enforcement. They also regret that drug laws conflict with one another.

Akunyili (2004) opines that among major challenges facing efficient regulatory and control mechanism, corruption is the problem and it continues to derail the fight against drug counterfeiting. Besides, the Federal Character Commission is also not free from critical evaluation. Demarest and Langer Ukiwo (2020) assert that the workings of the FCC remain plagued by legal and administrative bottlenecks, severe and acute underfunding, and political dependence; while Mustapha (2009)

focuses on the fact that the FCC has not been able to tackle historical balances, specifically the underrepresentation of the North-Western and North-Eastern zones. Furthermore, he laments that the integrated payroll and personnel information (IPPIS) system ought to have created opportunity for the FCC to acquire the full staffing lists of MDAs, however, the FCC has no direct access to the system.

Moreover, Agbodike (1998) sees Federal Character Commission as something that is bourgeois oriented. As a result of this, it does very little or nothing to reduce the plight of the poor. Ayoade (1998) criticizes the commission when he categorically states thus: "there is no greater inequality than the equal treatment of unequal". Similarly, Oyovbaire (1983) argues that the principle promotes mediocrity in position of power. While Gboyega (1989) sees the policy as merely an elitist ploy which might not materially improve the plight of the down-trodden.

### **The Federal Character Commission**

To state the obvious, the Federal Character Commission is a government establishment, which monitors equitable distribution of positions in the public as well as civil service of the country. It was formed by the Federal Character Commission Decree No.34 of 1996. Among other functions, the commission is to promote, monitor and enforce compliance with the principles

proportional sharing of socio-economic services, amenities and infrastructural amenities. It is to ensure the equitable division of economic, bureaucratic, civil and political posts at all levels of government.

However, one cannot but say that this commission has been found wanting in many areas. The Federal Character Commission has not been able to implement the policy of equity in various federal appointments. According to Okeke (2019), it is clear that the framers of the 1999 Constitution intended the commission to be “a barking dog and not a biting dog”. This is because the heads of arms of government both at the federal and state levels enjoy immunity clause. Therefore, the President and Vice president and the Governors and Deputy Governors cannot be prosecuted for failure to abide by the principle of the commission. Thus Okeke (2019) reveals that since its inception, one cannot truly point at any person who has been prosecuted for violating federal character principle.

Babachir (2016) defended Buhari’s appointments into ambassadorial positions. In the appointment of ambassadors, it is in the spirit of federal character that appointments should cut across all states. The senate thought as much when the house refused to confirm the forty-seven (47) ambassadorial nominees forwarded to it by president Buhari. Unfortunately, the nomination was lacking the principle of federal character because indigenes of four

states were conspicuously not listed. Four states were delisted: Bayelsa, Ebonyi, Ondo and Plateau states.

It is not so much the allegation of unfair and unequal ambassadorial nominees that is shocking as it is interesting. What baffles the imagination is the grandstanding defence of the then Secretary to Government, Lawal David Babachir. In the defence of the presidential nominees he declares in a grandiloquent manner as follows:

One thing, however, is clear, the constitution makes it clear that it is the prerogative of the president to nominate ambassadors. And the criteria he will use to do so is also the constitutional right of the president. Whatever criteria he chooses to use is constitutional (2016)

From Babachir’s pompous defence, one cannot but say that the former secretary has defecated on the shrine of federal character principle. From this point of view, the president is not trapped by the principle of equality, since it is not so stated in the constitution Babachir goes further: “The constitution prescribes nomination of at least one minister from each state, the president has no such restriction in Ambassadorial nominees”. To Babachir, appointment into ambassadorial position is neither here, nor there. The president can appoint ambassadors to quote the secretary again anyway he deems fit.

One may say here that the secretary's grandiloquent defence is even worse than the allegation of unequal nominees of ambassadors. Babachir's defence undermines the principle of federal character. It is capable of igniting the fire of chaos and anarchy. This is possibly the best time to amend the constitution. This is because government officials are now using the constitution to defile the sanctity of Federal Character Commission.

Oyeyipo (2019) reports the investigation carried out by the House of Representative ad-hoc committee. The committee carried out investigation into the fraudulent recruitment of a Board Chairman, who allegedly recruited 100 people from his state, at the detriment of others. While a former minister also recruited over one hundred people from his state. Oyeyipo (2019) also reported that Chairmen of Boards of MDAs allegedly personalized the recruitment done between 2017 and 2018.

