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**ADVERTISING REGULATORY COUNCIL OF NIGERIA
ACT, 2022**



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**ADVERTISING REGULATORY COUNCIL OF NIGERIA
ACT, 2022**

ACT No. 23

AN ACT TO REPEAL THE ADVERTISING PRACTITIONERS (REGISTRATION, ETC.) ACT, CAP. A7,
LAWS OF THE FEDERATION OF NIGERIA, 2004 AND ENACT THE ADVERTISING REGULATORY
COUNCIL OF NIGERIA ACT, 2022 TO ESTABLISH A COUNCIL FOR ADVERTISING,
ADVERTISEMENTS AND MARKETING COMMUNICATIONS AS THE APEX REGULATORY
AUTHORITY FOR THE NIGERIAN ADVERTISING INDUSTRY, MAKE PROVISIONS FOR THE
REGULATION AND CONTROL OF ADVERTISING, ENSURE THE PROTECTION OF THE GENERAL
PUBLIC AND CONSUMERS, PROMOTE LOCAL CONTENT AND ENTRENCH THE BEST
INTERNATIONAL PRACTICES ; AND FOR RELATED MATTERS

[27th Day of June, 2022]

Commence-
ment.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—ESTABLISHMENT OF THE ADVERTISING REGULATORY
COUNCIL OF NIGERIA (ARCON)

1.—(1) There is established the Advertising Regulatory Council of Nigeria (in this Act referred to as “the Council”).

Establishment
of the
Council.

(2) The Council shall —

(a) be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name ;

(b) acquire, hold, mortgage, purchase and deal with property, whether movable or immovable, real or personal ;

(c) administer and execute its functions, powers, duties and responsibilities in accordance with this Act ; and

(d) notwithstanding the provisions in any other Act, have exclusive power to determine, pronounce upon, administer, monitor and enforce compliance by persons and organisations on matters relating to advertisements, advertising, and marketing communication in Nigeria, whether of a general or specific nature.

2.—(1) The primary object of this Act is to create and provide a regulatory framework for the Nigerian advertising and marketing communications industry and all matters related to it and specifically to—

Objectives of
the Act.

(a) establish a regulatory framework for the Nigerian advertising, advertisement and marketing communications industry and for this purpose to create an effective, impartial and independent regulatory authority ;

(b) ensure that all advertisement exposed and directed at the Nigerian market is legal, decent, honest, truthful, respectful, and mindful of the

Nigerian culture, constitutional tenets and relevant lawful enactments, prepared with high sense of social responsibility, devoid of misinformation or disinformation in advertising and marketing communication;

(c) promote and encourage local content whilst entrenching best practices in the advertising industry in Nigeria ;

(d) encourage local and foreign investments in the Nigerian advertising, advertisements and marketing communications industry and the introduction of innovative services and practices in the industry in accordance with best practices and trends ;

(e) ensure efficient and seamless advertising and marketing communications practise in Nigeria ;

(f) strengthen the advertising industry in Nigeria ;

(g) prevent misleading, harmful or offensive advertisement from being exposed to or directed at the Nigerian market ;

(h) encourage effective research and development efforts by all advertising and marketing communications practitioners ; and

(i) ensure fair competition in all aspects of the Nigerian advertising, advertisement and marketing communications industry and also encourage participation of Nigerians in the ownership, control and management of advertising and marketing communications organisations and businesses.

(2) The provisions of this Act applies to—

(a) individual, organisation, body corporate or agency of the Federal Government, State or Local Government which engages in, regulates, sponsors or takes benefit of advertising services, advertisements and marketing communications services ; and

(b) any person who sponsors or takes benefit of an advertising, advertisement or marketing communications services within the provisions of this Act.

PART II — ESTABLISHMENT OF THE GOVERNING COUNCIL

Establishment
of the
Governing
Council.

3.—(1) There is established for the management of the affairs of the Council a Governing Council (in this Act referred to as “the Governing Council”).

(2) The Governing Council shall consist of —

(a) a Chairman, who shall be a distinguished Fellow of the profession to be appointed by the President ;

(b) the Director General of the Council who shall be the Vice-Chairman ;

(c) one representative not below the rank of a director from the supervisory Ministry ;

(d) one representative each of —

- (i) National Universities Commission (NUC),
- (ii) National Board for Technical Education (NBTE),
- (iii) Broadcasting Organisation of Nigeria (BON),
- (iv) Newspapers Proprietors' Association of Nigeria (NPAN),
- (v) Outdoor Advertisement Association of Nigeria (OAAN),
- (vi) Advertisers Association of Nigeria (ADVAN),
- (vii) Media Independent Practitioners Association of Nigeria (MIPAN), and
- (viii) Experiential Marketers Association of Nigeria (EXMAN) ;

(e) five representatives of the Association of Advertising Agencies of Nigeria (AAAN) ; and

(f) the Head of Legal Unit of the Council who shall act at all times as the Secretary of the Governing Council.

(3) Except for the Chairman, Vice-Chairman, and Secretary of the Governing Council, other members of the Governing Council shall be appointed by the Minister on the recommendation of the sector being represented.

(4) A member of the Governing Council shall—

- (a) be a fit and proper person ;
- (b) be a person of proven integrity ;
- (c) have 10 years cognate experience in advertising and marketing communications ; and
- (d) be a person duly registered as advertising practitioner as provided for under this Act.

4.—(1) The Chairman of the Governing Council shall hold office for a term of three years and shall not be eligible for re-appointment.

Tenure of members of the Governing Council.

(2) A member of the Governing Council shall hold office for a term of three years and shall be eligible for re-appointment.

5. A member of the Governing Council shall vacate office if he—

Cessation of membership.

- (a) becomes of unsound mind ;
- (b) is an undischarged bankrupt ;
- (c) fails to comply or is not capable of fully complying with a judgment or order, including an order for costs, given against him by a court of law in a civil case ;
- (d) in the preceding 10 years has been convicted of an offence of which fraud, violence, dishonesty, extortion or intimidation is an element ; or
- (e) is not permanently resident in Nigeria.

Meetings
of the
Governing
Council.

6. (1) The Chairman of the Governing Council shall once every quarter convene the meeting of the Governing Council through the Secretary.

(2) Without prejudice to the provision of subsection (1), the Chairman of the Governing Council may call for an emergency meeting of the Governing Council where it becomes necessary.

(3) Where two-third of members of the Governing Council request in writing for a meeting, the Secretary shall convene a meeting of the Governing Council.

First
Schedule.

(4) Supplementary provisions relating to the proceedings of the Governing Council shall be as set out in the First Schedule to this Act.

Allowances
of members
of the
Governing
Council.

7. There shall be paid to every member of the Governing Council such allowances as applicable in public service of the Federation.

PART III—FUNCTIONS OF THE COUNCIL

Functions of
the Council.

