

ADVERTISING PRACTITIONER'S (REGISTRATION, LICENSING, ETC)

BILL, 2019

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A BILL

FOR

AN ACT FOR THE REPEAL OF THE ADVERTISING PRACTITIONER'S (REGISTRATION, ETC) ACT AND ENACTMENT THE ADVERTISING PRACTITIONER'S (REGISTRATION, LICENSING, ETC) ACT FOR THE ESTABLISHMENT OF A COUNCIL FOR ADVERTISING PRACTITIONERS AS THE APEX REGULATORY AUTHORITY FOR THE NIGERIAN ADVERTISING PROFESSION AND PRACTICE, TO MAKE PROVISIONS FOR THE REGULATION AND CONTROL OF THE PRACTICE OF THE PROFESSION AND BUSINESS OF ADVERTISING TO ENSURE THE PROTECTION OF THE GENERAL PUBLIC AND CONSUMERS, PROMOTE LOCAL CONTENT WHILST ENTRENCHING BEST INTERNATIONAL PRACTICES, AND FOR RELATED MATTERS

Sponsored by Hon. Abdulrazak Namdas

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART I - ESTABLISHMENT OF THE ADVERTISING PRACTITIONER'S
 2 COUNCIL OF NIGERIA (APCON) AND THE GOVERNING BOARD

3 1.-(1) There is established a body to be known as the Advertising
 4 Practitioner's Council of Nigeria (APCON) (in this Bill referred to as "the
 5 Council").

Establishment
of the Council

6 (2) The Council:

7 (a) shall be a body Corporate with perpetual succession and a
 8 common seal and may sue and be sued in its corporate name; and

9 (b) acquire, hold, mortgage, purchase and deal howsoever with
 10 property, whether movable or immovable, real or personal.

11 2.-(1) There is established for the management of the affairs of the
 12 Council a Governing Board (in this Bill referred to as "the Board").

Establishment
and Constitution
of the Governing
Board of the
Council

13 (2) The Board shall consist of:

1 (a) a Chairman, who shall be a distinguished fellow of the profession
2 to be appointed by the Minister;

3 (b) 2 representative not below the rank of a Director of the Ministries
4 in charge of:

5 (i) Information;

6 (ii) Advertising.

7 (c) one representative each of:

8 (i) National Universities Commission;

9 (ii) National Board for Technical Education (NBTE);

10 (iii) Broadcasting Organization of Nigeria (BON);

11 (d) two Representatives of the Outdoor Advertisement Association of
12 Nigeria(OAAN);

13 (e) five persons to be elected by the Association of Advertising
14 Agencies of Nigeria;

15 (f) the Registrar-General of the Council as member /secretary,

16 (4) The members of the Governing Board shall be appointed by the
17 President subject to confirmation by the Senate.

18 (5) The Board shall from time to time elect from among its members a
19 vice-chairman, who shall in the absence of the chairman have all the powers
20 and duties of the chairman, and if neither the chairman nor the vice-chairman is
21 available, shall nominate a person from their own ranks to preside at that
22 meeting.

23 (6) A member of the Governing Board shall:

24 (a) be a person of proven integrity;

25 (b) have 10 years cognate experience in advertising; and

26 (c) be duly registered as advertising practitioner as provided for under
27 this Bill and the appointments shall as much as possible reflect equitable
28 representation from the six geopolitical zones in Nigeria.

29 (7) The supplementary provision set out in the schedule to this Bill

1 shall have effect with respect to the proceeding of the Board and other
2 related matters.

3 3.-(1) A member of the Board, holds office for a term of 4 (four)
4 years.

Tenure of Office
of Members of
Board

5 (2) A member of the Board may be re-appointed at the expiry of his
6 or her term of office for the second time and no more.

7 (3) No person shall be appointed as a member of the Board if he or
8 she:

9 (a) is an undischarged bankrupt;

10 (b) fail to comply or is not capable of fully complying with a
11 judgment or order, including an order for costs, given against him or her by a
12 court of law in a civil case;

13 (c) in the preceding 10 years has been convicted of an offence of
14 which fraud, violence, dishonesty, extortion or intimidation is an element; or

15 (d) is not permanently resident in the Federal Republic of Nigeria.

16 4.-(1) A member of the Board shall vacate his or her office if he or
17 she:

Cessation of
Membership

18 (a) becomes subject to a disqualification contemplated in section
19 3(3) of this bill;

20 (b) becomes of unsound mind;

21 (c) is absent without the leave of the secretary for more than two
22 consecutive meetings of the Board.

23 5. There shall be paid to every member of the Board such
24 allowances as the Council may from time to time determine.

Allowances of
Members of
Board

25 PART II - FUNCTIONS OF THE COUNCIL

26 6. The Council shall:

Functions of the
Council

27 (a) determine who are advertising practitioners;

28 (b) determine the individuals or corporate entities of Nigerian or
29 foreign origin entitled to practice advertising in Nigeria and or offer
30 advertising products and services aimed at the Nigerian Advertising market;

1 (c) determining the standards of knowledge and skill to be attained by
2 persons seeking to become registered as members of the advertising profession
3 or render advertising services directed at the Nigerian advertising market and
4 public, and reviewing those standards from time to time;

5 (d) articulate conditions generally under which any advertising
6 practitioner, should seek to practice advertising in Nigeria whether
7 individually or in/with any related agency or company in Nigeria in line with
8 the practice in other recognized professions;

9 (e) determine the categories of practice and specialization for both
10 individual and corporate practitioners under a licensing regime to be reviewed
11 from time to time;

12 (f) securing in accordance with the provisions of this Act, the
13 establishment and maintenance of separate registers for individuals and firms
14 entitled to practise in any form or manner as advertising practitioners including
15 but not limited to artistes, advertising agencies, creative agencies, full service
16 advertising agencies, advertising media, advertising production organizations,
17 regulators, etc and the publication, from time to time, of lists of those persons
18 or firms;

19 (g) set the standard for good advertising within Nigeria including
20 publication and enforcement Codes, Guidelines, Regulations, Proclamations
21 or other subsidiary legislation on content of advertising which shall be the
22 exclusive reserve of the Advertising Practitioners Council for the regulation of
23 sustainable advertising;

24 (h) set the standard for regulation of advertising by various Federal,
25 State and Local Government agencies and entities involved with advertising
26 control particularly as concerns safety, environment and interstate commerce
27 other than regulation of content;

28 (i) minimize multiple regulation within the advertising industry in
29 Nigeria, protecting investment in the sector and ensuring that advertising is
30 conducted in an environmentally sustainable manner;

1 (j) maintain and implement the disbursement of a Beautification
2 Fund to ensure the sustainable aesthetics of the environment from the impact
3 of advertising;

4 (k) ensure the preservation of Nigerian social and cultural heritage
5 through the development and implementation of policies that promote
6 development of cultural integrity, local content and use of indigenous skills
7 as an important element in advertising services offered in Nigeria and or
8 directed at the Nigerian market;

9 (l) formulate and implement regulations and guidelines on industry
10 credit policy from time to time;

11 (m) create a Research and Development Fund aimed at promoting
12 advertising best practice in Nigeria;

13 (n) formulate policy on all activities relating to advertising in
14 Nigeria;

15 (o) conduct examinations in the profession and award certificates
16 or diplomas to successful candidates as and when appropriate and for such
17 purpose the Council shall prescribe fees to be paid in respect thereof;

18 (p) formulate and implement regulations and guidelines in the
19 industry aimed at curbing unfair practices which causes substantial restraint
20 or which may tend to create monopoly in the advertising sector, provided
21 that proposed mergers between any category of advertising agency shall be
22 brought to the notice of the council for approval;

23 (q) without prejudice to the foregoing, ensure the furtherance,
24 maintenance and observance of ethical standards and promote
25 professionalism in the Nigerian Advertising industry whilst bringing
26 Nigerian advertising at par with global best practices;

27 (r) ensure the effective administration, supervision, regulation and
28 control of advertising in Nigeria in all its aspects and ramifications subject
29 only to the approval of the Minister in charge of a sector when that sector
30 relates to a specialized sector;

Powers of the Board

1 (s) co-ordinate and promote research activities on advertising; and
2 (t) perform such other functions as may be permitted by the Board and
3 directed by the Minister pursuant to the provisions of this Bill necessary,
4 incidental and expedient to give effect to the intent of this Bill.