Suffice it to say that the regime of President Buhari has violated federal character principles in

appointments into all cadres of posts in the public and civil service of the federation, the armed forces, the Nigerian police force and other security agencies. Besides, he has often violated this principle in appointing mainly northerners, especially the Fulanis into corporate bodies owned by the Federal Government, extra-ministerial Departments and parastatals of the federation. In actual fact, one of the major sins of Buhari, as far as the southerners are concerned is the "fulanisation" of security appointments and the "islamisation" of sensitive public service positions.

At this juncture, we may now look at the nature of leadership in the country. A cursory glance at the table below will reveal glaringly that history of Nigeria's leaders past and present contradicts the doctrine and principle of Federal Character. The more one looks at the table, the less one notices federal character. For the purposes of doubt, let us take a critical look at the table.

**Table 2: Nigeria's Rulers from 1960 till date**

S/No	Date	Identities	State	Geo-political zones
1.	Oct. 1, 1960-Jan. 15 1966 (6yrs)	Tafawa Balewa	Bauchi	Northeast
2.	Jan. 15 1966-July 29 1966 (1yr)	J.T.U. Ironsi	Abia	South-East
3.	July 29, 1966-July 29, 1975 (9yrs)	Yakubu Gowon	Plateau	North-Central
4.	July 29, 1975-Feb. 13, 1976 (1 yr)	Murtala Mohammed	Kano	North-West

5.	Feb. 13, 1976-Oct. 1979 (3yrs)	Olusegun Obasanjo	Ogun	South-West
6.	Oct. 1, 1979-Dec. 31, 1983 (4yrs)	Alh. Shehu Shagari	Sokoto	North-West
7.	Dec. 31, 1983-Aug. 27, 1985 (2yrs)	Muhammadu Buhari	Katsina	North-West
8.	Aug. 27, 1985-Aug. 26, 1993 (8yrs)	Ibrahim Babangida	Niger	North-Central
9.	Aug. 26, 1993-Nov. 17, 1993 (1yr)	Ernest Shonekan	Ogun	South-West
10.	Nov. 17, 1993-June 8, 1998 (5yrs)	Sani Abacha	Kano	North-West
11.	June 8, 1998-May 29, 1999 (1yr)	Abdul Salam Abubakar	Niger	North-Central
12.	May 29, 1999-May 29, 2007 (8yrs)	Olusegun Obasanjo	Ogun	South-West
13.	May 29, 2007-May 5, 2010 (3yrs)	Umaru Musa Yar'Adua	Katsina	North-West
14.	May 5, 2010 to date (4yrs)	Goodluck Jonathan	Bayelsa	South-South
15.	May 29, 2015 till date	Muhammadu Buhari	Katsina	North-West

*Author's computation*

By virtue of geo-political zones, it is interesting to note that the North-West has the singular honour and privilege to have produced the first citizen of the country six (6) times. Besides, the North-Central has produced the president three times (3). Similarly, the South-West have had the opportunity to produce the president three times (3). It is also interesting to point out that the South-East as well as the South-South has produced only one each.

From the above, it is crystal clear and quite obvious that the history of leaders is one that is anti-federal character, anti-south and anti-egalitarian principle. Suffice it to say that some of the southern leaders

assumed the number one position by virtue of accident, and more importantly, by divine intervention. It is no longer news that Obasanjo came to power due to the assassination of Murtala Mohammed in 1976. It is enough to say that Ernest Shonekan emerged as a result of June 12 crises. It is sufficient to say that President Goodluck Jonathan appeared as a result of the demise of President Umaru Musa Yar'Adua.

