



# CLARIFYING REGULATORY AUTHORITY

**FEDERAL HIGH COURT  
AFFIRMS FCCPC'S OVERSIGHT  
IN COMPETITION MATTERS**

## Introduction

On February 7, 2025, the Federal High Court in Lagos delivered a landmark judgment in the case of *Emeka Nnubia v. Honourable Minister of Industry, Trade and Investment, Federal Competition and Consumer Protection Commission (FCCPC), and MTN Communications Nigeria PLC* (Suit No: FHC/L/CS/1009/2024). This ruling affirmed the FCCPC's regulatory authority over competition and consumer protection within the telecommunications sector, a decision with significant implications for its jurisdiction across various industries.

## Background

The dispute originated when the FCCPC initiated an investigation into MTN Communications Nigeria PLC's (MTN) concerning alleged anti-competitive practices. As part of its inquiry, the FCCPC requested access to MTN's internal documents.

Emeka Nnubia, a legal practitioner and minority shareholder in MTN, challenged this request, arguing that the Nigerian Communications Commission (NCC) held exclusive regulatory authority over MTN and that the FCCPC's actions could violate data protection laws.

## The Court's Decision

The Federal High Court ruled in favour of the FCCPC, stating that while the NCC is the primary regulator of the telecommunications sector, it does not possess exclusive authority over competition matters. The court emphasised that Section 90 of the

Nigerian Communications Act (NCA) 2003, which grants the NCC jurisdiction over competition issues within the telecom industry, must be read in conjunction with Section 104 of the Federal Competition and Consumer Protection Act (FCCPA) 2018.

The FCCPA 2018 established the FCCPC as the primary regulatory authority on competition and consumer protection across all sectors. Consequently, the FCCPA, being the more recent legislation, supersedes conflicting provisions of the NCA 2003 to the extent that it seeks to exclude the FCCPC's oversight in the telecommunications industry.

## Memorandum of Understanding (MoU) Between the FCCPC and the NCC

Section 105 of the FCCPA 2018 mandates collaboration between the FCCPC and sector-specific regulators, including the NCC, to ensure a coordinated approach to competition and consumer protection. This provision aligns with global best practices, where consumer protection bodies work alongside industry-specific regulators to ensure comprehensive oversight.

According to the FCCPC's report, the expectation is that the NCC and other sector regulators must approach the FCCPC to negotiate MoUs, rather than the FCCPC initiating the process. However, as of now, there is no known MoU signed between the FCCPC and any sector regulator since the enactment of the FCCPA in 2019.

## Implications and Takeaways

The court's ruling reinforces the FCCPC's mandate as the primary authority responsible for preventing anti-competitive practices and protecting consumers in Nigeria. It also clarifies that the FCCPC does not require an MoU with sector regulators to enforce its statutory functions. Instead, it is incumbent upon sector regulators to engage with the FCCPC to define collaborative arrangements.

Furthermore, in practice, the FCCPC often requires parties to obtain a "no-objection" letter from relevant sector regulators before granting unconditional approvals for mergers and acquisitions. This practice ensures that all regulatory concerns are addressed, thereby preventing potential conflicts between the FCCPC and sector-specific regulators. Where the regulators comply with the reasoning in this judgment, specifically the negotiation of MoU's with the FCCPC, it is expected that regulatory conflicts that previously delayed transaction timelines and placed businesses in challenging positions will now be significantly reduced, fostering a more predictable and cooperative regulatory environment.

This decision underscores the FCCPC's pivotal role in overseeing competition and consumer protection matters across all sectors, including telecommunications. It highlights the necessity for sector regulators to collaborate with the FCCPC to establish effective regulatory frameworks that safeguard consumer

interests and promote fair competition. Moving forward, sector-specific regulators may need to take proactive steps to negotiate MoUs with the FCCPC to ensure seamless regulatory coordination, thereby providing greater certainty for businesses in highly regulated industries.

*This update has been provided by the Private Equity and Mergers and Acquisitions team at Udo Udoma & Belo-Osagie. For more information about our Private Equity and Mergers and Acquisitions practice group offerings, please visit our website at [www.uubo.org](http://www.uubo.org) or email us at [pemateam@uubo.org](mailto:pemateam@uubo.org).*

**DISCLAIMER:** *This article is only intended for information purposes and shall not be construed as legal advice on any subject matter in any circumstances. It does not create, and shall not be construed as creating, any relationship, including a client/attorney relationship, between readers and our firm or any author or serve as legal advice. The opinions expressed in this publication are the opinions of the individual authors and may not reflect the views of the firm or any individual attorney. You should contact your attorney for advice on any particular issue or matter.*