JURISDICTION OF THE FCCPC OVER CONSUMER COMPLAINTS AGAINST BANKS: A CRITICAL ANALYSIS OF UBA PLC v FCCPC

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INTRODUCTION

On 22 April 2026, the Federal High Court (FHC), Abuja Judicial Division, per Omotosho J, delivered judgment in *UBA Plc v FCCPC*, on the long-standing friction between the Federal Competition and Consumer Protection Act, 2018 (**the "FCCPA"**) and the Banks and Other Financial Institutions Act, 2020 (**the "BOFIA"**). The central question was whether, in the light of Section 65 of the BOFIA, the Federal Competition and Consumer Protection Commission (**the "FCCPC"**), retains jurisdiction to summon, investigate and receive complaints arising from disputes between banks and their customers, or whether that jurisdiction now rests exclusively with the Central Bank of Nigeria (**the "CBN"**).

The Court answered in the FCCPC's favour: Section 65 restricts only the FCCPC's ***competition*** jurisdiction over banks, leaving its ***consumer-protection*** jurisdiction intact.

This article argues that, while the outcome is defensible as a matter of policy, the reasoning that produced it does not withstand scrutiny. It is our position that the Court's reading of Section 65 sits uneasily with the section's own text, with other provisions of BOFIA it declined to examine, and with the settled canons of statutory interpretation it purported to apply. We conclude by stating that the sounder response is not judicial reinterpretation on appeal, but a legislative amendment of the FCCPA to align Nigeria with the clearer allocation of regulatory authority seen in jurisdictions such as the United Kingdom and South Africa.

FACTS OF THE CASE

On 9 May 2024, UBA Plc (the **"Claimant"**), received a written summons from the FCCPC (the **"Defendant"**) compelling it to appear at the FCCPC's investigative hearing in Abuja on 23 May 2024. The summons followed a complaint by one of the bank's customers, Capt. Derego Williams. On 17 June 2025, the FCCPC served the Claimant with a further letter titled *"Invitation to attend administrative hearing"*, requiring it to appear before the FCCPC on 25 June 2025 to answer a complaint by SPDC West Multipurpose Cooperative Society Limited.

The FCCPC contended that it was empowered to require the bank's appearance, to demand documents, and to investigate its activities in respect of pending consumer complaints, relying on Sections 17(a), (e) and (i), 32, 33, 104 and 105(2) of the FCCPA read with Section 65 of the BOFIA.

The Claimant contended that Section 65 of the BOFIA had removed the FCCPC's power over matters relating to banks and other financial institutions, that power having been reserved to the CBN. It further argued that the FCCPC's conduct amounted to an assumption of the adjudicatory role reserved to the FHC under Section 251(1)(d) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) (the **"Constitution"**).

STATUTORY FRAMEWORK AND OVERRIDING PROVISIONS

The FCCPC is the primary regulatory body in Nigeria for the protection of consumer rights and the prevention of unfair competition,[1] and its supervisory powers extend to every undertaking that supplies goods or services to consumers in Nigeria.[2] Section 17 of the FCCPA empowers it to investigate or inquire into any matter within its purview, resolve disputes and complaints, and to give and receive advice from other sector regulators.[3]

The financial sector, however, is not new to consumer and competition regulations. The CBN is empowered under section 30 of the BOFIA to make regulations protecting consumers of the products and services of banks and promoting competition within the sector, it also has a broader mandate to promote a sound financial system.[4] It has exercised that mandate through its Consumer Protection Framework, 2016 and the Consumer Protection Regulations, 2019, both administered by its Consumer Protection Department.

Both statutes assert overriding effect. Section 104 of the FCCPA provides that, subject only to the Constitution, its provisions override any other law ***"in all matters relating to competition and consumer protection"***, although Section 105 immediately qualifies this by contemplating concurrent jurisdiction with relevant sector regulators, subject to agreement between the two agencies on the scope of their respective powers.

[1]Section 3, FCCPA.
[2]Section 2, FCCPA.
[3]Section 17, FCCPA.
[4]Section 2, the Central Bank of Nigeria Act, 2007.