5 7. The Board shall have powers to:

6 (a) manage and superintend the affairs of the Council;

7 (b) on a recommendation from its Registrar General, establish zonal
8 offices in any part of the Federation in accordance with a decision reached at a
9 Council meeting;

10 (c) ratify a decision from its Registrar General appointing/re-
11 assigning zonal heads and heads of departments;

12 (d) establish committees or specialized departments for the purpose
13 of effective regulation and discharge of administrative functions under the Bill;

14 (e) formulate general policies for the regulation and development of
15 the advertising industry;

16 (f) charge, retain and utilise for its purposes costs or penalties
17 imposed for violation of this Bill and subsidiary legislation enacted pursuant
18 thereto;

19 (g) use all legal and appropriate means of enforcement to recover all
20 costs or penalties imposed on any person for the purpose of administration of
21 this Bill:

22 (a) subject to the provisions of this Bill, make; alter, and revoke rules
23 and regulations for carrying out the functions of the Council;

24 (b) with the prior consent of the Minister, borrow or dispose of any
25 property;

26 (c) make and ensure enforcement of regulations relating to
27 advertising in Nigeria;

28 (d) appoint either on transfer, secondment or leave of absence from
29 any public service of the federation or private sector, such number of
30 employees as may, in the opinion of the Board be required to assist the Council

1 in the discharge of any of its functions under this Bill, and shall have power
2 to pay such employees remunerations including allowances as the Board
3 may from time to time determine;

4 (e) accept gifts of land, money or other testamentary dispositions,
5 endowments and contributions on such terms and conditions, if any, as may
6 be specified by the donor of the gift (provided that the Council shall not
7 accept any gift if the conditions attached thereto by the donor are
8 inconsistent with the functions of the Council);

9 (f) have its authorised officers conduct routine and special
10 inspection and investigation of advertising practitioners/firms or persons
11 who hold out themselves as advertisers;

12 (g) for purpose of discharge of its regulatory and supervisory duties
13 in relation to persons engaged in advertising, have access to information
14 from any director, manager and officer, examine whenever necessary under
15 conditions of confidentiality books and affairs of such persons or body
16 corporate subject to its regulation:

17 Provided that when an investigation or an examination is made, reasonable
18 opportunity shall be afforded at all times for the person subject thereto
19 know the nature of the issues arising, make relevant representations vis a vis
20 any proposed steps to be taken by the Council that may be prejudicial to the
21 person's interests, and where a report is made in that regard for the Council's
22 consideration or its relevant committee, such person shall be entitled to a
23 copy of same and any other documents or processes in that regard;

24 (h) subject to the provisions of this Bill, by general or special order
25 in writing, delegate to any member or officer of the Council or any other
26 person subject to such conditions, if any, as may be specified in the order,
27 such of its powers and functions under this Act as it may deem necessary;

28 (i) determine the terms and conditions of service including
29 remunerations of employees;

30 (j) subject to the provisions of this Bill, make staff regulations

1 relating generally to the conditions of service of employees of the Council and
2 without prejudice to the generality of the foregoing, such regulations may
3 provide for:

4 (i) The appointment, promotion and disciplinary control including
5 dismissal of employee of the Council; and

6 (ii) Procedure for appeals by such employees against dismissal or
7 other disciplinary measures,

8 (k) do such other thing which in the opinion of the Board and
9 directives of the Minister are necessary and expedient to ensure the efficient
10 discharge of the functions of the Council.

Power to bestow
honorary
fellowship

11 8. The Council may if it deems fit bestow an honorary fellowship on
12 any deserving person who has distinguished himself in his calling, having
13 spent not less than 15 years in any chosen area of practice and whose
14 contribution is such that it is in the interest of the council to be associated with
15 such person.

16 PART III - STRUCTURE OF THE COUNCIL

Structure of
the Council

17 9.-(1) For the purposes of effective administration, the Council shall
18 be structured into four operational departments as follows:

- 19 (a) Administration;
- 20 (b) Operations Department; and
- 21 (c) Corporate Services.

22 (2) The Board may create additional departments and Committees
23 based on management recommendation and prevailing circumstances.

24 (3) Each Department shall be managed by a Director who is charged
25 with the responsibility of coordinating the functions of such department as
26 spelt out in the Administrative manual of the Council.

27 PART IV - STAFF OF THE COUNCIL

Staff of the
Council

28 10.-(1) There shall be appointed for the Council, a Registrar General
29 who shall be the Chief Executive and Accounting Officer of the Council.

30 (2) The Registrar General is responsible for the general

1 administration of the Council.

2 (3) The Registrar General shall be:

3 (a) a fit and proper person, being a member of the Council with
4 suitable degree of skill and experience in advertising; and

5 (b) of proven integrity and ability.

6 (4) The Registrar General shall keep the records of proceedings
7 and decisions of the Board and such other functions as the Board may from
8 time to time direct.

9 (5) The Registrar General shall hold office on such terms and
10 conditions as are specified in his letter of appointment.

11 11.-(1) The Board shall appoint for the Council such number of
12 employees as may in the opinion of the Board be expedient and necessary
13 for the proper and efficient performance of the functions of the Council.

Other staff of
the Council

14 (2) The terms and conditions of service (including remuneration,
15 allowances, benefits and pensions) of the employees of the Council shall be
16 as determined by the Board after consultation with the Minister and the
17 Federal Civil Service Commission.

18 12. Service in the Council to be pensionable under the subsisting
19 Pensions Act.

Staff Pension

20 PART V - FINANCIAL PROVISIONS

21 13.-(1) There shall be established and maintained by the Council, a
22 Fund into which shall be paid and credited:

Financial
Provisions

23 (a) all allocations from the Federal Government;

24 (b) such monies as may, from time to time, be lent, deposited or
25 granted to the Council by the Government of the Federation or of a State;

26 (c) all Grants received from both local and international
27 organization for the purpose of the Council;

28 (d) penalties, fees, charges, administrative costs of proceedings,
29 and other moneys payable to the Council in pursuance of this Bill;

30 (e) 0.20 percentage of the yearly turnover of all advertising

1 businesses performed by registered persons and licensed bodies;

2 (f) Beautification Fund appropriated by the National Assembly;

3 (g) all monies received by the Council as gifts, loans, contributions,
4 testamentary deposition or donations; and

5 (h) all other monies and assets which may accrue to the Fund from
6 time to time.

7 (2) The Fund shall be managed in accordance with rules made by the
8 President and without prejudice to the generality of the power to make rules
9 under this subsection, the rules shall in particular contain provisions:

10 (a) Specifying the manner in which the assets of the Fund are to be
11 held and regulating the making payments into and out of the Fund; and

12 (b) Requiring the keeping of proper accounts and records for the
13 purposes of the Fund in such form as may be specified in the rules.

Expenditure
of the Council

14 14. The Council shall apply the proceeds of the fund established
15 pursuant to Section 12 of this Bill to:

16 (i) cost of administration of the Council;

17 (ii) payment of salaries, fees, remuneration, bills, rent;

18 (iii) cost of maintenance of any property acquired or vested in the
19 Council;

20 (iv) capital expenditure approved by the Council;

21 (v) allowances, salaries, remuneration, pensions and gratuities
22 payable to the members of the Board specified in section 5 of this Bill or any
23 Committee of the Board and the employees of the Council, so however that no
24 payment of any kind under this paragraph (except such as may be expressly
25 authorized by the Board) shall be made to any person who is in receipt of
26 emolument from the government of the Federation or a State;

27 (vi) the payment for all contracts, including mobilisation,
28 fluctuations, variations, legal fees and cost on contract administration;

29 (vii) disbursement pursuant to approved beautification plans for
30 advertising environment nationwide:

1 (viii) to the payment for all purchases; and

2 (ix) to undertaking such other expenses and activities as are
3 connected with all or any of the functions of the Council under this Bill.

4 15.-(1) The Council may accept gifts of land, money or other Gifts to the
5 property on such terms and conditions; considered lawful. Council

6 (2) The Council shall not accept any gift if the conditions attached
7 by the person or organization making the gift are inconsistent with the
8 functions of the Council under this Bill.

9 16. The Council may, with the consent of the Minister, borrow, on Power to borrow
10 such terms and conditions as the Council may require in the exercise of its
11 functions under this Bill.

12 17.-(1) The Board shall, not later than 30th September of each year, Annual Estimates
13 submit to the Minister, an estimate of the expenditure and income (including and Expenditure
14 payments to the Council Fund) for the next succeeding year.

15 (2) The Board shall cause to be kept proper accounts of the Council
16 in respect of each year and proper records in relation thereto and shall cause
17 the accounts to be audited not later than 6 months after the end of each year
18 by auditors appointed from the list in accordance with the guidelines
19 supplied by the Auditor-General of the Federation.

20 18. The Board shall, at the end of every quarter in each year, Quarterly Report
21 submit to the President a report on the activities and administration of the
22 Council.

23 19.-(1) The Board shall prepare and submit to the Minister, not Annual Report
24 later than 30th June in each year, a report in such form as the President may
25 direct on the activities of the Council during the immediately preceding
26 year, and shall include in the report a copy of the audited accounts of the
27 Council for that year and auditor's report thereon.

28 (2) The Minister shall, upon receipt of the report referred to in
29 subsection (1) of this section, cause a copy of the report and the audited
30 accounts of the Council and the auditor's report thereon to be submitted to

1 the National Assembly.