Yet another thing that nauseates us as Nigerians is the fulanisation and islamisation of the top and choice positions in the Ministry of Petroleum Resources where President Buhari himself is the minister. Look at the following table:



**Table 3: 20 Top Positions in Nigerian National Petroleum Corporation (NNPC)**

S/N	Name	Positions	Region
1.	Mele Kyari	GMD	Northerner
2.	Umar Ajiya	Chief Finance Officer/Finance and Accounts	Northerner
3.	Yusuf Usman	Chief Operating Officer	Northerner
4.	Farouk Garba Sa'id	Chief Operating Officer, Corporate Services	Northerner
5.	Mustapha Yakubu	Chief Operating Officer, Refining and Petrochemicals	Northerner
6.	Hadiza Coomassie	Corporate Secretary/Legal Advise to the Corporation	Northerner
7.	Omar Ibrahim	Group General Manager, International Energy Relations	Northerner
8.	Kallamu Abdullahi	GGM Renewable Energy	Northerner
9.	Ibrahim Birma	GGM Governance Risk and Compliance	Northerner
10.	Bala Wunti	GGM NAPIMS	Northerner
11.	Inuwa Waya	MD NNPC Shipping	Northerner
12.	Musa Lawan	MD Pipelines and Product Marketing	Northerner
13.	Mansur Sambo	MD Nigeria Petroleum Development Company	Northerner
14.	Lawal Sade	MD Duke Oil/NNPC Trading Company	Northerner
15.	Malami Shehu	MD Port Harcourt Refining Company	Northerner
16.	Muhammed Abah	MD Warri Refining and Petrochemical Company	Northerner
17.	Abdulkadir Ahmed	MD Nigeria Gas Marketing Company	Northerner
18.	Salihu Jamari	MD Nigeria Gas and Power Investment Company Limited	Northerner
19.	Mohammed Zango	MD NNPC Medical Services	Northerner
20.	Sarki Auwalu	Director, Department of Petroleum Resources	Northerner

Source: Orebe, Femi (2021). "Increased secessionist agitation in Nigeria: Blame the president." *The Nation*, April 4, 2021.

All the 20 top positions are Northerners and none from other parts of the country. This grossly negates the principle of FCC. A cursory glance

at the above confirms the colonization of Nigerian National Corporation Company (NNPC) by the northerners. It is shocking that the above twenty

top most positions have been colonised by one ethnic group. What is even more shocking is that Managing Director of Port Harcourt Refinery, Malami Shehu is a northerner. Similarly, the Managing Director of Warri Refinery and Petrochemical, Muhammed Abah is also from the north. Without gainsaying, this is outright fulanization of one of the most sensitive ministries in the country. One can say that there is no federal principle in the petroleum ministry. It is oppressive that even the MDs of Warri and Port Harcourt refineries are not even assigned to anyone from the southern part of the country. This is a sad story.

#### **National Agency for Food and Drug Administration and Control (NAFDAC)**

The National Agency for Food and Drug Administration and Control was formed in 1993 under the country's health and safety law to monitor adulterated and counterfeit drugs. NAFDAC was formed to replace the Directorate of Food and Drug Administration and Control, which had been adjudged a failure.

The agency has several functions one such function is to regulate and control the importation and exportation of drugs, cosmetics, medical items, packaged water and chemicals. Another function is to dictate standard specifications, regulations, and guidelines for the production of food, drugs etc. Moreover, the agency is to undertake the inspection and

registration of foods, drugs and chemicals. Ex-president Obasango was disappointed with the performance of NAFDAC. As a result of this he dissolved the agency and inaugurated a new one headed by Dora Akunyili. It is true that Akinyuli made some amendments and revolutionary breakthroughs, but it is unfortunate that there are still so many pitfalls.

One pitfall is the inability of the agency to regulate and control imported items. It is terrible to note that there is influx of fake Titus fish presently in this country. Akinfewa (2019) has expressed disdain over counterfeit Mackerel popularly known as Titus fish in the Nigerian market. He further states that "cold room operators are concentrating more on procuring the fake fish, as it is cheaper compared to the original type, a development that has made it enjoy more patronage". It is unfortunate that people are buying the fake one because of cheapness, without looking at the health impact of substandard fish.

Apart from fake fish importation, NAFADC has not been able to undertake appropriate investigation into the production premises and raw materials for foods, drugs etc. In this connection, we cannot but mention the obnoxious processing of meat in the country. According to Akinfewa (2019) findings have revealed that throughout the country, most slaughter slabs are located next to major canals, dumpsites. Here animals are slaughtered on bare floors, with little or no sanitation. As a result, meat is

lifted using filthy carts, dirty head pans and motorbikes. Moreover, due to scarcity of water, the butchers are compelled to wash meat parts with dirty water.