On the other hand, the BOFIA asserts overriding effect more specifically; it provides that its provisions apply notwithstanding the provisions of the Companies and Allied Matters Act, the Nigeria Deposit Insurance Corporation Act, the Federal Competition and Consumer Protection Act, the Nigerian Financial Intelligence Unit Act, the Federal Mortgage Bank of Nigeria Act, the Mortgage Institutions Act, the Nigerian Export-Import Bank Act, and other applicable laws, in so far as they relate to banks, other financial institutions and specialised banks, and that its provisions prevail over any conflicting provision of these laws.[5] Further, the BOFIA provides that the FCCPA shall not apply to any function, act, financial product or financial service issued or undertaken, or transaction howsoever described, by a bank or other financial institution licensed by the CBN, nor to the CBN, its Governor, or other executive officers or staff.[6]

DECISION OF THE COURT

The Court held as follows:

1. **Implication of the Marginal Note in Section 65 of the BOFIA (Competition):** Although marginal notes are not part of the enactment, they may assist in ascertaining the draftsman's intention. The use of the word ***"Competition"***, and the absence of any reference to consumer protection, indicated an intention to confine the section's restricting effect to competition matters. The marginal note did not erase the FCCPC's consumer-protection jurisdiction.

2. **Restriction of the FCCPC's Powers:** Section 65 of the BOFIA must be read as a whole. Read together, subsections (1) to (3) show that the FCCPC retains jurisdiction over consumer-protection matters between banks and their customers, and that even its competition jurisdiction is not wholly ousted but merely restricted, given that subsections (2) and (3) preserve the application of specified FCCPA provisions to mergers involving banks, with references to the FCCPC to be read as references to the CBN. The FHC also held that Section 104 of the FCCPA placed it above any other legislation, including the BOFIA, in matters of competition and consumer protection.

[5] Section 53(1) and(2), BOFIA.
[6] Section 65(1), BOFIA.

3. **Power to Receive Consumer Complaints:** No other agency is charged with receiving and investigating such consumer complaints; and neither the BOFIA nor the Central Bank of Nigeria Act 2007 confers that function on the CBN. The FCCPC is therefore the proper agency to investigate these.
4. **No Infringement of the Courts' Jurisdiction:** Relying on Section 146 of the FCCPA, the FHC held that the FCCPC's inquiry did not constitute judicial proceedings. The FCCPC is an administrative, not an adjudicatory body, and the exercise of investigative functions should not be deemed as encroaching on the jurisdiction of the courts.

5. **No Power to Impose Penalties:** The FCCPC may not impose penalties or fines, as it is not vested with judicial power; only a court may make such a determination.

AN ANALYSIS OF THE FHC'S DECISION

The Court's central conclusion is that Section 65 of the BOFIA restricts only the FCCPC's competition jurisdiction, leaving its consumer-protection jurisdiction over banks intact. Three strands of the reasoning that produced it warrant closer examination: the weight placed on the marginal note, the treatment of the two statutes' overriding provisions, and the finding that the CBN lacks power to receive and investigate the complaints at issue.

These are examined in detail below.

A. The Marginal Note to Section 65 of the BOFIA

From the face of the judgment, it is evident that the primary persuasion of the Court's view that Section 65 of the BOFIA only restricts the powers of the FCCPC in competition matters, and not consumer protection matters, is the marginal note. However, it is our opinion that the view adopted by the Court in that regard is rather restrictive, than holistic.

The word *"Competition"* appears to have been adopted in isolation to the entire content of the marginal note. A complete reading of the marginal note in that section would be *"Competition Act No 1, 2018"*. This suggests that the marginal note was a mere reference to the FCCPA, and not a depiction of the supposed content of Section 65 of the BOFIA.

This position is reaffirmed by a careful observation of the subsequent subsections,[7] where the phrase *"Act No 1, 2018"* was repeated.