8. The Council shall—

(a) regulate and control advertising, advertisements and marketing communications in all its aspects and ramifications directed at or exposed to the Nigerian market ;

(b) set the standard for regulation of advertising, advertisement and marketing communications by Federal, State and Local Government agencies and entities involved with advertising control ;

(c) prevent and eliminate harmful and offensive advertisement from being exposed to or directed at the Nigerian Market ;

(d) ensure that all advertising, advertisement and marketing communications materials exposed to or directed at the Nigerian market is legal, decent, honest truthful, respectful and is devoid of any form of misinformation or disinformation ;

(e) ensure the effective administration, supervision, regulation and control of advertising, advertisement and marketing communication in Nigeria in all its aspects and ramifications ;

(f) formulate policy on all activities relating to advertising, advertisement and marketing communications in Nigeria ;

(g) advise the Federal Government generally on national policies and allied matters pertaining to advertising, advertisement and marketing communications business practice in Nigeria ;

(h) carry out investigation or inquiry considered necessary or desirable in connection with any matter relating to advertising, advertisement and marketing communications in Nigeria ;

(i) regulate and control creative ratings, advertising, advertisement and marketing communications awards, marketing communications research, audit bureau of circulations, audience measurement, consumer insight research and other related researches directed to and targeted at Nigerian market ;

(j) ensure the preservation of Nigerian local content and use of indigenous skills as an important element in advertising, advertisement and marketing communications services in Nigeria and directed at the Nigerian market ;

(k) formulate and implement regulations and guidelines on advertising, advertisement and marketing communications industry terms of engagement, credit policy and disengagement protocol ;

(l) create Research and Development Fund for the promotion of advertising, advertisement and marketing communications best practices in Nigeria ;

(m) determine who is an advertising and marketing communications practitioner ;

(n) determine corporate entities of Nigerian or foreign origin entitled to engage in the business of advertising, advertisement and marketing communications in Nigeria ;

(o) determining the standards of knowledge and skill to be attained by any person seeking to become registered as member of the advertising profession or render advertising and marketing communications services directed at the Nigerian market and reviewing those standards ;

(p) articulate conditions generally under which any person or body corporate registered under this Act should seek to practice advertising, advertisement and marketing communications in Nigeria ;

(q) determine the categories of practice and specialisation for both individuals and bodies corporate under a licensing regime to be reviewed by the Council ;

(r) securing in accordance with the provisions of this Act, the establishment and maintenance of separate registers for individual and body corporate entitled to practice in any form of advertising, advertisement and marketing communications including creative agencies, full service agencies, experiential marketing communication agencies, media independent agencies, voice over artists, modelling agencies, advertising services suppliers, out-of-home advertising agencies, indoor advertising agencies, advertising research, marketing communication research organisations, audit bureau of circulation organisations, audience measurement organisations, and advertising production organisations, and the publication of lists of those persons or organisations ;

(s) set the standard for good advertising, advertisement and marketing communications in Nigeria including publication and enforcement of codes, guidelines, regulations, proclamations or other subsidiary legislation on content of advertising for sustainable advertising ;

(t) conduct examinations and admit successful candidates into the profession and for such purpose, the Council shall prescribe fees to be paid in that respect ;

(u) formulate policies, regulate, approve and register advertising, advertisement and marketing communications business combinations, mergers, acquisitions, subsidiary investment, affiliation and other investments by organisations licensed under this Act ;

(v) without prejudice to the foregoing, ensure the furtherance, maintenance and observance of ethical standards and promote professionalism in the Nigerian advertising, advertisement and marketing communications industry ;

(w) register and license all foreigners who intend to practice advertising, advertisement and marketing communications in Nigeria ; and

(x) perform any other advertising, advertisement and marketing communications related functions in Nigeria.

Powers of
the Council.

9. The Council shall have powers to—

(a) manage and superintend its affairs ;

(b) authorise, formulate, establish and issue code, proclamations, standards of practice, guidelines, and other regulations on advertising, advertisement and marketing communications in Nigeria ;

(c) establish and maintain register of advertising and marketing communications practitioners in Nigeria ;

(d) license and revoke license issued to all categories of advertisement agencies under this Act ;

(e) liaise with relevant organisations within and outside Nigeria in performing its functions under this Act ;

(f) monitor and enforce sanctions on any person or organisation that sponsors, exposes or causes to be exposed in Nigeria, any advertising, advertisement and marketing communications materials without prior approval of the Advertising Standards Panel ;

(g) investigate and compel public and private organisations to produce advertising and marketing communications related information ;

(h) have access to books including financial records of organisations licensed by the Council ;

(i) accredit relevant departments of tertiary institutions offering advertising, graphic arts, marketing, media communication, mass communications and other related subjects ;

(j) compel public and private organisations to use only bodies corporate licensed under this Act for advertising and marketing communications services in Nigeria ;

(k) compel public and private organisations to disclose all advertising service providers engaged by them ;

(l) investigate and prosecute individual, body corporate or organisation, directors and shareholders licenced under this Act in the interest of the public ;

(m) where the interest of the public requires, apply to the Federal High Court for the winding-up of the affairs of an organisation whose license has been revoked ;

(n) issue license awards and ratings in advertising, advertisements and marketing communications targeted at Nigerian market ;

(o) recognise, accredit, license and regulate the activities of advertising sectoral groups ;

(p) sanction any person or organisation that violates or infringes any provision of this Act, code of advertising practise, standard of practice, proclamation and any other enactment that relates to advertising, advertisement and marketing communications in Nigeria ;

(q) prosecute any person or organisation that violates or infringes any provision of this Act, code of advertising, proclamations and any other enactment relating to advertising, advertisement and marketing communications ;

(r) upon violation of any provision of this Act, seal advertising department, marketing department or commercial departments of organisations and agencies upon obtaining court order ;

(s) advise the Government of the Federation on any matter relating to the operation of this Act including making recommendations for the review of policies, legislation and subsidiary legislation that it may consider appropriate ;

(t) compel public or private organisations, or any person who sponsors or take benefit of an advertisement to pull down or remove any advertisement or marketing communication exposed and directed at the Nigerian market that violates any provision of this Act ;

(u) stop the exposure or cause the removal of any advertising, advertisement and marketing communication exposed or directed at the Nigerian market that violates any provision of this Act ; and

(v) do such other things as it considers necessary for the effective performance of its functions under this Act.

Power to bestow honorary fellowship.

10. The Council may if it deems fit bestow an honorary fellowship on any deserving person who has distinguished himself, having spent at least 15 years in any chosen area of practice and whose contribution is such that it is in the interest of the Council to be associated with the person.

PART IV—STAFF OF THE COUNCIL

Staff of the Council.

11.—(1) The President shall appoint for the Council, on the recommendation of the Minister, a Director-General who shall be the chief accounting officer of the Council.

(2) The Director-General shall be responsible for the general administration of the Council.

(3) The Director-General shall be—

(a) a fit and proper person, with suitable degree of skill and experience in advertising, advertisement and marketing communications; and

(b) a person of proven integrity and ability.

(4) The Director-General shall keep the records of proceedings and ensure implementation of the decisions of the Governing Council and such other functions as the Governing Council may direct.

(5) The Director-General shall hold office for a term of four years and shall be eligible for reappointment for another term of four years and no more.

Other staff of the Council.

12.—(1) The Governing Council shall appoint for the Council such number of employees as may in the opinion of the Governing Council be expedient and necessary for the proper and efficient performance of the functions of the Council.

