

EFFECTS OF THE STATUTORY DEFINITION OF CUSTOMER ON COMMERCIAL CONTRACTS IN NIGERIA

Background

Under the Federal Competition and Consumer Protection Act ("FCCPA") 2018, the statutory definition of a customer has sweeping effects on commercial contracts in Nigeria.

Such commercial agreements may be for producing or selling goods or services. They may involve persons living in or outside Nigeria.

A commercial contract may be between natural persons or registered entities or governments or between named persons or among named persons for supplies or exchange of goods or services whether tangible or intangible.

Definition of Customer

s.167(1) of the FCCPA 2018 defines a customer to include a person who receives services or anybody or bodies who buys or offers to buy goods or

Effects of the Statutory Meaning of Customer on Commercial Transactions

On Sale of Insurance

Generally, insurers that include co-insurers regard the person paying the premium as its customer and expressly tend to exclude any insurance beneficiaries in the definition of insurance.

Under the FCCPA 2018, the beneficiary is a customer when different from the person paying the premium. An example may do.

Where an employer, whether an individual or a registered entity, buys a group life insurance for its employees, any employee as a beneficiary is a customer. In this scenario, the employer pays the premium and signs all documents. Yet the employee can, generally, enforce any aspects of the insurance contract as if it were a signatory.

- We submit that the Insurer cannot enforce any aspect of the contract against the employee. The Insurer cannot reasonably demand that employees pay the premium. The Insurer bears a

services except for reselling or for production or manufacturing.

We submit that parties to any contract cannot use the restrictive meaning of customer in any commercial transactions.

limited duty – where the employee is known - to inform the employee that the employer has failed to pay the premium.

On Agent-Banker

CBN's [Agency Banking Regulation, 2018](#) mandates financial institutions that include PSB (payment service banks), MMO (mobile money operators), or DMB (deposit money

banks) to provide insurance cover for agent-bankers. The POS (point of sale) attendants you perform banking transactions with on the streets across Nigeria.

These agents are customers of the insurance company together with financial institutions.

Reseller's transactions

Because of digital financial services, you can top-up airtime, electricity credits, internet data, renew vehicle registration or buy 3rd party vehicle insurance through any agent-banker on any POS device.

Usually, the FI who owns the POS or the agency banking application will execute a reseller's contract with the original vendors of the services. We submit that customers who approach the POS-agent-banker are vendors' customers and not the financial institution.

An example of items you buy from AWS (amazon web services) suffices. AWS makes it clear up front that you are not its customer but the customer of the original vendor.

Nigerian reseller companies should imbibe similar expressiveness in wording any terms & conditions or terms of use.

Certain Vendors of Goods

Such goods vendors include [Konga.com](https://www.konga.com), [jumia.com.ng](https://www.jumia.com.ng), [SIMS Nigeria](https://www.simsnigeria.com), and [Zara Capital Consumer Goods](https://www.zaracapital.com). These entities sell or resell OEM (original equipment manufacturers) products to the customer.

This commentary is for general guidance on the related topic only and not professional advice. We recommend you obtain specific professional advice instead of acting on the available information in this legal commentary.

We make no representations or warranties to the accuracy or completeness of the information in this publication to the extent permitted by law. SRJ, our members, or agents accepts or assumes no liability for any consequences you may suffer if you rely on the information contained in this commentary or for the decision thereof.



About [SRJ](https://srjlegal.com/). We know that all our work contributes indirectly or directly to our society's good, which is why we seek ethics-based institutional improvements across all our practices. Our people who are well trained are excited and involved. We offer personalized, dedicated legal and business solutions tailored to our clients' needs. You will find out more by visiting us at <https://srjlegal.com/> © 2022 SRJ.

Any such customers are customers of the OEM as well. Under the FCCPA 2018 regime, it is wrong in law for any sector-specific regulator that includes [LASCOPA](https://www.lascopa.org) to hold that the customer is not a customer of the OEM regarding defective products.

Conclusion

Commercial lawyers or business owners who negotiate contracts should approach the meaning of customer in the clear light of the FCCPA 2018 regime. Otherwise, they may harm their CRM (customer relationship management) and attract penalties from (proving) sector-specific regulators.