



**NATIONAL AGENCY FOR FOOD AND DRUG
ADMINISTRATION AND CONTROL (NAFDAC)**

FOOD PRODUCTS (ADVERTISEMENT) REGULATIONS

2018

COMMENTS ARE WELCOMED FROM STAKEHOLDERS WITHIN 60 CALENDAR DAYS

(ending 29th August, 2018).

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Commencement:

In exercise of the powers conferred on the Governing Council of the National Agency for Food and Drug Administration and Control (NAFDAC) by sections 5 and 30 of the National Agency for Food and Drug Administration and Control Act Cap NI Laws of the Federation of Nigeria (LFN) 2004 and all powers enabling it in that behalf, the Governing Council of the National Agency for Food and Drug Administration and Control with the approval of the Honourable Minister of Health hereby makes the following Regulations:-

1. Scope

The Regulations shall apply to all advertisements of food products, manufactured, imported distributed, sold or used in Nigeria.

2. Prohibition

- (1) No person shall advertise any food product unless it has been registered by the Agency.
- (2) No person shall advertise any food product unless it has been approved by the Agency.
- (3) No person shall advertise any Breast Milk Substitute and Infant and Young children food. Any descriptive matter appearing on or attached to or supplied with the package shall not include any information on the promotion or advertisement of another product.
- (4) No person shall-
 - (a) Display, screen or otherwise present an advertisement of a food product unless in accordance with the provisions of these Regulations; or
 - (b) Make any claim to assert, imply or otherwise convey the impression as to the suitability of the food product for use in the prevention, alleviation, management, treatment or cure of a disease, disorder or physiological condition; or
 - (c) Make a claim that the food product contains a particular value when that value is not wholly contributed by the food product, but is partially contributed by other food products with which it may be consumed.
 - (d) Describe a food product as “healthy” or represent it in a manner that implies that a food in itself will impact health.
 - (e) Make health claims that encourage or condone excessive consumption of any food or disparage good dietary practice.

(5) All nutritional claims shall comply with the Agency's Pre-packaged Food (Labeling) Regulation 2018.

3. **Nature of advertisement**

All advertisements of food products in Nigeria shall be accurate, complete, clear and designed to promote credibility and trust by the general public and health care practitioners and such statements or illustrations contained on the packaging shall not mislead directly, indirectly or by implication.

4. **Non-referential advertisement**

- (1) No advertisement of any food product shall-
- (a) imitate the general layout, text, slogan or visual presentation or devices of other food products in a way likely to mislead or confuse the consumer; or
 - (b) be framed in such a manner as to make reference directly or indirectly to the medical or any of its allied professions, except such reference is scientifically proven.

5. **Application for the approval of advertisement**

All advertisement materials including scripts, story-boards, art work, radio scripts and any other advertisement material as may be required by the Agency shall be submitted along with an application, to the Agency.

6. **Particulars of application**

An application submitted by an advertising agent, distributor, manufacturer or the sponsor of the advert shall contain the following-

- (1) The brand name of the food product (if any);
- (2) Place of importation or local manufacture;
- (3) The name and location address of the manufacturer;
- (4) The name and address of the local distributor;
- (5) The name and location address of the advertising company;
- (6) The date of first introduction of the food product to the Nigerian market;
- (7) Information about any previous advertisement of the food product in Nigeria;
- (8) A copy of the old script (if any);

- (9) The proposed media for the advertisement;
- (10) A copy of the registration certificate of the food product;
- (11) A justification for any special claims on the food product;
- (12) scripts and recordings

Such other materials as may be required by the Agency from time to time.

7. Validity of approval

- (1) The approval of an advertisement shall be valid for a period of one year beginning from the date of approval.
- (2) Notwithstanding 7(1), consumer promotions shall have validity of fifteen weeks.

8. Alteration in approved script

Any alteration in the format of the approved script or recording without the approval of the Agency shall render the approval null and void.

9. Withdrawal of an approval

- (1) The Agency may withdraw the approval for an advertisement if-
 - (a) the grounds on which the approval was granted was later found to be false or incomplete; or
 - (b) any of the conditions under which the approval was granted has been contravened; or
 - (c) in the light of new scientific evidence against claims contained in the advertisement.

10. Appeal in case of withdrawal of approval

- (1) If the approval of an advertisement of food products is withdrawn within the validity period of approval, the applicant may, within 30 days of the receipt of the withdrawal notice, lodge an appeal to the Governing Council of the Agency in writing and accompanied by supportive information; if no appeal is made after thirty days, the withdrawal stands as issued.
- (2) Where no appeal is made after thirty days, the withdrawal stands as issued.

11. Prohibition of reference to health care profession

- (1) No advertisement shall make reference directly or indirectly to any member of the healthcare profession, hospitals, clinic and health centers.

- (2) No advertisement shall make reference directly or indirectly to any professional body or any such organization without approval from the Agency.