(2) The Government Council shall, after consultation with the Minister and other relevant Federal Government agencies, determine the terms and conditions of service, including remuneration, allowances, benefits and pensions, of the employees of the Council.

(3) The Governing Council shall promote and discipline employees of the Council as may be necessary for the performance of the functions under this Act.

Staff pension.
Act No. 4,
2014.

13. Service in the Council shall be pensionable in accordance with the Pension Reform Act.

PART V—LEGAL PROCEEDINGS

14.—(1) No suit shall be commenced against the Council before the expiration of 30 days after written notice of the intention to commence the suit shall have been served upon the Council by the intending plaintiff or claimant, his agent or legal representative and the notice shall clearly and explicitly state the—

Pre-action
notice.

- (a) cause of action ;
- (b) particulars of the claim ;
- (c) name and address of the legal practitioner and the intending plaintiff or claimant ; and
- (d) reliefs sought.

(2) The Director-General of the Council, its officers, employees or agents shall not personally be subject to any action, claim or demand by, or liable to any person in respect of anything done or omitted to be done in exercise of any functions or power conferred by this act upon the Council, its Director-General, officers, employees or agents.

(3) A member of the Council or its Director-General or any officer or employee of the Council shall be indemnified out of the asset of the Council against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceedings is brought against him in his capacity as a Director-General, officer or the employee of the Council.

(4) A notice, summons or other documents required or authorised to be served upon the Council under the provision of this Act or any other law or enactment may be served on the Council by delivering it to the Director-General or by sending it by registered post and addressed to the Director-General at the principal office of the Council.

PART VI—FINANCIAL PROVISIONS

15.—(1) There is established and maintained by the Council, a fund (in this Act referred to as “the Council Fund”) into which shall be paid and credited—

Council
Fund and the
Research and
Development
Fund.

- (a) all allocations from the Federal Government as may be appropriated by the National Assembly ;
- (b) such money as may be borrowed, deposited or granted to the Council by the Government of the Federation or of a State ;
- (c) all grants received from both local and international organisations for the purpose of the Council ;
- (d) penalties, fees, charges, administrative costs of proceedings, and other money payable to the Council under this Act ;

(e) all money received by the Council as gifts, loans, contributions, testamentary deposition or donations ; and

(f) all other money and assets which may accrue to the Fund.

(2) There is established the Research and Development Fund into which shall be paid—

(a) such sums as may be provided or appropriated by the Council from the Council Fund for the purpose of research and development, and

(b) such sums as may be provided for that purpose by the Federal Government ;

(3) The Research and Development Fund shall be used for the promotion and encouragement of best practices in the advertising, advertisement and marketing communications sector.

(4) The Council Fund shall be managed in accordance with the provisions of the relevant extant laws in Nigeria.

Expenditure
of the
Council.

16. The Council shall apply the proceeds of the Council Fund established under section 15 (1) of this Act with the approval of the National Assembly to—

(a) cost of administration of the Council ;

(b) payment of fees, remuneration, bills, rent ;

(c) cost of maintenance of any property acquired or vested in the Council;

(d) capital expenditure relevant to the Council ; and

(e) undertake such other expenses and activities as are connected with all or any of the functions of the Council under this Act.

Gifts to the
Council.

17.—(1) The Council may accept gifts of land, money or other property on such terms and conditions considered lawful.

(2) The Council shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Council under this Act.

Power to
borrow.

18. The Council may, with the consent of the Minister, borrow, on such terms and conditions as the Council may require in the performance of its functions under this Act without violating any extant regulations in Nigeria.

Annual
estimates
and
expenditure.

19.—(1) The Council shall not later than 30 September of each year, submit to the Minister, an estimate of the expenditure and income (including payments to the Council Fund) for the next year.

(2) The estimate of income and expenditure specified under subsection (1) shall not be operative unless with the approval of the National Assembly.

(3) The Council shall cause to be kept proper accounts of the Council in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

20.—(1) The Council shall prepare and submit to the Minister, not later than 30 June in each year, a report in such form as may be directed on the activities of the Council during the immediately preceding year, and shall include in the report a copy of the audited accounts of the Council for that year and the auditor’s report. Annual report.

(2) The Minister shall, upon receipt of the report under subsection (1), cause a copy of the report, the audited accounts of the Council and the auditor’s report to be submitted to the National Assembly.

PART VII—REGISTRATION OF PERSONS AND ORGANISATIONS ENGAGING IN
ADVERTISING, ADVERTISEMENT AND MARKETING COMMUNICATIONS

21.—(1) Every person or organisation as defined in this Act or any subsidiary legislation made pursuant thereto, who intends to practice or continue to practice advertising and marketing communications in the Nigerian advertising market or commence operation or operate as an advertising or marketing communications outfit or carry on advertising or marketing communications business or profession shall be registered with the Council in accordance with the provisions of this Act and subsidiary legislation made under it. Registration of person.

(2) Registration of individuals or organisations shall be in the prescribed form and in the manner specified under this Act and subsidiary legislation made under it including but not limited to the level of knowledge and skill required to operate in the Nigerian advertising and marketing communications market, and the Council shall—

(a) through subsidiary legislation and mandatory guidelines, make detailed provisions for licensing of different categories of advertising and marketing communications organisation and firm engaged in advertising and marketing communications business which is directed at the Nigerian market ; and

(b) issue a certificate of registration or license to any person or organisation indicating the relevant category and area of specialisation they can operate.

(3) The level of foreign participation in an agency or organisation incorporated in Nigeria would determine whether the proposed advertising firm is to carry on business directed at the Nigerian market as a foreign or national agency or organisation.

(4) Both foreign and national agencies applying for license must comply with the requirements for license as set out in the Nigerian Code of Advertising, and any other mandatory guidelines published by the Council pursuant to its mandate under this Act.

(5) In granting licence to a body corporate to conduct any approved form of advertising or marketing communications business, the Council shall ensure that the interest of the public is served by developing adequate rules for that purpose.

(6) The Council may revoke any license granted to an organisation where the organisation is insolvent, wound up or operating in a manner detrimental to the interests of the public, provided that no decision to revoke existing license shall be made unless the organisation has been given the opportunity of fair hearing.

Preparation
and
maintenance
of register.

22.—(1) The Director-General shall prepare and maintain, in accordance with rules made by the Council under this section, a register of the names, addresses, approved qualifications and such other particulars as may be specified of all persons who are entitled in accordance with the provisions of this Act to be registered as fellows, full members, associates or students of the profession and who apply in the specified manner to be so registered.

(2) Subject to the provisions of this section, the Council shall make rules with respect to the form of keeping of the register and the making of entries in it, and in particular —

(a) regulate the making of applications for registration and providing for the evidence to be produced in support of applications ;

(b) provide for the notification to the Director-General by the person to whom any registered particulars relate, of any change in those particulars ;

(c) authorise a registered person to have any qualification which is, in relation to his profession, an approved qualification or an accepted qualification under section 21 (2) of this Act, registered in relation to his name in addition to or, as he may elect in substitution for any other qualifications so registered ;

(d) specifying anything not specified under this section ; and

(e) specifying the fees to be paid to the Council in respect of the entry of names on the register and authorising the Director-General to refuse to enter a name on the register until any fees specified for entry has been paid.