2 PART VI - REGISTRATION AND REGULATION OF INDIVIDUALS AND
3 FIRMS ENGAGED IN ADVERTISING

Registration of
individuals
corporate persons

4 **20.-(1)** Every person or corporate person as defined in this Bill or any
5 subsidiary legislation made pursuant thereto, who intends to practice or
6 continue to practice advertising in the Nigerian Advertising market or
7 commence operation or operate as an advertising outfit or carry on advertising
8 business or profession shall be registered with the Council in accordance with
9 the provisions of this Bill and subsidiary legislation made under it.

10 (2) Registration of individuals or corporate bodies shall be in the
11 prescribed form and in the manner specified under this Bill and subsidiary
12 legislation made under it including but not limited to the level of knowledge
13 and skill required to operate in the Nigerian Advertising market. In particular,
14 the Council shall from time to time through subsidiary legislation/mandatory
15 guidelines make detailed provisions for licensing of different categories of
16 advertising organizations/firms engaged in advertising business which is
17 directed at the Nigerian market. The Council shall issue a certificate of
18 registration/license to any person or body corporate indicating the relevant
19 category/area of specialization they can operate.

20 (3) The level of foreign participation in an agency incorporated in
21 Nigeria would determine whether the proposed advertising firm is to do
22 business directed at the Nigerian market as a Foreign or National agency.

23 (4) Both Foreign and National Agencies applying for license must
24 comply with the requirements for licence as set out in the Nigerian Advertising
25 Practitioners Code and or any other mandatory guidelines published by the
26 Council from time to time pursuant to its mandate under this Bill.

27 (5) In granting license to a corporate body to conduct any approved
28 form of advertising business, the Council shall ensure that the interest of the
29 public is served by developing adequate rules for that purpose.

30 (6) The Council may revoke any license granted to a body corporate

1 where the body corporate is insolvent, wound up or operating in a manner
2 detrimental to the interests of the public, provided that no decision to revoke
3 existing license shall be made unless the body corporate has been given the
4 opportunity of being heard.

5 (7) Where the interest of the public may so require, the Council
6 may apply at the Federal High Court for the winding up of the affairs of the
7 body corporate whose license has been revoked.

8 21.-(1) The Registrar shall prepare and maintain, in accordance
9 with rules made by the Council under this section, a register of the names,
10 addresses, approved qualifications and of such other particulars as may be
11 specified of all persons who are entitled in accordance with the provisions of
12 this Act to be registered as fellows, full members, associates or students of
13 the profession and who apply in the specified manner to be so registered.

Preparation and
maintenance of
register

14 (2) Subject to the provisions of this section, the Council shall make
15 rules with respect to the form of keeping of the register and the making of
16 entries therein, and in particular-

17 (a) regulating the making of applications for registration and
18 providing for the evidence to be produced in support of application;

19 (b) providing for the notification to the Registrar by the person to
20 who any registered particulars relate, of any change in those particulars;

21 (c) authorising a registered person to have any qualification which
22 is, in relation to his profession, an approved qualification or an accepted
23 qualification under section 14 (2) of this Act, registered in relation to his
24 name in addition to or, as he may elect in substitution for any other
25 qualifications so registered;

26 (d) specifying anything failing to be specified under the foregoing
27 provisions of this section;

28 (e) specifying the fees to be paid to the Council in respect of the
29 entry of names on the register and authorising the Registrar to refuse to enter
30 a name on the register until any fees specified for entry has been paid.

1 (3) The Registrar shall:

2 (a) correct, in accordance with the directions of the Council, any entry
3 in the register which the Council directs him to correct as being in the opinion
4 of the Council an entry which was incorrectly made;

5 (b) make, from time to time, any necessary alterations to the
6 registered particulars or registered persons;

7 (c) remove from the register the name of any registered person who
8 has died, has become insane or has committed an act of gross misconduct.

9 (4) If the Registrar:

10 (a) should send by post to any registered person a registered letter
11 addressed to him at his address on the register enquiring whether the registered
12 particulars relating to him are correct and receives no reply to that letter within
13 three months from the date of posting it; and (b) upon the expiration of the
14 period sends in like manner to the persons in question a second letter and
15 receives no reply to that letter within three months from the date of posting, the
16 Registrar may remove the particulars relating to the person in question from the
17 register but the Council may direct the Registrar to restore to the register any
18 particulars removed therefrom under this subsection.

19 (5) The Registrar shall also prepare and maintain, in accordance with
20 rules made by the Council under this section, a register of the names, addresses,
21 conditions of license and such other particulars as may be necessary of all
22 corporate bodies or persons who are licensed to practice under any of the
23 categories listed in section 2(4)(e) and or additional categories created under
24 any subsidiary legislation made pursuant to this Bill. The other provisions of
25 this section as well as section 12 shall apply to this subsection with such
26 modifications as are necessary.

Publication of
register and lists
of correction

27 22.-(1) The Registrar shall:

28 (a) cause the register to be printed, published and put on sale to
29 members of the public not later than one year from the beginning of the year in
30 which this Act comes into force;

1 (b) in each year after that in which a register is first published under
2 paragraph(a) of this subsection, cause to be printed, published and put on
3 sale as aforesaid either a corrected edition of the register or a list of
4 alterations made to each register since it was last printed; and

5 (c) cause a print of each edition or the register and of each list of
6 corrections to be deposited at the principal office to the Council, and the
7 Council shall keep each register and lists so deposited open at all reasonable
8 times for inspection by members of the public.

9 (2) A document purporting to be a print of an edition of a register
10 published under this section by authority of the Registrar in the current year
11 or documents purporting to be prints of an edition of a register so published
12 in the current year, shall (without prejudice to any other mode of proof) be
13 admissible in any proceedings as evidence that any person or corporate body
14 specified in the document, or the documents read together, as being
15 registered is so registered and that any person not so specified is not so
16 registered.

17 23. The register maintained under this Bill for individual persons
18 shall Division of register consist of four parts:

Division of
register

- 19 (a) Honorary Fellows;
20 (b) fellows;
21 (c) full members; and
22 (d) associate members.

23 24.-(1) A person shall be entitled to be registered as a student
24 member of Registration the profession and being so registered to receive a
25 certificate of registration if he satisfies the Council that he is undergoing a
26 course of studies recognised by the Council leading to a qualification in the
27 profession in an institution approved by the Council.

Registration

28 (2) A person shall be entitled to be registered as an associate
29 member of the profession and being so registered to receive a certificate of
30 registration if:

1 (a) he holds a University Degree or Higher National Diploma in mass
2 communication or other professional qualification recognised by the Council
3 and he is employed in a recognised organisation where he can acquire
4 professional experience;

5 (b) he is of good character;

6 (c) he has not been convicted in Nigeria or elsewhere of an offence
7 involving fraud or dishonesty; and

8 (d) he has attained the age of 21 years.

9 (3) A person shall be entitled to be registered as a full member of the
10 profession and being so registered to receive a certificate of registration if:

11 (a) he fulfils the conditions for registration under subsection(2) of this
12 section; and

13 (b) he satisfies the Council that in the five years immediately
14 preceding the date of his application, he has been in continuous active practice
15 as an advertising practitioner either alone or in partnership with other
16 advertising practitioners;

17 Provided that a person having no formal education as stated in
18 subsection 2 (a) above shall be entitled to be registered as a full member of the
19 profession and being so registered to receive the certificate having certified as
20 having practiced advertising for a period not less than 7 years and if he satisfies
21 the conditions stated under subsection 2 (b)- (d).

22 (4) A person shall be entitled to be registered as a fellow of the
23 profession and being so registered to receive a certificate of registration if:

24 (a) he fulfils the conditions for registration under subsection (2) or (3)
25 of this section; and

26 (b) he satisfies the Council that in the fifteen years immediately
27 preceding the date of his application, he has been in continuous active practice
28 with other advertising practitioners, and has in the opinion of the Council made
29 significant contributions to the advertising profession.

30 (5) The Council may in its absolute discretion provisionally accept a

1 qualification produced in respect of an application for registration under this
2 section or direct that the application be received within such period as may
3 be specified in the direction.

4 (6) The Council shall, from time to time, publish in the Federal
5 Gazette particulars of the qualifications for the time being accepted for
6 registration.

7 PART VII - REGULATORY STANDARD AND ENVIRONMENT

8 25.-(1) The Council shall set the standards for regulation by all
9 government agencies whether Federal, State or Local Government involved
10 with advertising control with intent to minimize multiple regulation and
11 taxes, reduce the cost of advertising, protect investment in advertising,
12 maintain aesthetic of advertising environment, maintain safety and
13 encourage sustainable advertising.

Setting regulatory
standards

14 (2) Before setting standards for regulation the Council shall
15 undertake a consultative process to enable it receive input from the affected
16 regulators, advertising practitioners, the advertisers, consumers of
17 advertising, all stakeholders and the general public.

18 (3) Every regulator involved with advertising control shall comply
19 with the standards of regulation set by the Council.