12. Advertisement not to prejudice public confidence

No person shall advertise a food product in a manner that brings the food industry to disrepute or prejudice public confidence in food.

13. Unfairly disparage competition

No advertisement shall unfairly disparage any company of its competitive products either directly, indirectly or by implication.

14. Restriction

- (1) No advertisement shall contain-
 - (a) half-truths, inadequate qualification and limitation regarding the safety or effectiveness of the food product; or
 - (b) vague or unsubstantiated statement or suggestion of superiority over competing product; or
 - (c) any false impression that the advertised food product is for universal cure or should be regarded as a more effective and safer alternative to other related food products.
 - (d) statements or visual presentations likely to alarm or generate irrational or unfounded fears among the target audience or suggest that a state of good health may be impaired by not using the product.
- (2) Advertisement shall contain information that is reliable, accurate, truthful, informative, balanced and can be substantiated.
- (3) Advertisement shall not by implication, omission, ambiguity or exaggeration, mislead or deceive or be likely to mislead or deceive, abuse the trust of or exploit the lack of knowledge, experience, the myth or fear in the consumer.

15. Prohibition of misleading comparison

- (1) No comparison in an advertisement shall mislead the public either directly, indirectly or by implication and where there is comparison it shall be supported by reliable current scientific data.

- (2) A reference to a competitive manufacturer or its specialties in an advertisement shall be restricted to factual comparison without the use of identifiable regulated product or brand name.
- (3) Data illustrations including charts and graphs, tables extracted from reference studies or other sources or reproduced by art work, presented in an advertisement, shall-
 - (a) be accurate, complete and clear, with their source specifically identified;
 - (b) not be misleading or ambiguous or distort the original intended meaning or interpretation either directly or by implication.

16. Accurate interpretation of research findings

- (1) All advertisement materials including scripts, story-boards, art work, radio scripts and any other advertisement material for food products shall be so written as to accurately interpret valid and representative research findings.
- (2) Statistics in an advertisement of food products shall be so written as to reflect only their true validity and significance.
- (3) Any claim or quotation from a scientific literature concerning the efficacy, safety and adverse reaction, use in children or during pregnancy or any such precautionary statements with the constraints of the accepted products monograph, shall specify the scientific source of the claim or quotation.
- (4) Copy of any reference cited by an applicant or in the advertisement of food products shall be provided to the Agency for verification.

17. Scientific articles and literatures to contain both positive features and negative findings

- (1) A claim or quotation shall contain both the negative and positive findings and shall be readily verifiable by the Agency.
- (2) A claim based on, or quotation that has been selected from a scientific article or series of articles which emphasize only the positive features while ignoring negative findings, shall not be acceptable.

18. Product launches and Press release:

All product launches and press releases for food products shall obtain approval from the Agency.

19. Claims

- (1) Claims for food products shall be substantiated before approval.
- (2) Superiority claims may be used only when a product proves to be superior to an identified comparator or to all products in same category.
- (3) Top parity claims and 'Natural claims' may be permitted provided they are adequately substantiated.
- (4) No advertisement for food products shall state or imply in absolute terms or by quotations that any food product has guaranteed effectiveness.
- (5) Any statement claiming or implying a superlative function such as "the product of choice", or any such statements, for a food product shall not be used unless it can be adequately substantiated.
- (6) "Best-selling" claims when used shall not imply superiority in any form to other products in same category.
- (7) Nutrition claims in food product advertisements shall be allowed provided such claims can be adequately substantiated.

20. Energy intake in food product

- (1) A food advertisement may state;
 - (a) That the food product is a "source" or "dietary source" of energy if a Nutrient Reference Value (NRV) of that food product by a person would result in the daily intake of not less than 450 kilo calories of energy;
 - (b) That the food product is a "good source" or "good dietary source" of energy if a reasonable daily intake of that food product by a person would result in the daily intake of not less than 1,200 kilo calories of energy;
 - (c) That the food product is an "excellent source" or "an excellent dietary source" of energy if a NRV of that food product by a person would result in the daily intake of not less than 2,500 kilo calories of energy;
- (2) No person shall sell a food product for which an energy claim is made and represented as being solely for use in the feeding of children under two years of age, unless a reasonable daily intake of that food product by a child under two years of age would result in the total daily intake of not less than 1,360 kilo calories of energy.

21. **Ambiguous inference to tonic properties**

No person shall advertise for sale or have in his possession for sale, any food product that described in a manner either by name or words, directly or indirectly has tonic properties by reason only that such food contains;

- (1) Alcohol; or
- (2) Protein or substances prepared from the hydrolysis of protein; or
- (3) Caffeine or purine derivatives.