(3) The Director-General shall—

(a) correct, in accordance with the directives of the Governing Council, any entry in the register which the Governing Council directs him to correct as being in the opinion of the Governing Council an entry which was incorrectly made ;

(b) make any necessary alterations to the registered particulars or registered persons ; and

(c) remove from the register the name of any registered person who has died, become insane or committed an act of gross misconduct.

(4) Where the Director-General—

(a) send by post to any registered person a registered letter addressed to him at his address on the register enquiring if the registered particulars relating to him are correct and receives no reply to that letter within three months from the date of posting it ; and

(b) upon the expiration of the period sends in like manner to the persons in question a second letter and receives no reply to that letter within three months from the date of posting,

the Director-General may remove the particulars relating to the person in question from the register, provided that the Governing Council may direct the Director-General to restore to the register any particulars removed therefrom under this subsection.

(5) The Director-General shall also prepare and maintain, in accordance with rules made by the Governing Council under this section, a register of the names, addresses, conditions of license and such other particulars as may be necessary of all organisations or persons who are licensed to practice under any of the categories provided under section 21 and additional categories created under any subsidiary legislation made under this Act, and the provisions of this section and section 10 shall apply to this subsection with such modifications as are necessary.

23.—(1) The Director-General shall—

(a) cause the register to be printed, published and put on sale to members of the public not later than one year from the beginning of the year in which this Act comes into effect ;

(b) in each year after that in which a register is first published under paragraph (a), cause to be printed, published and put on sale either a corrected edition of the register or a list of alterations made to each register since it was last printed ; and

(c) cause a print of each edition or the register and of each list of corrections to be deposited at the principal office of the Council, and the Council shall keep each register and lists so deposited open at all reasonable times for inspection by members of the public.

(2) A document purporting to be a print of an edition of a register published under this section by authority of the Director-General in the current year or documents purporting to be prints of an edition of a register so published in the

Publication
of register
and lists of
correction.

current year, shall, without prejudice to any other mode of proof, be admissible in any proceedings as evidence that any person or body corporate specified in the document, or the documents read together, as being registered is so registered and that any person not so specified is not so registered.

Division
of register.

24. The register maintained under this Act for individuals shall consist of five parts—

- (a) honorary fellows ;
- (b) fellows ;
- (c) full members ;
- (d) associate members ; and
- (e) student members.

Registration.

25.—(1) A person shall be entitled to be registered as a student member of the profession and being so registered to receive a certificate of registration if he satisfies the Council that he is undergoing a course of study recognised by the Council leading to a qualification in the profession in an institution approved by the Council.

(2) A person shall be entitled to be registered as an associate member of the profession and being so registered to receive a certificate of registration if he—

- (a) holds a University Degree or Higher National Diploma in advertising, marketing, graphic arts, mass communication or other professional qualifications recognised by the Council, and he is employed in a recognised organisation where he can acquire professional experience ;
- (b) is of good character ;
- (c) has not been convicted in Nigeria or elsewhere of an offence involving fraud or dishonesty ; and
- (d) has attained the age of 21 years.

(3) A person shall be entitled to be registered as a full member of the profession and being so registered to receive a certificate of registration if he—

- (a) fulfills the conditions for registration under subsection (2) ; and
- (b) satisfies the Council that in the five years immediately preceding the date of his application, he has been in continuous active practice as an advertising or marketing communications practitioner either alone or in partnership with other advertising practitioners:

Provided that a person having no formal education as stated in subsection (2) (a) shall be entitled to be registered as a full member of the profession and being so registered to receive the certificate having certified as having practiced advertising or marketing communications for a period of at least seven years and if he satisfies the conditions stated under subsection (2) (b)-(d).

(4) A person shall be entitled to be registered as a fellow of the profession and being so registered to receive a certificate of registration if he—

(a) fulfils the conditions for registration under subsections (2) or (3) ; and

(b) satisfies the Council that in the 15 years immediately preceding the date of his application, he has been in continuous active practice with other advertising and marketing communications practitioners, and has in the opinion of the Council made significant contributions to the advertising and marketing communications profession.

(5) The Council may in its absolute discretion provisionally accept a qualification produced in respect of an application for registration under this section or direct that the application be received within such period as may be specified in the direction.

(6) The Council shall publish in the Federal Government Gazette particulars of the qualifications accepted for registration.

PART VIII—REGULATORY STANDARD AND ENVIRONMENT

26.—(1) The Council shall set the standards for regulation by all government agencies whether Federal, State or Local Government involved with advertising control with intent to minimise multiple regulation and taxes, reduce the cost of advertising, protect investment in advertising, maintain aesthetic of advertising environment, maintain safety and encourage sustainable advertising.

Setting
regulatory
standards.

(2) Before setting standards for regulation, the Council shall undertake a consultative process to enable it receive input from the affected regulators, advertising practitioners, the advertisers, consumers of advertising, all stakeholders and the general public.

(3) Every regulator involved with advertising and marketing communications control shall comply with the standards of regulation set by the Council.

(4) Breach of the standard of regulation shall entitle any affected person to right of action for relief as may be appropriate to be granted by the court against any offending regulator.

(5) Every registered practitioner who practices as a regulator in any government agency (Federal State or Local Government) which is in breach of the standard of regulation shall be subject to discipline under this Act.

(6) Subject to the provisions of the Constitution, a regulator shall compensate an individual or organisation for any loss of property occasioned by the removal of outdoor advertisements, signage or equipment before the term granted under existing control permit.

(7) Any law which seeks to empower removal before expiration of valid control permit and without due process and provision for compensation shall be invalid and it shall be the duty of Council to intervene as a matter of first recourse and resolve disputes arising from enforcement actions of regulatory agencies.

Part IX— Training

Approval of
courses.

27.—(1) The Council may approve for the purpose of this Act —

(a) any course of training which is intended for persons seeking to become members of the profession under this Act and which the Council considers as designed to confer on persons completing it sufficient knowledge and skill for the practice of the profession ;

(b) any institution either in Nigeria or elsewhere which the Council considers is properly organised and equipped for conducting the whole or any part of the course of training approved by the Council under this section ; or

(c) any qualification which, as a result of examination taken in conjunction with the course of training approved by the Council under this section, is granted to candidates reaching a standard at the examination indicating, in the opinion of the Council, that they have sufficient knowledge and skill to practice the profession.

(2) The Council may, if it deems fit, withdraw any approval given under this section in respect of any course, qualification or institution but before withdrawing such an approval, the Council shall—

(a) give notice that it proposes to do so to persons by whom the course is conducted or the qualification is granted or the institution is controlled, as the case may be ;

(b) afford such person or institution an opportunity of making to the Council representation with regard to the proposal ; and

(c) take into consideration any representations made in respect of the proposal under paragraph (b).

(3) In relation to subsection (2) (b), such person or institution is expected to make a written representation and deliver same to the Council within 21 days after the notice of withdrawal of approval after which the Council may fix a date for oral representation by such person or institution where the person or institution requires any further clarification on any issue.