Closely related to the above is the recent discovery of poisonous 'fufu' in markets. In the words of Akinrinade (2019):

Nearly 70 percent of fufu processors in Ifo and Arigbo axis indulge in the use of bleach, detergent and other harmful substances to process the staple food.

With these problems of "fake fish", adulterated "fufu" and unwhole meat processing, one is compelled to say categorically that NAFDAC has some degree of pitfalls.

In spite of the setting up of NAFDAC to monitor the scourge of counterfeit drugs, there are copious instances of incessant proliferation of fake drugs. Akunyili herself (2010) reported how three children were victims of drug counterfeiting. Three Nigerian children had an open-heart surgery in 2003. They were reported dead after some days. It was confirmed that they died because of adverse reactions of some infusions on them. Consequently, some infusions were sampled from all over the country. It was confirmed that some infusions produced by four (4) companies were contaminated with microorganisms. In addition to this, in the same year 147 of the 149 brands of water for injection

screened on routine sampling were non-sterile.

Amadi and Amadi (2014) recall that in 1987, fourteen children died suddenly after taking chloroquine phosphate injections. He also recalls that in 1990 one hundred and nine children died after being administered with fake paracetamol syrup. In November 2008, 34 Nigerian children, aged 4 months to 3 years died and well above 50 were sent to the hospital. They suffered from severe kidney damage after taking the drug called "my pikin". This drug contains a teething mixture of paracetamol. All these fatal incidents of drug counterfeiting support the assertion once made by Akunyili (2004): Drug fraud is "an ill wind that blows nobody good. The evil of fake drugs is worse than the combine scourge of malaria, HIV/AIDS". She says further that armed robbery may kill a few at a time, but counterfeit fake drug kills enmass.

Another pitfall of NAFDAC bothers on the issue of insecurity. It is a thing to worry about when one realizes that officials of NAFDAC are carrying out their duties in an unfriendly environment. The following revelations by Akunyili (2010) may make us uncomfortable: "The drug counterfeiters came in different guises to negotiate with us... when this failed they fought back with intimidation, harassment, blackmail and threats".

Akunyili (2010) revealed how drug counterfeiters resorted to physical attacks and arson against NAFDAC

staff and facilities. She revealed how counterfeiters shot at her car and pierced the back windscreen. A bus driver was killed on the spot. She also revealed how on several occasions drug fraudsters deposited fetish objects in her office. In fact, between 7th and 11th of March 2004, there was a synchronized and almost simultaneous burning of NAFDAC's facilities throughout the country.

Very recently, Ihyongo (2021) reported that ten persons died and five hundred people were hospitalized in Kano after drinking expired juice. He revealed that among those hospitalized, about fifty patients were undergoing kidney related treatment, arising from consumption of the expired citric acid powdered drinks. He lamented over the outbreak of strange diseases traceable to the drinking of substandard juices. This is because the consumption of these fake products have damaging effects on the kidney and other vital organs in the body. Investigation has revealed that batches of some of the products expired years ago.

### **CONCLUSION**

In spite of the regulatory agencies and commissions such as NAFDAC and FCC, it is sad to conclude that the policy of government is like flogging a dead horse. It is stating the obvious that drug counterfeit abounds everywhere. There is no gainsaying the fact that there are numerous manufacturers of fake food in the country.

Besides, one cannot but conclude that the Federal Character Commission is like a scam. In other words, it is like a mirage. It is a thing of irony that irrespective of this commission, there are imbalances in the nature of appointments into public offices.

### **RECOMMENDATIONS**

The recommendations made are as follows:

1. To reflect federal character, we call for egalitarianism in giving out presidential ticket.
2. The National Assembly must not confirm nominees into choice positions whenever the list of nominees violates the principle of federal character.
3. It is high time we started prosecuting violators of federal character principles since no one has been so prosecuted.
4. NAFDAC should regulate and control fake fish importation and cold room operators
5. Officials of the agency must ensure proper sanitation of slaughter slabs
6. The agency must prosecute processors of fake "fufu" and other food produce
7. There should be a ban on drug hawking and hawkers
8. The agency must beef up surveillance at all ports of entry and ensure water-tight security for officers of NAFDAC

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