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Client Alert

FCCPC Draft Sales Promotion Regulations, 2026: Key Compliance Obligations and Implications for Businesses

Introduction

On 30 September 2026, the Federal Competition and Consumer Protection Commission (the "**Commission**") issued the draft Federal Competition and Consumer Protection Commission Sales Promotion Regulations, 2026 (the "**Draft Regulations**"). The Draft Regulations, made pursuant to the Federal Competition and Consumer Protection Act, 2018 seek to replace the existing regulatory framework under the Consumer Protection (Sales Promotions) Regulations, 2005 (the "**2005 Regulations**"), introducing a more comprehensive framework for the regulation of sales promotions in Nigeria.[1]

The proposed framework marks a significant expansion of the Commission's oversight of sales promotions in Nigeria. Beyond conventional prize-based promotions, it seeks to bring a broader range of marketing activities within the regulatory framework, including digital and online promotions, influencer and affiliate marketing, artificial intelligence-driven advertising and automated consumer engagement, as well as cross-border promotional activities targeting Nigerian consumers. Consequently, digital platforms, intermediaries, influencers and affiliates involved in the promotion or dissemination of marketing communications targeting Nigerian consumers should anticipate stricter oversight and consider aligning their digital and cross-border promotional strategies with the proposed standards ahead of future implementation.

This alert highlights the key provisions of the Draft Regulations, examines their potential implications for businesses and identifies practical steps organizations should consider in anticipation of the proposed regulatory changes.

[1] Federal Competition and Consumer Protection Commission Sales Promotion Regulations, 2026 (Draft), made pursuant to Sections 17, 18 and 163 of the Federal Competition and Consumer Protection Act, 2018 (the "FCCPA").

Scope and Application

The Draft Regulations present a major shift towards comprehensive regulatory oversight of marketing activities in Nigeria. By broadening the definition of "sales promotion," the framework encompasses not only conventional contests such as prize-based campaigns, but also everyday commercial incentives like rebates, competitions, instant-win offers, and bundled gifts. Furthermore, with explicit coverage of digital platforms and an extraterritorial scope[2], offshore businesses targeting Nigerian consumers will be subject to local regulatory compliance if and when the framework becomes operational.

Key Compliance Obligations and Implications for Businesses

a. Prior Registration and Approval

One of the significant proposed changes is the requirement to register sales promotions with the Commission before making any public announcement or commencing a promotion.[3] This effectively makes registration a pre-launch requirement, with potential implications for the timing and execution of marketing campaigns.

The breadth of this requirement is particularly significant given the wide definition of sales promotions, which encompasses any promotional scheme or campaign through which prizes, gifts, refunds, rebates or other incentives are offered to consumers in connection with the patronage of goods or services or participation in any activity.[4] On this basis, routine commercial offers, such as introductory pricing and free trials, could potentially fall within the registration requirement.

b. Digital Promotions, Platforms and Third-Party Liability

The Draft Regulations significantly extend the Commission's regulatory oversight to promotions conducted via websites, mobile applications, social media and other digital channels. Crucially, the Draft Regulations introduce additional obligations for digital platforms and other intermediaries involved in hosting or disseminating promotional content.

Of particular significance is the proposed imposition of joint and several liability on promoters, digital platforms and intermediaries for non-compliant promotions.[5] As drafted, this provision could expose digital service providers to liability for promotional activities organized by third parties, even without their direct involvement. What is more, the draft does not clarify whether such liability hinges on the intermediary's knowledge of the breach or its capacity to prevent it. This raises particular concerns for intermediaries who are likely to face higher exposure for compliance failures outside their control, such as a promoter's failure to obtain requisite permits or secure prize funds.

This approach could create substantial regulatory exposure for online marketplaces, ad networks and social media platforms, where responsibility for promotional content is often shared among promoters, advertisers and service providers.

c. Influencer and Affiliate Marketing

[2] Regulations 1, 2 and 4 of the Draft Regulations
[3] Regulation 4 of the Draft Regulations.
[4] Regulation 78 of the Draft Regulations
[5] Regulation 19 of the Draft Regulations.