(4) The giving or withdrawal of an approval under this section shall have effect from such date, after the execution of the instrument signifying the giving or withdrawal of the approval, as the Council may specify in the instrument, and the Council shall—

(a) immediately publish a copy of every instrument in the Federal Government Gazette ; and

(b) not later than seven days before its publication, send a copy of the instrument to the Minister.

28.—(1) The Council shall keep itself informed of the nature of —

(a) the instruction given at approved institutions to persons attending approved courses of training in advertising and marketing communication, and

(b) the examinations as a result of which approved qualifications are granted,

Supervision of institution and examination leading to qualification.

and for the purpose of discharging that duty, the Council may appoint, either from its own members or otherwise, persons to visit approved institutions or attend such examinations.

(2) A visitor appointed under subsection (1) shall report to the Council on—

(a) the adequacy of the instruction given to persons attending approved courses of training at institutions visited by him ;

(b) the adequacy of the examination attended by him ; and

(c) any other matter relating to the institutions or examinations which the Council may, either generally or in a particular case, request him to report, but no visitor shall interfere with the giving of any instruction or the holding of any examination.

(3) On receiving a report made under this section, the Council shall immediately send a copy of the report to the person appearing to the Council to be in charge of the institution or responsible for the examinations to which the report relates requesting that person to make representations to the Council within such time as may be specified in the request not being more than one month beginning from the date of the request.

29.—(1) The Council may, if it deems fit, consider and report to the Minister upon all matters relating to the professional training and other qualifications required for admission to the profession under this Act and the conditions of practice after registration.

Power of the Council to consider matters relating to training.

(2) The Minister may require the Council to advise him on any matter referred to under subsection (1).

PART X — PRIVILEGES OF REGISTERED PERSONS AND OFFENCES
BY UNREGISTERED PERSONS

Certificate
invalid if
given by
unregistered
person

30. A certificate required by any written law from any class of persons for whom a register is maintained under this Act shall not be valid, except where such certificate is signed by a person registered under this Act.

Appointment
not to be
held by
unregistered
person.

31.—(1) A person not being registered in accordance with this Act, shall not be entitled to hold any appointment in the public service of the Federation or of a State or in any public or private establishment, body or institution, if the holding of such appointment involves the performance by him in Nigeria of any act pertaining to the profession for gain.

(2) Nothing in the provisions of this Act shall prevent a person from holding any appointment referred to under subsection (1) while he is undergoing training for the purpose of becoming qualified for registration under the supervision of persons who are registered in accordance with this Act.

Prohibition
of a person
falsely
professing to
be an
advertising
practitioner
or
professional.

32.—(1) An individual or organisation, not being registered in any register established under this Act who has failed, refused or neglected to comply with the conditions and requirements for advertising, advertisement and marketing communications as stipulated under this Act, or who uses any name, title, description or symbol calculated to lead any person to infer that he is engaged in advertising, advertisement or marketing communications commits an offence and is liable on conviction—

(a) on first offence—

(i) in the case of an individual, to a fine not more than ₦500,000, or imprisonment for a term of six months or both, and

(ii) in the case of an organisation, to a fine of at least ₦1,000,000 ; and

(b) on subsequent offence—

(i) in the case of an individual, to a fine not more than ₦1,000,000, or imprisonment for a term of 12 months or both, and

(ii) in the case of an organisation, to a fine of at least ₦5,000,000 ;

Recovery
of fees.

33. No remuneration shall be recoverable by way of legal proceedings in respect of any act pertaining to the services or profession of advertising or marketing communications when performed by a person or organisation who is not entitled under this law to perform such act for gain.

Offences.

34.—(1) Any person, who for the purpose of procuring the registration of any name, qualification or other matter —

(a) makes a false statement in a material particular, or

(b) recklessly makes a statement which is false in a material particular, commits an offence under this section.

(2) Where the Director-General or any other person employed by the Council willfully makes any falsification in any matter relating to any register maintained under this Act, he commits an offence under this section.

(3) A person, body corporate, associations or organisation that exposes any advertisement that contravene any provision of this Act, commits an offence.

(4) Any person or organisation who engages in the practice of advertising and advertising services as a profession without being registered with the Council and so licensed by the Council in accordance to the provisions of this Act, commits an offence under this section.

(5) A person who commits an offence under this section is liable on conviction—

(a) in the case of an individual, to a fine of at least ₦500,000 or imprisonment for a term of one year or both, and

(b) in the case of an organisation or a body corporate, to a fine of at least ₦1,000,000.

(6) Where an offence under this Act committed by a body corporate is proved to have been committed with the connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or organisation or any person purporting to act in any such capacity, he, as well as the body corporate or organisation, shall be deemed to be guilty of that offence and punished accordingly.

35. The Council shall consider any recommendation made to it by a Tribunal or disciplinary body with respect to the prosecution by it of any person for an offence disclosed under any provision of this Act. Prosecution of offences.

36.—(1) An offence committed under this Act shall be tried by the tribunal established under this Act. Trial of offences.

(2) Prosecution under this Act shall be undertaken by legal practitioners appointed by the Council.

PART XI—ESTABLISHMENT OF THE ADVERTISING OFFENCES TRIBUNAL

37.—(1) There is established under this Act, the Advertising Offences Tribunal (in this Act referred to as “the Tribunal”). Establishment of the Advertising Offences Tribunal.

(2) The Tribunal shall adjudicate over offences created under this Act, Code of Advertising Practice, Standard of Practice, Proclamation and other relevant enactments made under this Act.

(3) The Tribunal shall exercise the jurisdiction, powers and authority conferred on it under this Act or any other enactment.

(4) The Tribunal shall keep record of its proceedings and have jurisdiction throughout the Federation.

Composition of the Tribunal.

38. The Tribunal shall consist of —

(a) a Chairman who shall be a retired judge of the Federal High Court or a legal practitioner with at least 15 years post-call and cognate experience in the field of advertising, advertising services and marketing communications ;

(b) four members who shall be two legal practitioners and two advertising practitioners with at least 10 years post-call and cognate experience in the field of advertising, advertising services and marketing communication ; and

(c) the Chairman and other members of the Tribunal shall be appointed by the Minister on the recommendation of the Council.

Tenure of the Chairman of the Tribunal.

39. The Chairman and other members of the Tribunal shall hold office on a part-time basis for a term of three years and shall be eligible for reappointment for another term of three years and not more.

Qualification of members of the Tribunal.

40. A person is not qualified to serve on the Tribunal if the person is—

(a) an undischarged bankrupt ;

(b) declared mentally unfit under any order of a competent court ;

(c) a convicted felon under the laws of the Federal Republic of Nigeria ;

(d) found guilty of serious misconduct in incapacitating the person from carrying out the functions of the office ; or

(e) found to have been engaging in any activity that may undermine the integrity of the Tribunal.

Resignation by a member of the Tribunal.

41.—(1) A member of the Tribunal may by a written notice addressed to the Council resign from the Tribunal, provided that the member shall, unless permitted by the Minister to relinquish sooner, continue to hold office until the expiry of the term of office, whichever is earlier.