A further reading is available even if the Court's approach to the marginal note is accepted. Section 65(1) of the BOFIA removes the FCCPA from the acts, functions and products of banks; and where competition matters are preserved at all, Sections 65(2) and (3) do so only for specified mergers, and expressly assign their handling to the CBN rather than the FCCPC, since every reference to the FCCPC in those provisions is to be read as a reference to the CBN. The section thus shows the drafters preserving competition jurisdiction, and allocating it to the CBN, only where they chose to —and nowhere preserving the FCCPC's general jurisdiction over banks. On a literal reading, it would appear that this silence is deliberate.

As Niki Tobi JSC held in ***Awuse V. Odili & Ors***,[8]:

"The law of statutory interpretation is elementary and it is that if a language of a statute is clear, the court must give the words their ordinary meaning in its interpretation of the statute. That is the principle of literal interpretation, which must be followed, unless it will lead to absurdity and inconsistency with the provisions of the statute as a whole"

The words of Section 65 of the BOFIA are clear, and even the FHC in its judgement made no reference as to ambiguity in the wordings of the section. Therefore, the natural, clear and literal meaning of the section should have been adopted by the Court.

B. The Relationship Between the BOFIA and the FCCPA

There are sound reasons, on both the text and the canons of construction, to conclude that the BOFIA prevails over the FCCPA, where the subject matter is a financial service, or product of a bank or other financial institution. While the FCCPA is a general statute governing competition and consumer protection across every sector, the BOFIA is a specific statute governing the acts, functions, products and services of banks and other financial institutions.

[7]Section 65(2&3), BOFIA.
[8](2003) LPELR-666(SC).

It is a principle of Nigerian law that where two statutes contain conflicting provisions on the same subject matter, and one is general while the other is specific, the specific prevails.[9] That the BOFIA was enacted two years after the FCCPA also reinforces the point: the later legislation was passed with the earlier in view, and the legislature nonetheless declared the BOFIA superior in matters touching the financial sector. Notably, the Claimant advanced precisely this argument below, and the judgment did not engage on this point.

C. The Role of the CBN and Concurrent Jurisdiction

The Court's finding that no body other than the FCCPC is empowered to act requires qualification as it overstated the position. As earlier stated, the CBN demonstrably regulates consumer protection in the financial sector under the BOFIA and under existing CBN regulations. What is the factual position is a narrower point - no statute confers on the CBN a *"complaints-receipt-and-investigation mechanism"* in the same express terms as under Section 146 of the FCCPA.

Further, Section 105 of the FCCPA tempers the supremacy asserted in the preceding section. It contemplates shared jurisdiction between the FCCPC and any other agency handling competition and consumer-protection matters in a particular sector, in this case, the financial services sector, subject to an agreement between them as to the scope of their powers.[10] This qualification is difficult to reconcile with a finding of exclusive FCCPC jurisdiction.

Finally, the Court was right that a statute must be read as a whole to ascertain the draftsman's intention; however, it applied this principle asymmetrically by examining numerous provisions of the FCCPA,[11] yet only considering Section 65 of the BOFIA. A genuinely holistic reading would have taken in the other provisions of the BOFIA bearing directly on the application of the FCCPA to banks , and in particular Sections 30 and 53, which point away from the conclusion the Court reached.

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[9]Generalia Specialibus Non Derogant - Jombo United Co Ltd v Leadway Assurance Co Ltd (2016) LPELR-40831(SC).
[10]Section 105, FCCPA.
[11] Sections 17(a), (e) and (i), 32, 33, 104 and 105(2), FCCPA.

A final observation reinforces the point. Having read the FCCPC's investigative reach over banks expansively, the Court in the same breath confined the FCCPC's enforcement powers, holding that it may not impose penalties or fines because that is a judicial function reserved to the courts. The two findings are not contradictory, but the contrast is telling. A regulatory body that can compel documents and summon a bank to answer a customer's complaint, yet cannot itself resolve that complaint by way of any binding sanction, sits awkwardly with the breadth of jurisdiction the Court was otherwise willing to attribute to it. It is a further indication that the FCCPC's role in this sphere is narrower than the judgment, taken as a whole, suggests.