The Draft Regulations apply to undertakings that promote, endorse or advertise products, services or brands to Nigerian consumers through digital, broadcast or print media under paid, sponsored or affiliate arrangements. Accordingly, businesses engaging influencers and affiliates for promotional activities will be required to register the relevant sales promotions with the Commission. [6]

Additional requirements apply to promotions involving regulated professional services. For instance, influencers, affiliates or brand ambassadors may only promote medicine, healthcare, legal or financial services where they possess the relevant qualifications and/or certifications.[7] Digital platforms, social media networks or other online intermediaries that host or disseminate promotional content in respect of these regulated subjects are required to verify credentials of the influencers before publication.[8]

These provisions and more could increase the compliance burden for businesses that rely on influencer and affiliate marketing.

d. Artificial Intelligence and Automated Marketing

The Draft Regulations introduce an additional level of regulatory oversight for businesses using artificial intelligence, machine learning and other automated technologies in marketing and consumer engagement. Undertakings using these technologies for promotional activities or marketing communications directed at, or accessible to Nigerian consumers must register such use with the Commission.[9] The breadth of the proposed registration requirement could bring ordinary business functions, including automated advertising delivery, content recommendations and customer engagement tools, within the Commission's oversight. For businesses that rely extensively on automated marketing technologies, this could create additional registration and operational requirements, even where the technology is not being used to conduct conventional sales promotion.

Notably, under the Draft Regulations, an undertaking that uses AI-generated marketing content or automated promotional systems will be responsible for every representation, message and claim produced or communicated through those systems.[10] This means that individuals and/or organization cannot avoid liability for misleading or inaccurate promotional content generated autonomously by an AI tool or automated system.

e. Data Protection

The Draft Regulations require strict compliance with the Nigeria Data Protection Act, 2023 (the "**NDPA**") and other applicable laws.[11] Personal data may only be processed for administering the promotion, awarding prizes or complying with legal requirements, and must not be sold or disclosed to third parties without the express consent of the relevant data subjects.[12]

The Draft Regulations further prohibit promoters from automatically adding participants to unrelated marketing mailing lists without explicit opt-in consent.[13] This is consistent with the NDPA General Application Implementation Directive ("**GAID**") 2025, which requires express consent of data subjects

[6] Regulation 21 of the Draft Regulations.
[7] Regulation 33 of the Draft Regulations.
[8] Regulation 34 of the Draft Regulations
[9] Regulation 36 of the Draft Regulations.
[10] Regulation 37 of the Draft Regulations.
[11] Regulation 71 of the Draft Regulations
[12] Regulation 71 of the Draft Regulations
[13] Regulation 72 of the Draft Regulations

for direct marketing activities.[14] Post-campaign communications on the other hand must focus on matters relating to the promotion or prize fulfilment unless the consumer has separately consented to receive further marketing.[15] Accordingly, participation in a promotion cannot, without more, be treated as consent to receive unrelated marketing communications.

These provisions reinforce the need to distinguish between data processing required to administer a promotion and processing undertaken for broader marketing purposes.

f. Cross-Border Promotions and E-Commerce

The Draft Regulations seek to extend the Commission's oversight to offshore businesses whose promotions, advertisements or marketing communications are directed at or accessible to Nigerian consumers. Offshore undertakings targeting Nigerian consumers are deemed to carry on business in Nigeria for the purposes of the Draft Regulations and will be required to register their promotional activities and appoint a local representative.[16] This proposed approach raises similar concerns to the broad application of the Draft Regulations. If accessibility alone is sufficient to trigger registration, foreign businesses whose websites or advertisements can be viewed in Nigeria, but which do not actively target the Nigerian market, may be caught by the framework. The distinction between businesses actively targeting Nigerian consumers and those whose content is merely accessible in Nigeria is therefore important.

Cross-border e-commerce promoters are also required to provide consumers with pre-transaction information concerning the origin of products, pricing, applicable taxes, delivery arrangements, refunds and dispute resolution.[17] Where an offshore entity fails to comply with regulatory directives or respond to enquiries, the Commission may restrict access in Nigeria to the offending content or the relevant platform or website. [18]

The proposed framework could have significant implications for foreign e-commerce businesses and digital platforms with Nigerian users. In particular, the possibility of platform-wide access restrictions could affect services and users unrelated to the specific promotional activity in question. Offshore businesses may also face additional administrative and operational requirements arising from the local representative and registration obligations.