(2) A member of the Tribunal may be removed from office by the Minister —

(a) on grounds of gross misconduct, after due inquiry has been made and the member concerned informed of the reasons for the removal and given an opportunity of being heard in respect of the reason ;

(b) on grounds of incapacity on account of ill health ; or

(c) for failure to satisfy the requirement of this Act.

Vacancy in the composition of the Tribunal.

42. Where for reason other than temporary absence, any vacancy occurs in the Tribunal, a successor shall be appointed in accordance with this Act to fill the vacancy.

<p>43.—(1) The Tribunal shall have and exercise jurisdiction and powers in respect of criminal cases and offences created under this Act.</p> <p>(2) The punishment mentioned in section 34 and 35 of this Act shall be without prejudice to the penalties that may be imposed by any law where the breach of this Act is also an offence under the criminal code, penal code or any other enactment or law.</p>	<p>Jurisdiction of the Tribunal.</p>
<p>44.—(1) The rules of procedure to be adopted in any prosecution for the offences under this Act before the Tribunal and the forms to be used in such prosecutions shall be set out in the Third Schedule to this Act.</p> <p>(2) Prosecutions for all offences under this Act shall be instituted in the name of the Federal Republic Nigeria by the prosecuting counsel appointed by the Council.</p> <p>(3) Any person accused of any offence under this Act shall be entitled to defend himself in person or by a legal practitioner of his own choice who is qualified to practice in Nigeria.</p>	<p>Rules and procedure of the Tribunal. Third Schedule.</p>
<p>45. Notwithstanding the provisions of any other enactment conferring power to search, if the Chairman of the Tribunal is satisfied that there is a reasonable ground to suspect that there may be found in any building or other places, any book, record statement, or information in any form, which, in his opinion are or may be material to the charge or any trial under this Act, he may issue a warrant under his hand authorising any police officer or any member of the security agencies to enter, if necessary by force, the said building or other place and every part of it, to search for, seize and remove any material from it.</p>	<p>Power to issue search warrant.</p>
<p>46. Where the rules of the Tribunal contains no provision in respect to any matter relating to or connected with the trial of offences under this Act the prevalent provisions of the Administration of Criminal Justice Act shall apply at every proceeding of the Tribunal.</p>	<p>Application of Administration of Criminal Justice Act or Code. Act No. 13, 2015.</p>
<p>47.—(1) Where the Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this Act, an appeal shall lie as of right from such decision to the Court of Appeal at the instance of any party to the proceedings.</p> <p>(2) Any right of appeal to the Court of Appeal from the decision of the Tribunal under subsection (1) shall be exercised in accordance with the provisions of the rules of court in force regulating the powers, practice and procedures of the Court of Appeal.</p>	<p>Appeal against the decision or judgment of the Tribunal.</p>

Management and assignment of cases. **48.**—(1) The Chairman of the Tribunal shall be responsible for the management and assignment of cases before the Tribunal to the other members of the Tribunal.

(2) For the purpose of subsection (1), members of the Tribunal shall be constituted into panels of at least three members of the Tribunal.

(3) Further to the provision of subsection (2), the Chairman shall ensure that at least one member of each panel has the requisite training, experience and good knowledge of advertisement, advertising services, marketing communications and law.

(4) The Chairman shall designate a member to preside over proceedings of the panels at any sitting.

Remuneration of the Chairman and other members of the Tribunal. **49.** The Chairman and other members of the Tribunal shall be paid such allowances, emoluments and benefits as the Revenue Mobilisation Allocation and Fiscal Commission may approve.

PART XII—DISCIPLINARY COMMITTEE AND INVESTIGATING PANEL

Establishment of the Disciplinary Committee. **50.**—(1) There is established the Advertising Practitioners Disciplinary Committee (in this Act referred to as “the Disciplinary Committee”) which is charged with the responsibility of considering and determining any case referred to it by the Investigating Panel.

(2) The Disciplinary Committee is made up of five members and is composed of —

(a) a Chairman who shall be an advertising and marketing communications practitioner of at least 15 years with cognate experience ;

(b) other members of the Disciplinary Committee who shall be representative of the relevant advertising and marketing communications industry, and whose composition shall at any given case put into consideration the area of advertising practice involved ; and

(c) an assessor, to be appointed by the Council, who shall be a legal practitioners with at least 10 years experience and possess sufficient knowledge in advertising, advertisement and marketing communications matters.

(4) The Chairman of the Disciplinary Committee may constitute a panel of any three from its membership whenever he deems it necessary for the purpose of exercising the jurisdiction vested in the Disciplinary Committee by this Act or any other Act provided that —

(a) a member presiding as Chairman of any Disciplinary Committee shall be a licensed advertising, advertisement and marketing communications practitioner ; and

(b) for the purpose of this Act, the sitting of any of such Disciplinary Committee shall be deemed a constitution of the Disciplinary Committee.

(5) The provisions of the Second Schedule to this Act shall, in so far as is applicable to the Disciplinary Committee, have effect with respect to it.

Second
Schedule.

51.—(1) There is established the Advertising Practice Investigating Panel (in this Act referred to as “the Investigating Panel”) which is charged with the responsibility for —

Establishment
of the
Investigating
Panel.

(a) conducting preliminary investigation into any alleged case of professional misconduct against a registered person or licensed organisation, who acted in his or its capacity as such, or any other reason be the subject of proceedings before the Disciplinary Committee ; and

(b) deciding whether an investigated case should be referred to the Disciplinary Committee or the Tribunal.

(2) The Investigating Panel is made up of five members and is composed of —

(a) a Chairman who shall be an advertising and marketing communications practitioner of at least 15 years with cognate experience ;

(b) other members who shall be representative of the relevant advertising, advertisement and marketing communications industry, and whose composition shall at any given case, put into consideration the area of advertising practice involved; and

(c) an assessor, to be appointed by the Council, who shall be legal practitioners with at least 10 years experience and possess sufficient knowledge in advertising, advertisement and marketing communications matters.

(4) The Chairman of the Investigating Panel may constitute a panel of three from its members whenever he deems it necessary for the purpose of exercising the jurisdiction vested in the Investigating Panel by this Act or any other Act provided that—

(a) a member presiding as Chairman of any panel shall be a licensed advertising and marketing communications practitioner ; and

(b) for the purpose of this Act, the sitting of any of such Investigating Panel shall be deemed a constitution of the Investigating Panel.

(5) The provisions of the Second Schedule to this Act shall, in so far as is applicable to the Investigating Panel, have effect with respect to it.

Second
Schedule.

Alternative
dispute
resolution.

52.—(1) Without prejudice to the rights of parties to go to Court if they do not, from the beginning, assent to an industry arbitration under the support of the Council, where a dispute arises between advertising, advertisement and marketing communications practitioners, advertisers, regulatory agencies, media houses or any stakeholder in the advertising, advertisement and marketing communications industry, in relation to the provisions or operation of this Act, Code of Advertising Practice, Standard of Practice, Proclamation or any other subsidiary legislation made under this Act, such disputes may be referred to a panel set up by the Council for arbitration.

(2) The Panel set up by the Council for arbitration shall be known as the “Advertising Arbitration Panel” and the Panel shall make such rules of procedure which shall be applicable for the arbitral proceedings.