CONCLUSION

The decision in ***UBA Plc v FCCPC*** exposes a genuine conflict between two statutes that each claim supremacy: the FCCPA, which asserts overriding effect in all competition and consumer-protection matters, and the BOFIA, which asserts overriding effect in all matters relating to banks and other financial institutions. Faced with that clash, the Court preferred the FCCPA and confined Section 65 of the BOFIA to competition matters.

As this article has argued, that conclusion is difficult to reconcile with the ordinary meaning of Section 65(1) of the BOFIA, with the fuller scheme of Sections 30, 53 and 65 of that Act, and with the specific-statute and later-in-time canons the Court itself invoked — the more so because the Court read the FCCPA holistically while examining only a single section of BOFIA. The better view is not that the Court reached an indefensible destination, but that it travelled there by a route the statutory text does not support.

That the destination is defensible, however, points to where the real solution lies. The tension in ***UBA Plc v FCCPC*** is a drafting problem, and comparative practice suggests it is best cured by drafting rather than by litigation.

In the United Kingdom, conduct and consumer regulation of financial services rests with the Financial Conduct Authority (FCA) under the Financial Services and Markets Act, 2000, which also carries a statutory objective to promote effective competition in the interests of consumers.

Crucially, competition enforcement over the sector is shared and since 1 April 2015, the FCA has exercised concurrent competition powers alongside the Competition and Markets Authority, with regulations and a memorandum of understanding allocating which authority acts in a given case.[12] The United Kingdom thus achieves what Section 65 of the BOFIA attempts but does not accomplish cleanly.

On the other hand, South Africa illustrates the same instinct but is expressed more surgically. Market-conduct regulation of financial institutions falls to the Financial Sector Conduct Authority,[13] and the Consumer Protection Act, 2008 is displaced only to the extent that a product or service is subject to a financial-sector law and regulated by a financial-sector authority.[14]

The contrast is instructive: even where a jurisdiction removes financial services from its general consumer statute, it tends to do so by defined subject matter and to preserve coordination between regulators, rather than by the sweeping ***"shall not apply"*** formula that the BOFIA adopts.

Nigeria's provision, by comparison, is a blunt instrument that the Court had to narrow further in order to reach a workable result. The cleaner path is to amend section 65 of the BOFIA (or, correspondingly, sections 104 and 105 of the FCCPA), to state expressly what the Court was left to infer, being that the CBN leads on financial-sector market conduct and competition, that the FCCPC retains a defined consumer-protection role, and that where their mandates overlap, the agencies will need to coordinate under a statutory mechanism.

Until the legislature acts, the outcome will remain hostage to the interpretive route each successive court chooses, and it would be unsurprising if an appellate court, applying the literal rule the FHC set aside, were to arrive at the opposite result.

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[12]The FCA acquired concurrent competition powers under the Competition Act, 1998 and the Enterprise Act, 2002, conferred by the Financial Services (Banking Reform) Act, 2013. See also the Competition Act 1998 (Concurrency) Regulations, 2014 and the FCA–CMA Memorandum of Understanding.

[13]Financial Sector Regulation Act 9 of 2017 (South Africa), which established the Financial Sector Conduct Authority as the dedicated market-conduct authority. The FSR Act prevails over any other financial-sector law with which it conflicts.

[14]Consumer Protection Act 68 of 2008 (South Africa), s 5, read with the Financial Sector Regulation Act 2017: the CPA is displaced only to the extent that a transaction, product or service is subject to a financial-sector law and regulated by the FSCA, the SARB or the Prudential Authority (and, as to credit, by the National Credit Act 34 of 2005).

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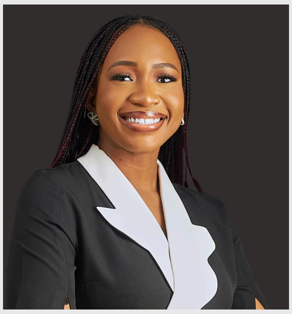

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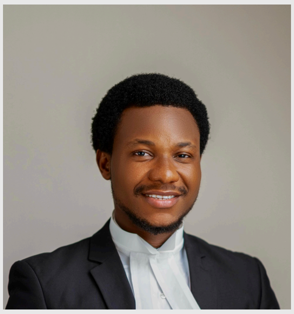

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