20 (4) Breach of the standard of regulation shall entitle any affected
21 person to right of action for relief as may be appropriate to be granted by the
22 court against any offending regulator.

23 (5) Every registered practitioner who practices as a regulator in any
24 government agency (State, Federal or Local Government) which is in
25 breach of the standard of regulation shall be subject to discipline under this
26 Bill.

27 (6) Subject to the provisions of the Constitution, every regulator
28 shall compensate any individual or corporate body for any loss of property
29 occasioned by the removal of outdoor advertisements, signages, equipment,
30 etc before the term granted under existing control permit.

1 (7) Any law which seeks to empower removal before expiration of
2 valid control permit and without due process and provision for compensation
3 shall be invalid and it shall be the duty of Council to intervene as a matter of
4 first recourse and resolve disputes arising from enforcement actions of
5 regulatory agencies.

Beautification
Fund

6 26.-(1) The Council shall design a national plan for the beautification
7 of the environment particularly the highways and roads to ensure safety and
8 environmental sustainability of advertising.

9 (2) The Council shall update the national plan from time to time and
10 shall be responsible for implementation of the plan through capital projects
11 under the Beautification Fund set up under this Bill or setting of standards of
12 regulation for relevant regulator involved with advertising control.

13 (3) No regulator who is in breach of standards of regulation set by the
14 Council shall be entitled to grants under the Beautification Fund for capital
15 projects for sustainable advertising environment.

Research and
Development
Fund

16 27.-(1) There is hereby established a fund to be known as the APCON
17 Research and Development Fund (in this Act referred to as "the Fund") into
18 which shall be paid:

19 (a) such sums as may be provided or appropriated by the Council from
20 its fund for the purpose of Research and development; and

21 (b) such sums as may be provided for that purpose by the Federal
22 Government.

Utilization of
the Fund

23 28.-(1) The Fund shall be utilized to promote and encourage
24 international best practices in the Advertising Sector.

25 PART VIII - TRAINING

Approval of
courses

26 29.-(1) The Council may approve for the purpose of section 12 of this
27 Act:

28 (a) any course of training which is intended for persons seeking to
29 become members of the profession under this Act and which the Council
30 considers is designed to confer on persons completing it sufficient knowledge

1 and skill for the practice of the profession;

2 (b) any institution either in Nigeria or elsewhere which the Council
3 considers is properly organised and equipped for conducting the whole or
4 any part of the course of training approved by the Council under this section;

5 (c) any qualification which, as a result of examination taken in
6 conjunction with the course of training approved by the Council under this
7 section, is granted to candidates reaching a standard at the examination
8 indicating, in the opinion of the Council, that they have sufficient
9 knowledge and skill to practise the profession.

10 (2) The Council may, if it thinks fit, withdraw any approval given
11 under this section in respect of any course, qualification or institution but
12 before withdrawing such an approval, the Council shall:

13 (a) give notice that it proposes to do so to persons by whom' the
14 course is conducted or the qualification is granted or the institution is
15 controlled, as the case may be;

16 (b) afford each such person or institution an opportunity of making
17 to the Council representation with regard to the proposal; and

18 (c) take into consideration any representations made in respect of
19 the proposal in pursuance of paragraph(b) of this subsection.

20 (3) In relation to subsection b above, such person or institution is
21 expected to make a written representation and deliver same to the Council
22 within 21 days next after the notice of withdrawal of approval after which
23 the Council may fix a date for oral representation by such person or
24 institution where the person/institution requires any further clarification on
25 any issue.

26 (4) The giving or withdrawal of an approval under this section shall
27 have effect from such date, after the execution of the instrument signifying
28 the giving or withdrawal of the approval, as the Council may specify in the
29 instrument, and the Council shall:

30 (a) as soon as may be, publish a copy of every instrument in the

1 Federal Gazette;

2 (b) not later than seven days before its publication as aforesaid send a
3 copy of the instrument to the Minister.

Supervision of
institution and
examination
leading to
qualification

4 30.-(1) The Council shall keep itself informed of the nature of:

5 (a) the instruction given at approved institutions to persons attending
6 approved courses of training; and

7 (b) the examinations as a result of which approved qualifications are
8 granted; and

9 (c) for the purpose of performing that duty, the Council may appoint,
10 either from among its own members or otherwise, persons to visit approved
11 institutions or attend such examinations.

12 (2) It shall be the duty of a visitor appointed under subsection (1) of
13 this section to report to the Council on:

14 (a) the adequacy of the instruction given to persons attending
15 approved courses of training at institutions visited by him;

16 (b) the adequacy of the examination attended by him; and

17 (c) any other matter relating to the institutions or examinations which
18 the Council may, either generally or in a particular case, request him to report,
19 but no Visitor shall interfere with the giving of any instruction or the holding of
20 any examination,

21 (3) On receiving a report made in pursuance of this section, the
22 Council shall, as soon as may be, send a copy of the report to the person
23 appearing to the Council to be in charge of the institution or responsible for the
24 examinations to which the report relates requesting that person to make
25 representations to the Council within such time as may be specified in the
26 request not being more than one month beginning with the date of the request.

27 31.-(1) The Council may, if it thinks fit, consider and report to the
28 Minister upon all matters relating to the professional training and other
29 qualifications required for admission to the profession under this Act and the
30 conditions of practice after registration,

Power of the
Council to
consider matters
relating to
training etc.

1 (2) The Minister may require the Council to advise him on any
2 matter referred to in subsection (1) of this section,

3 PART IX - PRIVILEGES OF REGISTERED PERSONS AND OFFENCES BY

4 UNREGISTERED PERSONS

5 32. A certificate required by any written law from any class of
6 persons for whom a register is maintained under this Act shall not be valid,
7 unless otherwise where such certificate is signed by a person registered
8 under the Bill.

Certificate invalid
if given by
unregistered person

9 33.-(1) Subject to the provisions of this Act, no person, not being
10 registered in accordance with this Act, shall be entitled to hold any
11 appointment in the public service of the Federation or of a State or in any
12 public or private establishment, body or institution, if the holding of such
13 appointment involves the performance by him in Nigeria of any act
14 pertaining to the profession for gain.

Appointment not
to be held by
unregistered person

15 (2) Nothing in this section or in any other provisions of this Part of
16 this Act shall prevent a person from holding any appointment referred to in
17 subsection (1) of this section while he is undergoing training for the purpose
18 of becoming qualified for registration under this Act under the supervision
19 of persons who are registered in accordance with this Act.

20 34.-(1) Any individual person or corporate body, not being
21 registered in any register established under section 13 of this Act, who has
22 failed, refused or neglected to comply with the conditions and requirements
23 for practice of the profession of advertising as stipulated under this Bill, who
24 holds himself out either to be registered as advertising practitioner, or uses
25 any name, title, description or symbol calculated to lead any person to infer
26 that he is so registered, or who holds himself out as an advertising
27 practitioner or professional simpliciter, shall be guilty of an offence and
28 liable:

Prohibition of a
person falsely
professing to be
an advertising
practitioner of
professional

29 (a) on conviction of first offence to a fine of not more than One
30 Hundred Thousand Naira in case of an individual and the sum of not more

1 than Two Hundred Thousand Naira in the case of a corporate body or
2 imprisonment for a term of 6 months or both such fine and imprisonment; and

3 (b) on subsequent conviction to a fine of not more than One Hundred
4 and Fifty Thousand Naira in case of an individual and the sum of not more than
5 Five Hundred Thousand Naira in case of a corporate body or imprisonment of
6 12 months or both fine and imprisonment.

7 (2) Save where the person concerned expressly challenges the
8 administrative procedure commenced against such person, the Council may, in
9 lieu of prosecution of the offence prescribed in sub section 1 of this section,
10 sanction a person who violates the provisions of this section by imposing a
11 financial penalty within the range applicable as stated in sub section 1 and by
12 prohibiting such person from engaging in advertising business activity until
13 such time that the person commences the process of registration.

14 (3) Where however in the course of its investigation, the Council
15 discovers evidence of possible criminality distinct from the offence described
16 in subsection 1, the Council shall be obliged to pass such information to the
17 appropriate criminal authorities, such as the office of the Attorney General of
18 the Federation, Attorney General of the State, the Nigerian Police Force, the
19 Economic and Financial Crimes Commission, and Independent Corrupt
20 Practices Commission ICPC.

21 (4) the provisions of subsections 1 and 2 of this section shall take
22 effect only after the expiration of a moratorium period of 12 months from the
23 enactment of this Bill.

Recovery of
fees

24 35. No remuneration shall be recoverable by way of legal
25 proceedings in respect of any act pertaining to the profession of advertising
26 when performed by a person who is not entitled under this law to perform such
27 act for gain.

Offences

28 36.-(1) Any person, who for the purpose of procuring the registration
29 of any name, qualification or other matter:

30 (a) makes a false statement in a material particular; or

1 (b) recklessly makes a statement which is false in a material
2 particular, shall be guilty of an offence under this section.