(3) In the event of any dispute between parties, the aggrieved party or complainant shall issue a letter of notification to the other party, formally notifying the party of the dispute.

(4) In the event of failure to reach amicable settlement within 45 days of the date of the letter of notification, such dispute may be submitted to Arbitration before the Advertising Arbitration Panel.

(5) The Advertising Arbitration Panel shall be responsible for effecting prompt settlement of any dispute arising between parties.

(6) The ruling of the Advertising Arbitration Panel, where parties have submitted to its jurisdiction, shall be binding on the parties and no appeal shall lie from a decision of the Advertising Arbitration Panel to any court of law or tribunal.

Cap. A18,
LFN, 2004.

(7) The provisions of the Arbitration and Conciliation Act or any amendment thereof shall be applied by the Advertising Arbitration Panel in determination of advertising, advertisement and marketing communications disputes, brought under the provisions of this Act.

Establishment
of
Advertising
Standards
Panel.

53.—(1) There is established by the Council, a panel to be known as the Advertising Standards Panel (in this Act referred to as “the Standards Panel”) which is charged with the responsibility of ensuring that advertising and all advertisements conform with the prevailing laws of the Federation and the code of ethics of the advertising profession.

(2) The Standards Panel shall consist of not more than two members of the Governing Council and —

(a) one representative each of the under listed associations—

(i) the Association of Advertising Agencies of Nigeria (AAAN),

(ii) Advertisers Association of Nigeria (ADVAN),

- (iii) the Broadcasting Organisation of Nigeria (BON),
- (iv) the Newspaper Proprietors' Association of Nigeria (NPAN),
- (v) the Outdoor Advertising Association of Nigeria (OAAN),
- (vi) Media Independent Practitioner Association of Nigeria (MIPAN), and
- (vii) Experiential Marketers Association of Nigeria (EXMAN) ; and

(b) one representative each of —

- (i) the Federal Competition and Consumer Protections Commission (FCCPC),
- (ii) the Central Bank of Nigeria,
- (iii) Securities and Exchange Commission (SEC),
- (iv) National Insurance Commission (NAICOM),
- (v) Nigerian Communication Commission (NCC),
- (vi) National Agency for Food and Drug Administration and Control (NAFDAC),
- (vii) National Broadcasting Commission (NBC),
- (viii) National Council of Women Societies (NCWS),
- (ix) Nigeria Lottery Commission,
- (x) Nigeria Press Council, and
- (xi) any other agency of government or sectorial group with responsibility for advertising.

(3) The Council shall appoint a Chairman for the Standards Panel.

(4) A member of the Standards Panel other than a member of the Council shall hold office on such terms and conditions as may be contained in his letter of appointment.

(5) A decision of the Standards Panel shall have effect except when nullified by the Council on appeal.

54. Any person including sponsor or beneficiary of an advertisement, body corporate, organisation or agency which creates or places for publication or exposure of an advertisement in any medium directed at or targeting the Nigerian market without the prior approval of Standards Panel commits an offence and is liable to such fine as stated in the Nigerian Code of Advertising Practice.

Financial penalty for unauthorised publication or exposure of advertisement without approval.

55.—(1) Every license granted for the publication or display of advertising, advertisements and marketing communications in any media shall be properly documented by the Council.

Advertising licensee.

(2) An advertising license already granted and communicated to a licensee or holder for the time being may be revoked after a notice of intention to revoke the license is served on a licensee in accordance with the provisions of this Act.

(3) The notice of revocation must state the reason for revocation and must afford the licensee a reasonable opportunity to make representation, except the term of the license make it impossible and the period of notice shall not be less than seven days.

Appeal to
the Federal
High Court.

56.—(1) Where the Disciplinary Committee—

(a) makes a finding and imposes a penalty on a registered person or licensed organisation under this Act,

(b) rejects an application for restoration of a name to a register under this Act, or

(c) directs the striking off of an entry from a register under this Act,

the Director-General shall give the person to whom the proceedings relate notice in writing and the person may, within 28 days from the date of service on him of the notice, appeal to the Federal High Court.

(2) On any appeal under this section, the Council shall be the respondent.

(3) No direction for the striking off of the name of a registered person from a register under this Act shall take effect until the expiration of the time for appealing or if an appeal is brought, until such time as the appeal is disposed of, withdrawn or struck out, as the case may be.

(4) The Federal High Court may, on an appeal under this section—

(a) confirm, vary or set aside any finding of fact, penalty imposed or direction given by the Disciplinary Committee,

(b) confirm the rejection of the Disciplinary Committee of the application for restoration or direct the restoration of the name to the register,

(c) remit the matter to the Disciplinary Committee for further consideration, or

(d) make such other order as to costs or otherwise as may seem just, but no proceedings before the Disciplinary Committee shall be set aside by reason only of informality in those proceedings which did not prejudice the appellant.

PART XIII — MISCELLANEOUS PROVISIONS

Penalties.

57.—(1) Except as otherwise specifically provided under the provisions of this Act, any person or organisation which violates or contributes in the violation of the provisions of this Act is liable to a penalty of at least ₦500,000.

(2) The Council may in addition to any penalty that may be prescribed under this Act, direct any person who has violated any of the provisions of this Act and any regulation made under it, to compensate any person who may have suffered any direct loss as a result of the contravention.

(3) Notwithstanding the provisions of subsections (2), the complainant of a contravention may seek by action, consequential or punitive damages or any other remedy that may be available under the law after exploring the domestic remedies provided by the Council.

(4) In the exercise of its powers to impose a penalty under this Act, the Council shall accord the person in alleged violation a fair hearing.

58.—(1) Notwithstanding the provisions of this Act, the relevant provision of all existing enactments, shall be read with such modification as to bring them into conformity with the provisions of this Act in relation to advertising, advertisement and marketing communications regulations, control and policies.

Application and relevance of other laws not barred.
Cap. I23,
LFN,2004

(2) Subject to the Constitution of the Federal Republic of Nigeria, 1999, if the provisions of any other law, in relation to advertising policies and regulation of advertising practice in Nigeria including enactments specified in subsection (1), are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of the other law shall, to the extent of the inconsistency, be void.

(3) The Federal High Court shall have jurisdiction to determine any issue arising from or concerning the operation of this Act and advertising and marketing communications control and practice in Nigeria.

59.—(1) The Minister may make regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for its administration.

Power of Minister to make regulations.

(2) The Minister may give to the Council directives of a general nature or relating generally to matters of policy with regard to the performance by the Council of its functions and it shall be the duty of Council to comply with the directives.

(3) Any power to make regulations, rules or orders conferred under this Act shall include the power to make—

(a) provisions for such incidental and supplementary matters as the authority making the instrument considers expedient for the purpose of the instruments ; and

(b) different provisions for different circumstances.

Offices and premises of the Council. **60.**—(1) For the purposes of providing offices and premises necessary for the performance of its functions under this Act, the Council may, subject to the Land Use Act —

Cap. L5, LFN, 2004. (a) purchase or take on lease any interest in land, or other property ; and
(b) construct offices and premises, equip and maintain them.