Potential Sanctions

The penalty regime represents a significant departure from the 2005 Regulations, under which fines ranged from ₦50,000 (Fifty Thousand Naira) (circa US$37) to ₦500,000 (Five Hundred Thousand Naira) (circa US$370).[19] The Draft Regulations introduce substantially higher administrative penalties, including fines of up to ₦100,000,000 (One Hundred Million Naira) (circa US$74,074) or 1% of the preceding year's turnover, whichever is greater, for corporate bodies, and up to ₦50,000,000 (Fifty Million Naira) (circa US$ 37,037) for natural persons.[20] In addition, directors may be subject to disqualification for up to five (5) years, while a further penalty of up to ₦10,000,000 (Ten Million Naira) (circa US$7,407) may be imposed for failure to award prizes or for making false statements.[21]

[14] Article 18(1) of the GAID
[15] Regulation 72 of the Draft Regulations
[16] Regulations 45 and 50 of the Draft Regulations.
[17] Regulation 47 of the Draft Regulations.
[18] Regulation 49 of the Draft Regulations.
[19] Regulation 11 of the 2005 Regulations.
[20] Regulation 61 of the Draft Regulations.
[21] Regulations 61 and 62 of the Draft Regulations.

Notably, the Draft Regulations do not clarify whether the reference to turnover is limited to Nigerian turnover, the turnover of the relevant legal entity or the global turnover of the corporate group. This uncertainty is particularly significant for multinational companies, as the basis for calculating the applicable penalty could substantially increase their potential financial exposure.

Recommended Actions

In anticipation of the proposed regulatory changes, businesses should consider the following measures:

a. **Review Existing and Planned Promotional Activities.** Individuals and organizations should undertake an assessment of their current and planned marketing activities, including discounts, free trials, promotional credits, influencer campaigns, affiliate arrangements and AI-driven marketing, to determine which may fall within the scope of the Draft Regulations. This will enable the identification of activities that may trigger registration requirements and an assessment of whether existing campaigns and internal processes will need to be adjusted to accommodate the proposed framework.

b. **Review Third-Party and Influencer Arrangements.** Existing agreements with influencers, affiliates, advertising agencies, digital platforms and other promotional partners should be reviewed to ensure that responsibilities for compliance requirements are clearly allocated. Given the proposed joint and several liability, digital platforms and other intermediaries should also consider strengthening their content review protocols, conducting due diligence on third-party promoters and monitoring promotional activities carried out through their platforms.

c. **Assess AI Compliance.** Businesses deploying AI-powered marketing and automated consumer engagement systems will need to consider whether their activities may trigger the proposed registration and disclosure requirements. Considering that undertakings will be responsible for all content produced through these systems, it is important to maintain appropriate oversight and review mechanisms to ensure that AI-generated marketing content is accurate, substantiated and consistent with applicable consumer protection requirements.

d. **Review Data Protection Arrangements.** Businesses should review promotional entry forms, privacy notices, consent mechanisms, and third-party processing arrangements to ensure that participant data is used only for permitted purposes and that any consent to further marketing is obtained expressly and in a transparent manner.

Conclusion

The Draft Regulations signal a significant shift in Nigeria's regulation of sales promotions, from a framework primarily concerned with conventional prize-based campaigns to a broader regime encompassing digital marketing, influencer arrangements, automated technologies and cross-border promotional activities. While the proposed framework seeks to strengthen consumer protection and accountability, its broad scope could increase compliance obligations for businesses operating in, or targeting, the Nigerian market.

That said, it is important to note that the Draft Regulations remain in draft form and are therefore subject to change. Although the Commission previously invited stakeholders to make submissions on the Draft Regulations, it is yet to issue any subsequent communication in this regard. In the interim, individuals and organizations would benefit from reviewing their current promotional practices against the proposed requirements, to ease the transition if the Draft Regulations take effect.

If you require any further clarification, do not hesitate to contact us.