3 (2) If the Registrar or any other person employed by the Council
4 wilfully makes any falsification in any matter relating to any register
5 maintained under this Act, he shall be guilty of an offence under this section.

6 (3) A person guilty of an offence under this section shall be liable to
7 a fine not exceeding One Hundred Thousand Naira, in the case of individual
8 and Two Hundred and Fifty Thousand Naira for corporate bodies or 1 year
9 imprisonment or both fine and imprisonment.

10 (4) Where an offence under this Part of this Act which has been
11 committed by a body corporate is proved to have been committed with the
12 connivance of or to be attributable to any neglect on the part of any director,
13 manager, secretary or other similar officer of the body corporate or any
14 person purporting to act in any such capacity, he, as well as the body
15 corporate, shall be deemed to be guilty of that offence and punished
16 accordingly.

17 37:-(1) In any criminal proceedings against any person upon a
18 charge of having performed an act which constitutes an offence if performed
19 by an unregistered person, the person charged shall be deemed to be
20 unregistered unless he proves the contrary.

Burden of proof

21 (2) Where an administrative procedure or disciplinary proceedings
22 are initiated against any person, the burden of proof shall lie on the
23 investigating arm of the Council or legal representative to establish the
24 alleged violation of a provision of this Bill.

25 PART X - DISCIPLINE

26 38:-(1) There shall be established a disciplinary committee to be
27 known as the Advertising Practitioners Disciplinary Committee (in this Act
28 referred to as "the Disciplinary Committee") which shall be charged with the
29 duty of considering and determining any case referred to it by the panel
30 established by the following provision of this Act.

Establishment
of the Disciplinary
Committee and
Investigating Panel

1 (2) The Disciplinary Committee shall be made up of Ten (10)
2 members and its composition shall be as follows:

3 (a) a full time Chairman who shall be a legal practitioner of not less
4 than fifteen years with cognate experience in Advertising matters;

5 (b) three other full time Members, two of whom shall be Legal
6 Practitioners of not less than 10 years experience and one person who shall be
7 knowledgeable in Advertising matters who shall devote themselves to issues
8 relating to adjudication and shall not exercise any administrative function;

9 (c) three other part time members of the council who shall be
10 representative of the relevant advertising agencies, and whose composition
11 shall at any given case depend on the area of advertising practice involved.

12 (3) For the purpose of exercising any jurisdiction conferred by this
13 Act, the Disciplinary Committee shall be duly constituted if it consists of the
14 Chairman, and 2 other members of the Disciplinary Committee.

15 (4) The Chairman of the Disciplinary Committee may constitute a
16 panel of three (3) from its membership whenever he deems it necessary for the
17 purpose of exercising the jurisdiction vested in the Disciplinary Committee by
18 this Act or any other Act provided that:

19 (a) a member presiding as chairman of any panel shall be a legal
20 practitioner; and

21 (b) for the purpose of this Act, the sitting of any of such panel shall be
22 deemed a Constitution of the Disciplinary Committee.

23 (5) There shall be established a body to be known as the Advertising
24 Practice Investigating Panel (hereafter in this Act referred to as "the
25 Investigating Panel ") which shall be charged with the duty of:

26 (a) conducting preliminary investigation into any case where it is
27 alleged that a registered person, advertising agency, advertising practitioner,
28 media house has misbehaved in his capacity as such, or should for any other
29 reason be the subject of proceedings before the Disciplinary Committee; and

1 (b) deciding whether the case should be referred to the Disciplinary
2 Committee.

3 (6) The Investigating Panel shall be appointed by the Council and
4 shall consist of five members of the Council.

5 (6) The provisions of the Second Schedule to this Act shall, in so far
6 as is applicable to the Disciplinary Committee and the Investigating Panel
7 respectively, have effect with respect to those bodies.

8 39.-(1) Without prejudice to the rights of parties to go to Court if
9 they do not ab initio assent to an industry driven arbitration under the
10 auspices of the Council, where a dispute arises between; advertising
11 practitioners, advertising practitioners and their clients, advertising
12 practitioners and regulatory agencies, media houses and advertisers, or any
13 stakeholder in the advertising industry and their clients, in relation to the
14 provisions or operation of this Bill, such disputes may be referred to a panel
15 set up by the council for arbitration.

Alternative
Dispute Remedy

16 (2) The Panel set up by the Council shall be known as the
17 "Advertising Practice Arbitration Panel" and the Panel shall make such rules
18 of procedure which shall be applicable for the arbitral proceedings.

19 (3) In the event of any dispute between parties in respect of the
20 provisions of this Bill, the aggrieved party or complainant shall issue a letter
21 of notification to the other party, formally notifying the party of the dispute.

22 (4) In the event of failure to reach amicable settlement within 45
23 days of the date of the letter of notification stated above, such dispute may be
24 submitted to Arbitration before the Advertising Practice Arbitration Panel.

25 (5) The Arbitration Panel shall be responsible for effecting prompt
26 settlement of any dispute arising between parties in relation to the provisions
27 of this Bill.

28 (6) The ruling of the panel, where parties have submitted to its
29 jurisdiction, shall be binding on the parties and no appeal shall lie from a
30 decision of the panel to any court of law or tribunal.

1 (7) The provisions of the Arbitration and Conciliation Act CAP. A18,
2 LFN 2004 or any amendment thereof shall be applied, by the Panel in
3 determination of advertising disputes, brought pursuant to the provisions of
4 this Bill.

Establishment
of Advertising
Standards Panel

5 40.-(1) There shall be established by the Council, a panel to be known
6 as the Advertising Standards Panel (in this Act referred to as "the Standards
7 Panel") which shall be charged with the duty of ensuring that advertisements
8 conform with the prevailing Laws of the Federation as well as the codes of
9 ethics of the advertising profession.

Alternative
Dispute Resolution

10 (2) The Standards Panel shall consist of not less than three members
11 of the Council and the following other members, that is:

12 (a) two representatives each of the following associations namely:

13 (i) the Association of Advertising Agencies of Nigeria;

14 (ii) the Newspapers Proprietors Association of Nigeria;

15 (iii) the Consumers Association;

16 (iv) the Outdoor Advertising Association;

17 (b) three representatives of the Food and Drug Unit of the Federal
18 Ministry of Health;

19 (c) two representatives each of:

20 (i) advertisers;

21 (ii) National Council of Women Societies;

22 (iii) the electronic media;

23 (iv) the Central Bank of Nigeria and other financial institutions;

24 (v) state advertising regulatory agencies.

25 (3) A member of the Standards Panel other than a member of the
26 Council shall hold office on such terms and conditions as may be contained in
27 his letter of appointment.

28 (4) A decision of the Standards Panel shall have effect except when
29 nullified by the Council on appeal.

1 41.-(1) An agency which creates and/or places for publication or
2 exposure of an advertisement without the ASP Certificate of Approval shall
3 be liable to such fine stated in the Advertising Code of Practice for the time
4 being in force.

Council's power to award financial penalties for unauthorise publication/exposure of advertisement without ASP approval

5 (2) An advertiser who authorises the publication or exposure of an
6 advertisement without the ASP Certificate of Approval shall be liable to
7 such fine stated in the Advertising Code of Practice for the time being in
8 force.

9 (3) An advertising practitioner who publishes, exposes or
10 knowingly aids the publication or exposure of an advertisement without the
11 ASP Certificate of Approval shall be subject to the APCON disciplinary
12 procedure notwithstanding the payment by his employer of the appropriate
13 penalty.

14 42.-(1) Every licence granted for the publication or display of
15 adverts in any media e.g. radio, television, print media, online ads, outdoor
16 adverts etc. shall be properly documented by the licensing authority.

Procedural safeguards license, notice, revocation, enforcement and compensation

17 (2) The licensing authority may vary the conditions for the licence
18 after giving reasonable notice to the licensee, and any such variance may
19 only take effect after the expiration of the existing license.

20 (3) An advertising licence already granted and communicated to a
21 licensee or holder for the time being may be revoked by the issuing authority
22 which shall serve a notice of its intention to revoke the license in accordance
23 with the provisions of this Bill.

24 (4) The Notice of revocation must state the reason(s) for revocation
25 and must also afford the licensee a reasonable opportunity to make
26 representation before revocation is effected. Except the term of the license
27 make it impossible, the period of notice should not be less than 30 days.

28 (5) No adverts published or displayed in any media (including
29 outdoor adverts and sign ages) may be discontinued with or removed during
30 the term of the license in an arbitrary manner. The notice for the expiration of

1 the license must first elapse, provided that in certain extreme cases involving
2 public policy (public health, safety, security etc) removal of adverts contrary to
3 the procedure provided for in this Act may be allowed.

Appeal

4 **43.** An appeal against any revocation of advertising license or permit
5 Appeal may be referred to the Council within 28 days of the decision to revoke
6 the license. Provided that no appeal may operate to extend the term of an
7 advertising license.