22. **Use of the term “nutritious” in advertisement**

No advertisement which describes any food shall include the word “nutritious” or any other words of the same significance unless—

- (1) the food contains a range of nutrients including carbohydrate, fat, protein, vitamin and mineral;
- (2) the food contains a substantial amount of energy of more than 40 kcal/ 100 g or 20 kcal /100 ml;
- (3) the food contains source of protein not less than 5 g/100 g or 2.5g /100ml;
- (4) the food contains at least four vitamins of an amount that meets the criteria for claim as source and two minerals (excluding sodium) of an amount that meets the criteria for claim as source; and the amount of the nutrients mentioned in sub-regulations (1) and (4) is declared.

23. **Advertisement aimed at children**

- (1) No advertisement for food that is directed at children shall-
 - (a) exploit illustrations that might result in their physical, emotional or moral harm;
 - (b) try to sell by appealing to emotions such as pity, fear, loyalty or self-confidence; exploit children’s natural tendency to play by advertising food accompanied by games or toys; or actively encourage children age restriction to undermine parental authority, including guiding diet and lifestyle choices.
 - (c) portray images or events which depict unsafe uses of a product or
 - (d) condone unsafe situations which may encourage children to engage in activities which may endanger them physically, emotionally or morally and/or
 - (e) create an unrealistic impression in the minds of children or their parents or caregivers about safety.

- (f) condone or encourage the consumption of food items that are detrimental to children's health.
- (g) require a purchase to participate in a promotion or include a direct exhortation to make a purchase to participate in a promotion.
- (h) feature ingredients or premiums unless they are an integral element of the food item being sold.

24. Protein intake in food product

- (1) A food advertisement may state;
 - (a) That the food is “a source” or “a dietary source” of protein if a NRV of that food product by a person would result in not less than 9 grams of protein;
 - (b) That the food is “a good source” or “a good dietary source” of protein if NRV of that food product by a person would result not less than 24 grams of protein;
 - (c) That the food is “an excellent source” or “an excellent dietary source” of protein if NRV of that food product by a person would result in not less than 45 grams of protein;

25. Penalty.

- (1) Any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and liable on conviction. In case of :
 - (a) an individual, to imprisonment for a term not exceeding one year or to a fine not exceeding 50,000 or to both such imprisonment and fine; and
 - (b) a body corporate, to a fine not exceeding N100, 000.
- (2) Where an offence under these Regulations is committed by a body corporate, firm or other association of individuals every:-
 - (a) director, manager, secretary or other similar officer of the body corporate; or
 - (b) partner or officer of the firm or
 - (c) trustee of the body concerned ;or
 - (d) person concerned in the management of the affairs of the association ;or
 - (e) person who was purporting to act in a capacity referred to in paragraphs (a) to (d) of this regulation, is severally guilty of that offence and liable to be proceeded against and punished

for that offence in the same manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

26. Forfeiture after conviction

- (1) A person convicted of an offence under these Regulations shall forfeit to the Federal Government-
 - (a) any asset or property constituting proceeds derived from or obtained, directly or indirectly, as a result of the offence;
 - (b) any of the person's property or instrumentalities used in any manner to commit or to facilitate the commission of the offence.
- (2) In this section, "**proceeds**" means any property derived or obtained, directly or indirectly, through the commission of the offence.

27. Interpretation

- (1) In these Regulations, unless the context otherwise requires-

“Advertisement” means the publicity of goods and description of all products (which includes any form of notices in circulars, handouts, labels, wrappers, catalogues and price lists, bill boards, posters, newspapers, magazines, and any other documents) made orally or otherwise or by means of projected light and sound recordings;

“Agency” means the National Agency for Food and Drug Administration and Control;

“Food” means any article manufactured, sold or advertised for use as food or drink for man, chewing gum, and any other ingredient that may be mixed with food for any purpose whatever, but does not include live animals, birds or fish, fodder or feeding stuff for animals, birds or fish other than supplements produced for addition to animal and poultry food stuff;

“Health personnel” means any nurse, hospital assistant, medical assistant, midwife, catering officer and any other person working in the health care system.

“**Health professional**” means any hospital administrator, medical doctor, nutritionist, food technologist, dietician, pharmacist, health education officer, medical social worker and matron (or alternative designation) working in the health care system.

“**Label**” means a display of written, printed or graphic matter upon the immediate containers;

“**Nutrient Reference Value**” means a set of numerical values that are based on scientific data for purposes of nutrition labelling and relevant claims

“**Package labeling**” includes the label on the immediate cover of all other printed matter such as outer wrapper, carton that is associated with the package.

28. Repeal of 2005 Regulations

- (1) The Food Advertisement Regulation 2005 is hereby repealed.
- (2) The repeal of the Regulations Specified in 28(1) of this Regulation shall not affect anything done or purported to be done under the repealed Regulations.

29. Citation

These Regulations may be cited as the Food Advertisement Regulations 2018.

MADE at Abuja thisday of2018

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**Inuwa Abdulkadir Esq
Chairman Governing Council**

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