Enforcement

8 **44.**-(1) The Regulatory agency or issuing authority of an advertising
9 license Enforcement may serve an enforcement notice on a licensee wherever
10 any advertisement is displayed without its approval or upon the expiration of
11 the notice of revocation, where an appeal has not been made in accordance with
12 the provisions of this Bill.

13 (2) An enforcement notice may be issued pursuant to subsection (1) of
14 this section notwithstanding that the unauthorised advertisement took place
15 before the commencement of this Bill.

16 (3) An enforcement notice served pursuant to subsection (1) of this
17 section may direct the advertising licensee to alter, vary, remove, discontinue a
18 displayed advert.

19 (4) Before issuing or serving an enforcement notice in accordance
20 with (4) the provisions of subsection (1) of this section, the regulatory agency
21 or issuing authority shall:

22 (a) have regard to the existing conditions for granting license;

23 (b) have regard to the likely impact on the safety, health and security
24 of the public, which the displayed advert may have;

25 (c) consider the over-riding public interest without prejudice to
26 paragraph (b) of this section.

27 (5) An enforcement notice served under this section of the Act by the
28 regulatory agency or issuing authority shall:

29 (a) be in writing and communicated to the advertising licensee;

30 (b) state the reasons for the proposed action of the regulatory agency

1 or issuing authority;

2 (c) consider any representation made by the licensee or on behalf of
3 the licensee;

4 (d) may require a licensee to remove, or discontinue an advert
5 placement or display to ensure that the advert becomes a lawful advert

6 (6) A regulatory agency or issuing authority or its authorised agent
7 may effect an enforcement order against a licensee who fails to comply with
8 an enforcement order.

9 (7) A licensee or holder of an advertising licence for the time being
10 of an advertising license/permit shall be liable for all expenses reasonably
11 incurred by the regulatory agency or issuing authority or any of its officers or
12 agents, as the case may be, in enforcing the provisions of this Bill.

13 45.-(1) The Issuance of stop-display or stop work order for
14 unauthorized erection and display of adverts may apply, where it appears to
15 the regulatory agency or issuing authority that:

Issuance of stop
display order

16 (a) an unauthorised mounting or display of advert is being carried
17 out; or

18 (b) where a advert does not comply with a advertising
19 licence/permit issued, the regulatory agency or issuing authority shall issue
20 a stop-work order pending the service of an enforcement notice on the
21 licensee: Provided that where the advert cases of minor infraction, the
22 regulatory agency or issuing authority shall have the power to order the
23 licensee to alter, remove or discontinue the advertisement.

24 (2) A stop display or stop -work order shall take immediate effect
25 upon service on a licensee for the time being.

26 (3) The regulatory agency or licensing authority shall give a
27 reasonable time frame within which the licensee shall be required to comply
28 with a stop work order.

29 46.-(1) Compensation shall be payable for the revocation of an
30 advertising license to a licensee or the holder for the time being of an

Compensation
payable for
revocation of an
advertising license

1 advertising license if:

2 (a) legitimate display of advertisement has commenced; or the
3 advertising licensee or holder is liable under an existing contract to a third party
4 to damages for a breach of contract; or

5 (b) the advertising licensee has incurred any expense or has suffered a
6 loss during the process of obtaining the license.

7 (2) The amount of compensation payable under section 32 of this Bill
8 shall be such as to reimburse the licensee or holder for the time of an
9 advertising license of the directly ascertainable losses incurred as a result of the
10 revocation and shall not be in the form of payment of damages or in excess of
11 the sum incurred by the licensee.

12 (3) No compensation shall be payable under this section if:

13 (a) an advertisement is not in accordance with the terms and
14 conditions under which the advertising license was granted; or

15 (b) neither an appeal to the council nor a claim for compensation is
16 made 28 days after a notice of revocation by a regulator is served on the
17 licensee or the holder for the time being of an advertising license:

18 Provided that time to claim for compensation does not run when an
19 appeal against revocation by a regulator is made to the Council.

Time limit for
payment of
compensation

20 47. Compensation payable under this section shall be paid not later
21 than 60 days after a claim for compensation had been made, (2)

Proceedings of
Disciplinary
Committee

22 48.-(1) At any meeting of the Disciplinary Committee, three members
23 shall form a quorum.

24 (2) The Chairman shall preside at any meeting of the Disciplinary
25 Committee or in his absence the members present at the meeting shall appoint
26 one of the members to preside at the meeting.

27 (3) Any question proposed for decision by the Disciplinary
28 Committee shall be determined by the majority of the members present and
29 voting at a meeting of the Disciplinary Committee at which a quorum is
30 present.

1 (4) At any meetings of the Disciplinary Committee each member
2 present shall have one vote on a question proposed for decision by the
3 Disciplinary Committee, and in the event of an equality of votes, the
4 chairman shall have, in addition to a deliberative vote, a casting vote,

5 49.-(1) Where:

6 (a) a person registered under this Act is convicted by any court or
7 tribunal in Nigeria or elsewhere having power to award punishment for an
8 offence (whether or not an offence punishable with imprisonment) which in
9 the opinion of the disciplinary committee is incompatible with the status of
10 such professional;

11 (b) a registered person is judged by the disciplinary committee to
12 be guilty of infamous conduct in a professional respect; or

13 (c) the disciplinary committee is satisfied that the name of any
14 person has been fraudulently registered, the disciplinary committee may
15 give any of the directions mentioned in subsection (2) of this section,

16 (2) The disciplinary committee may as circumstances require give
17 any direction under subsection (1) of this section:

18 (a) ordering the Registrar to strike the person's name off the
19 relevant part of the register;

20 (b) suspending the person from practice for a period not more than
21 3 year;

22 (c) order that a formal reprimand letter be written to the person or
23 organization in default if such is a first time offence;

24 (d) ordering the person to pay to the Council any costs of and
25 incidental, to the proceedings or any other sums of money whatsoever
26 incurred by the Council; or

27 (e) cautioning the person and postponing for a period not
28 exceeding one year any further action against him on one or more conditions
29 as to his conduct during that period, and any such direction may, where
30 appropriate, include provisions requiring the refund of moneys paid or the

Penalties for
unprofessional
conduct

1 handing over of documents or any other thing, as the case may require.

2 (3) For the purposes of subsection (1) of this section, a person shall
3 not be treated as convicted unless the conviction stands at a time when no
4 appeal or further appeal is pending or may (without extension of time) be
5 brought in connection with the conviction.

6 (4) In any inquiry under this section, any finding of fact which is
7 shown to have been made in:

8 (a) any criminal proceedings in a court in Nigeria; or

9 (b) any civil proceedings in a court in Nigeria, shall be conclusive
10 evidence of the fact found.

11 (5) If, after due inquiry, the disciplinary committee is satisfied that
12 during the period of any postponement under paragraph (e) of subsection (2) of
13 this section, a person has not complied with the conditions imposed thereunder,
14 the disciplinary committee may, if it thinks fit, impose anyone or more of the
15 penalties mentioned in paragraph (a), (b), (c) or (d) of that subsection.

16 (6) A certificate under the hand of the Chairman that any costs have
17 been ordered to be paid by a person under this section shall be conclusive
18 evidence thereof.

19 **50.** Unless otherwise specifically provided for under this Bill, the
20 Council shall be entitled to apply proportionately to the act/omission sought to
21 be sanctioned any of the following sanctions for violations/breaches of the
22 provisions of this Bill:

23 (a) Reprimand,

24 (b) Warning,

25 (c) Light or heavy fine,

26 (d) Reduction of scope of license (or scope of practice for individual
27 and sole practitioner),

28 (e) Temporary suspension of registration or licence,

29 (f) Removal from the register of practice,

30 (g) Revocation of licence,

Administrative
sanctions for
violation of the
provisions of
the Bill

1 (h) A recommencement or reactivation fine in the cases e, f and g.

2 51.-(1) Where the name of a person has been struck off the register
3 in pursuance of a direction given under sections 28 and 29(2) of this Act, the
4 Disciplinary Committee, may if it thinks fit, at any time direct the restoration
5 of his name to the register.

Restoration of
registration

6 (2) An application for the restoration of a name to a register under
7 subsection (1) of this section shall not be made to the Disciplinary
8 Committee before the expiration of a period of 30 days from the date of the
9 striking off (and where he has made such an application, from the date of his
10 last application) as may be specified in the direction.

11 52.-(1) If it is proved to the satisfaction of the Disciplinary
12 Committee that any entry made in a register had been fraudulently or
13 incorrectly made, the Disciplinary Committee may direct that the entry shall
14 be struck off from the register.

Striking of entries
from register on
grounds of fraud
or error

15 (2) A person may be registered in pursuance of any provisions of
16 this Act notwithstanding that his name had been struck off in pursuance of a
17 direction given under subsection (1) of this section, but if it was so struck off
18 on the ground of fraud, he shall not be registered except if an application in
19 that behalf is made to the Disciplinary Committee and on any such
20 application the Disciplinary Committee may, if it thinks fit, direct that he
21 shall be registered or shall not be registered until the expiration of such
22 period as may be specified in the direction.

23 (3) Any reference in this Act to the striking off from or the
24 restoration to a register of the name of a person shall be construed as
25 including a reference to the striking off from or the restoration to the register
26 of any other registrable particulars relating to that person.

27 53.-(1) Where the Disciplinary Committee:

28 (a) makes a finding of infamous conduct and imposes a penalty on
29 a registered person under section 37 of this Act;

30 (b) rejects an application for restoration of a name to a register

Appeal to the
Court of Appeal

1 under section 39 this Act; or (c) directs the striking off of an entry from a
2 register under section 40 of this Act, the Registrar shall give the person to
3 whom the proceedings relate notice in writing thereof and such person may,
4 within 28 days from the date of service on him of the notice, appeal to the Court
5 of Appeal.

6 (2) On any appeal under this section, the Council shall be the
7 respondent.

8 (3) No direction for the striking off of the name of a registered person
9 from a register under section 29 of this Bill shall take effect until the expiration
10 of the time for appealing or if an appeal is brought, until such time as the appeal
11 is disposed of, withdrawn or struck out for want of prosecution, as the case may
12 be.

13 (4) The Court of Appeal may, on an appeal under this section:

14 (a) confirm, vary or set aside any finding of fact, penalty imposed or
15 direction given by the Disciplinary Committee;

16 (b) confirm the rejection of the Disciplinary Committee of the
17 application for restoration or direct the restoration of the name to the register;

18 (c) remit the matter to the Disciplinary Committee for further
19 consideration; or

20 (d) make such other order as to costs or otherwise as may to it seem
21 just, but no proceedings before the Disciplinary Committee shall be set aside
22 by reason only of informality in those proceedings which did not embarrass or
23 prejudice the appellant.

24 PART XII - MISCELLANEOUS PROVISIONS

25 54. No suit, prosecution or other legal proceedings shall lie against
26 any officer, member or other employee of the Council for anything which is
27 done in good faith or intended to be done under this Bill or the rules and
28 regulations made thereunder.

Protection of
officer for action
taken in good
faith

Pre-action notice

29 55.--(1) A person aggrieved by any action or decision of the Council
30 under this Bill, including such action or decision taken on the basis of the

1 Council's power under this Bill may institute an action in the Federal High
2 Court provided that the aggrieved person shall give the Council 21 days
3 notice in writing of his intention to institute an action against such action or
4 decision.

5 (2) The intending Plaintiff shall serve on the council a formal
6 written notice which shall clearly and explicitly state:

7 (a) the cause of action;

8 (b) the particulars of the claim;

9 (c) the name and place of abode of the intending plaintiff; and

10 (d) the reliefs which the Plaintiff intends to claim.

11 (3) The notice of intention to initiate an action against the Council
12 referred to in subsections (1) and (2) of this section may be addressed to and
13 delivered to the office of the Registrar.

14 (4) The provision of this section is not applicable to any decision of
15 the Disciplinary Committee as provided under this Act which an aggrieved
16 person intends to appeal against.

17 **56.-(1)** Except as otherwise specifically provided under the Penalties
18 provisions of this Bill, any person who violates or contributes in the
19 violation of the provisions of this Bill made thereunder is liable to a penalty
20 of not less than N150,000.

21 (2) The Council may in addition to any penalty that may be
22 prescribed under this Act, direct any person who has contravened of any of
23 the provisions of this Bill and any regulation made thereunder, to
24 compensate any person who may have suffered any direct loss as a result of
25 the contravention.

26 (3) Notwithstanding the provisions of subsections (2), of this
27 section the complainant of a contravention may seek by action,
28 consequential or punitive damages or any other remedy that may be
29 available under the law after exploring the domestic remedies provided by
30 the council.

1 (4) In the exercise of its powers to impose a penalty under this Bill, the
2 Commission shall accord the person in alleged violation a fair hearing.

Application and
relevance of
other Laws not
barred

3 57.-(1) Notwithstanding the provisions of this Act the relevant
4 provision of all existing enactments, including the following:

5 (a) Nigerian Urban and Regional Planning Act CAPN13, LFN 2004;
6 (b) Federal Roads Maintenance Agency (Establishment) Act 2002 (as
7 amended) in 2007 shall be read with such modification as to bring them into
8 conformity with the provisions of this Act in relation to advertising policies and
9 regulation.

10 (2) Without prejudice to the generality of subsection (1) of this
11 section, the provisions of this Act shall be in addition to the other laws not
12 barred and not in derogation of the provisions of any other law or enactment for
13 the time being in force.

14 (3) Subject to the Constitution of the Federal Republic of Nigeria if
15 the provisions of any other law, in relation to advertising policies and
16 regulation of advertising practice in Nigeria including enactments specified in
17 subsection (1) of this section, are inconsistent with the provisions of this Bill,
18 the provisions of this Bill shall prevail and the provisions of the other law shall,
19 to the extent of the inconsistency, be void.

20 (4) The Federal High Court shall have jurisdiction to determine any
21 issue arising from or concerning the operation of this Bill and advertising
22 control and practice in Nigeria.

Powers of the
Minister

23 58.-(1) The Minister may make regulations as may in his opinion be
24 powers of the Minister necessary or expedient for giving full effect to the
25 provisions of this Act and for the administration thereof.

26 (2) The Minister may give to the Council directives of a general nature
27 or relating generally to matters of policy with regard to the performance by the
28 Council of its functions and it shall be the duty of the Council comply with the
29 directives.

30 (3) Any power to make regulations, rules or orders conferred under

1 this Act shall include:

2 (a) the power to make provisions for such incidental and
3 supplementary matters as the authority making the instrument considers
4 expedient for the purposes of the instruments; and

5 (b) the power to make different provisions for different
6 circumstances.

7 59.-(1) For the purposes of providing offices and premises
8 necessary for the performance of its functions under this Bill, the Council
9 may, subject to the land use Act:

Offices and
Premises of the
Council

10 (a) purchase or take on lease any interest land, or other property;
11 and

12 (b) construct offices and premises and equip and maintain same.

13 (2) The Council may, subject to the land use Act, sell or lease out
14 any office or premises held by it, which office or premises is no longer
15 required for the performance of its functions under this Bill.

16 60.-(1) Subject to the provisions of this Bill, the provisions of the
17 Public Officers Protection Act shall apply in relation to any suit against any
18 member or Officer or employee of the Council.

Limitation of
suits against the
Council

19 (2) Notwithstanding anything contained in any other law or
20 enactment, no suit shall lie against any member of the Board, the chairman
21 or any other officer or employee of the Council for any Bill done in
22 pursuance or execution of this Bill or any other law or enactment, or any
23 alleged neglect or default in the execution of this Bill or such law or
24 enactment, duty or authority, shall lie or be Council in any court unless:

25 (a) it is commenced within three months after the act, neglect or
26 default complained of; or

27 (b) in the case of a continuation of damage or injury, within six
28 months next after the leasing thereof.

29 61. A notice, summons or other document required or authorized
30 to be served upon the Council under the provisions of this Bill or any other

Services of
Document

1 law or enactment may be served by delivering it to the Director General of the
2 Council.

Restriction of
Executive against
property of the
Council

3 **62.** In any action or suit against the Council, no execution or
4 attachment of process shall be made against Council unless not less than three
5 months notice of the intention to execute or attach has been given to the
6 Council.

Repeal and
Savings

7 **63.-(1)** The Advertising Practitioner's (Registration, etc) Act, Cap.
8 A7, Laws of the Federation of Nigeria, 2004 is hereby repealed and the Council
9 dissolved.

10 (2) By virtue of this Act, there shall be vested in the Council
11 immediately at the commencement of this Act, without further assurance, all
12 assets, funds, resources and other movable and immovable property which
13 immediately before the commencement of this Act were vested in the dissolved
14 Council.

15 (3) As from the date of commencement of this Act:

16 (a) all rights, interests, obligations and liabilities of the dissolved
17 Council existing before the commencement of this Act under any contract or
18 instrument, or in law or in equity, shall by virtue of this Act be assigned to and
19 vested in the Council established by this Act;

20 (b) any contract or instrument as is mentioned in paragraph (a) of this
21 subsection shall be of the same force and effect against or in favour of the
22 Council established by this Act and shall be enforceable as fully and effectively
23 as if instead of the dissolved Council, the Council established by this Act had
24 been named therein or had been a party thereto;

25 (c) the Council established by this Act shall be subject to all the
26 obligations and liabilities to which the dissolved Council was subject
27 immediately before the commencement of this Act and all other persons shall
28 have the same rights, powers and remedies against the Council as they had
29 against the dissolved Council immediately before the commencement of this
30 Act.

1 (4) Any proceedings or cause of action pending or existing
2 immediately before the commencement of this Act by or against the
3 dissolved Council in respect of any right, interest, obligation or liability of
4 the dissolved Council may be commenced or continued, as the case may be,
5 and any determination of any court of law, tribunal or other authority or
6 person may be enforced by or against the Council to the same extent that the
7 proceedings, cause of action or determination might have been continued,
8 commenced or enforced by or against the dissolved Council as if this Act
9 had not been made.

10 (5) Notwithstanding the provisions of this Act but subject to such
11 directions as may be issued by the Council established by this Act, a person
12 who immediately before the commencement of this Act held office in the
13 dissolved Council shall be deemed to have been transferred to the Council
14 established by this Act on terms and conditions not less favourable than
15 those obtaining immediately before the commencement of this Act, and
16 service in the dissolved Council shall be deemed to be service in the Council
17 established by this Act for purposes of pension.

18 (6) The President, if he thinks fit, may, within twelve months after
19 the commencement of this Act, by order published in the Gazette, make
20 additional transitional or savings provisions for the better carrying out of the
21 objectives of this section.

22 **64.** In this Bill unless the context otherwise requires:

Interpretation

23 "Association" means the Association of Advertising Practitioners of
24 Nigeria;

25 "Council" means the Advertising Practitioner's Council of Nigeria;

26 "Board" means the Governing Board of the Council;

27 "President" means the President of the Federal Republic of Nigeria;

28 "member" means a member of the Board and includes the Chairman;

29 "Minister" means the Minister in charge of Information and advertising; and

30 "Person" includes a juristic person;

1 "profession" means the advertising profession "register" means the register
2 maintained in pursuance of section 11 of this Act;
3 "registered" means registered as a fellow, member, associate or student
4 member or the profession in the part of the register relating to fellows,
5 members, associates or students, as the case may be;
6 "Registrar General" means the Registrar appointed under this Act.

Short title

7 65. This Bill may be cited as Advertising Practitioner's (Registration,
8 Licensing, etc) Bill, 2019.

9 FIRST SCHEDULE

Section 2 (7)

10 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

11 PROCEEDINGS OF THE BOARD

12 1. Subject to this Bill and section 27 of the Interpretation Act, the
13 Board may make standing orders regulating its proceedings or those of any of
14 its committees. [Cap.123].

15 2. The quorum of the Board shall be the Chairman and six other
16 members and the quorum of any committee of the Board shall be determined by
17 the Board.

18 3. The Board shall meet not less than two times in each year and
19 subject thereto, the Board shall meet whenever it is summoned by the
20 Chairman; and if the chairman is required to do so by notice given to him by not
21 less than four other members, he shall summon a meeting of the Board to be
22 held within fourteen days from the date on which the notice is given.

23 4. At any meeting of the Board, the chairman shall preside, but if he is
24 absent, the members present at the meeting shall appoint one of their numbers
25 to preside at that meeting.

26 5. Where the Board desires to obtain the advice of any person on a
27 particular matter, the Board may co-opt such a person to the Board for such
28 period as it thinks fit; but a person who is in attendance by virtue of this sub-
29 paragraph shall not be entitled to vote at any meeting of the Board and shall not
30

1 count towards a quorum.

2 *Committees*

3 6. The Board may appoint one or more committees to carry out, on
4 behalf of the Board, such of its functions as the Board may determine.

5 7. A committee appointed under this paragraph shall consist of
6 such number of persons not necessarily members of the Board as may be
7 determined by the Board; and a person other than a member of the Board
8 shall hold office in the committee in accordance with the terms of his
9 appointment.

10 8. A decision of a committee of the Board shall be of no effect until
11 it is confirmed by the Board.

12 *Miscellaneous*

13 9. The fixing of the Seal of the Council shall be authenticated by
14 the signature of the Chairman and the Secretary to the Board.

15 10. Any contract or instrument which, if made or executed by a
16 person not being a body corporate, would not be required to be under seal
17 may be made or executed on behalf of the Council by any person generally
18 or specially authorised by the Council for that purpose.

19 11. A document purporting to be a document duly executed under
20 the Seal of the Council shall be received in evidence and shall, unless and
21 until the contrary is proved, be presumed to be so executed.

22 **SECOND SCHEDULE**

23 *Section 39 (6)*

24 **SUPPLEMENTARY PROVISIONS RELATING TO THE DISCIPLINARY**
25 **COMMITTEE, THE INVESTIGATING PANEL AND THE STANDARDS PANEL,**
26 **THE DISCIPLINARY COMMITTEE**

27 1.-(1) The Chief Justice of Nigeria shall make rules as to the
28 procedure to be followed and the rules of evidence to be observed in
29 proceedings before the Disciplinary Committee.

30 (2) The rules shall in particular provide:

1 (a) or securing that notice of proceedings shall be given at such time,
2 and in such manner as may be specified by the rules, to the person who is the
3 subject of the proceedings;

4 (b) for determining who, in addition to the person aforesaid, shall be a
5 party to the proceedings;

6 (c) securing that any party to the proceedings shall, if he so requires,
7 be entitled to be heard by the Disciplinary Committee;

8 (d) or enabling any party to the proceedings to be represented by a
9 legal practitioner;

10 (e) subject to the provisions of section 28 of this Act, as to the costs of
11 proceedings before the Disciplinary Committee;

12 (f) for requiring in a case where it is alleged that the person who is the
13 subject of the proceedings is guilty of infamous conduct in any professional
14 respect, that where the Disciplinary Committee judges that the allegation has
15 not been proved, it shall record a finding that the person is not guilty of such
16 conduct in respect of the matter to which the allegation relates;

17 (g) or publishing in the Federal Gazette of notice of any direction of
18 the Disciplinary Committee which has taken effect, providing that, a person's
19 name shall be struck off from the register.

20 2.-(1) For the purpose of advising the Disciplinary Committee on
21 questions of law arising in proceedings before it, there shall in such
22 proceedings be an assessor to the Disciplinary Committee who shall be
23 appointed by the Council on the recommendation of the Attorney-General of
24 the Federation and shall be a legal practitioner of not less than Ten years'
25 standing with cognate experience in Advertising matters

26 (2) The Attorney-General of the Federation shall make rules as to the
27 functions of assessors appointed under this paragraph, and in particular such
28 rules shall contain provisions for securing that:

29 (a) where an assessor advises the Disciplinary Committee on any
30 question of law as to evidence, procedure or any other matter specified by the

1 rules, he shall do so in the presence of every party or person representing a
2 party to the proceedings who appears thereat or, if the advice is tendered
3 while the Disciplinary Committee is deliberating in private, that every such
4 party or person as aforesaid shall be informed as to what advice the assessor
5 has tendered;

6 (b) every party or person as aforesaid shall be informed if in any
7 case the Disciplinary Committee does not accept the advice of the assessor
8 on such a question as aforesaid.

9 (3) An assessor may be appointed under this paragraph either
10 generally or for any particular proceedings or class of proceedings, and shall
11 hold and vacate office in accordance with the terms of the instrument by
12 which he is appointed.

13 *The Investigating Panel*

14 3. The quorum of the Investigating Panel shall be three.

15 4. The Investigating Panel may, at any of its meetings attended by
16 not less than five members of the Investigating Panel, make standing orders
17 with respect to the Investigating Panel and subject to the provisions of any
18 such standing orders, the Investigating Panel may regulate its own
19 procedure.

20 5. No member of the Investigating Panel shall sit as a member of
21 the Disciplinary Committee.

22 *Miscellaneous*

23 6. A person ceasing to be a member of the Disciplinary
24 Committee, the Investigating Panel or the Standards Panel shall be eligible
25 for re-appointment as a member of that body.

26 7. The Disciplinary Committee, the Investigating Panel or the
27 Standards Panel may act notwithstanding any vacancy in the membership of
28 any of the said bodies and the proceedings of any of such bodies shall not be
29 invalidated by any irregularity in the appointment of a member of such
30 bodies (or subject to paragraph I of this Schedule) or by reason of the fact

1 that any person who was not entitled to do so took part in the proceedings of any
2 of such bodies.

3 8. The Disciplinary Committee, the Investigating Panel or the
4 Standards Panel may each sit in two or more places.

5 9. Any document authorised or required by virtue of this Act to be
6 served on the Disciplinary Committee, the Investigating Panel or the Standards
7 Panel shall be served on the Registrar.

8 10. Any expenses of the Disciplinary Committee, the Investigating
9 Panel or the Standards Panel shall be defrayed by the Council.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Advertising Practitioner's (Registration, etc) Act and enact the Advertising Practitioner's (Registration, Licensing, etc) Act for the establishment of a Council for advertising practitioners as the Apex Regulatory Authority for the Nigerian Advertising profession and practice, to make provisions for the regulation and control of the practice of the profession and business of advertising to ensure the protection of the general public and consumers, promote local content whilst entrenching best international practices.