(2) The Council may, subject to the Land Use Act, sell or lease out any office or premises held by it, which office or premises is no longer required for the performance of its functions under this Act.

Regulations. **61.** The Council may, subject to the provisions of this Act, issue regulations, codes, standards of practice, proclamations, guidelines, or manuals for the purpose of giving effect to the provisions of this Act and for its administration.

Repeal, savings and transitional provisions. **62.**—(1) The Advertising Practitioners (Registration, etc.) Act, Cap. A7, Laws of the Federation of Nigeria, 2004 is repealed.

(2) The statutory functions, rights, interests, obligations, liabilities and properties held by the Council of the Advertising Practitioners (Registration, etc.) Act, existing before the commencement of this Act under any contract, instrument, in law or in equity, shall by virtue of this Act be deemed to have been assigned to and vested in the Council established under this Act to the extent that they are not inconsistent with any of the provisions of this Act.

(3) Any regulation, codes, standards of practice, proclamations, guidelines, manuals, order, requirement, certificate, notice, direction, decision, authorisation, consent, application, ongoing cases in the courts, request or thing made, issued, given or done under the repealed Acts shall, if in effect at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

Interpretation. **63.** In this Act —

“*advertisement*” means a notice, announcement, exposure, publication, broadcast, statement, announcorial, informercial, commercial, hype, display, town cry, show, event, logo, payoff or trademark to promote, advocate, solicit, showcase, endorse, vote or support a product, service, cause, idea, person or organisation with the intention to influence, sway, actuate, impress, arouse, patronise, entice or attract a person, people or organisation by an identified sponsor irrespective of media, medium or platform ;

“*advertisement agency*” means any agent, agency or organisation that engages in full advertising service, creative advertising, media buying, media planning, media brokerage, experiential marketing, activation, out of home advertising, brand consulting, brand management, digital advertising or any other advertising, marketing communications service ;

“*advertiser*” means a person, private or public organisation that causes, requests, directs, or pays for an advertisement, advertising or marketing communications ideas to be created, developed, produced, executed, expose or that takes benefit of advertisement, advertising, and marketing communication services ;

“*advertising*” means any act, action, activity, construct or undertaking directly, or indirectly, intentionally, or unintentionally, aimed at creating, planning, strategising, managing, developing, producing, propagating, servicing or facilitating an advertisement, brand or marketing communications ideas ;

“*advertising practitioner*” means a person registered by APCON to practice advertisement, advertising and marketing communications in Nigeria ;

“*Council*” means the Advertising Regulatory Council of Nigeria established under section 1 of this Act ;

“*Court*” means a court of law in Nigeria with competent jurisdiction ;

“*Director-General*” means the Chief Executive Officer appointed under section 11 of this Act ;

“*foreign advertiser*” means a non-Nigerian or non-Nigerian organisation that causes, requests, directs, or pays for an advertisement, advertising or marketing communications ideas to be created, developed, produced, executed, expose or that takes benefit of advertisement, advertising, and marketing communication services in Nigeria or directed at Nigeria market ;

“*foreign advertising practitioner*” means a person other than a registered Nigerian practitioner, firm, company or agency who practice advertising directed at the Nigerian market ;

“*Governing Council*” means the Governing Council established under section 3 of this Act ;

“*Government*” includes the Government of the Federation, State, Local Government Area or any of their ministry, department, agency or any person or organ exercising power or authority on their behalf ;

“*Marketing Communications*” means any act, gesture, endeavour, execution, performance tactics or effort aimed at sharing promotional information, evoking emotion, creating awareness or encouraging demand for a product, service, cause, idea, person or organisation through the use of public media, mass media, or any medium capable of disseminating information to the public directly, or indirectly, intentionally, or unintentionally ;

“*media*” means any medium, channel, platform that disseminate, circulate, expose, broadcast, publish, display or make public an advertisement ;

“*Minister*” means the Minister responsible for information and advertising ;

“*practice*” means any act, conduct, ideation, design or conceptualisation that leads to the development, creation, co-creation, production or delivery of an advertisement ;

“*President*” means the President of the Federal Republic of Nigeria ;

“*Register*” means the register maintained in pursuance of this Act ; and

“*registered*” means registered as a fellow, member, associate or student member of the profession in the part of the register relating to fellows, members, associates or students, as the case may be.

Citation.

64. This Act may be cited as the Advertising Regulatory Council of Nigeria Act, 2022.

SCHEDULES

FIRST SCHEDULE

Section 6 (4)

SUPPLEMENTARY PROVISIONS RELATING TO PROCEEDINGS
OF THE GOVERNING COUNCIL

1. Subject to this Act and section 27 of the Interpretation Act, Cap. I23, Laws of the Federation of Nigeria, 2004, the Governing Council may make standing orders regulating its proceedings or those of any of its committees.

2. The quorum for the meeting of the Governing Council shall be two-third of members of the Governing Council.

3. The provision of section 3 (4) (c) shall not apply to persons appointed under section 3(2) (c), (d) and (e).

4. The Council shall meet quarterly every three months in each year and subject to that, the Council shall meet whenever it is summoned by the Chairman, and if the chairman is required to do so by notice given to him by at least 10 other members, he shall summon a meeting of the Governing Council to be held within fourteen days from the date on which the notice is given.

5. At any meeting of the Council, the Chairman shall preside.

6. Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt such a person to the Council for such period as it thinks fit, but a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees

7. The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the Council may determine.

8. A committee appointed under this paragraph shall consist of such number of persons not necessarily members of the Council as may be determined by the Council; and a person other than a member of the Council shall hold office in the committee in accordance with the terms of his appointment.

9. A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

10. The fixing of the Seal of the Council shall be authenticated by the signature of the Chairman and the Secretary to the Council.

11. Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by any person generally or specially authorised by the Council for that purpose.

12. A document purporting to be a document duly executed under the Seal of the Council shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

SECOND SCHEDULE

Sections 50(5) and 51(5)

SUPPLEMENTARY PROVISIONS RELATING TO THE
DISCIPLINARY COMMITTEE, THE INVESTIGATING PANEL AND
THE STANDARDS PANEL

The Disciplinary Committee

1.—(1) The Chief Justice of Nigeria shall make rules on the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee.

(2) The rules shall in particular provide for —

(a) securing that notice of proceedings shall be given at such time, and in such manner as may be specified by the rules, to the person who is the subject of the proceedings ;

(b) determining who, in addition to the person, shall be a party to the proceedings ;

(c) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Disciplinary Committee ;

(d) enabling any party to the proceedings to be represented by a legal practitioner ;

(e) subject to the provisions of this Act, the costs of proceeding before the Disciplinary Committee ;

(f) requiring in a case where it is alleged that the person who is the subject of the proceedings is guilty of infamous conduct in any professional respect, that where the Disciplinary Committee judges that the allegation has not been proved, it shall record a finding that the person is not guilty of such conduct in respect of the matter to which the allegation relates ;

(g) publishing in the Federal Government Gazette of notice of any direction of the Disciplinary Committee which has taken effect, providing that, a person's name shall be struck off from the register.

2.—(1) For the purpose of advising the Investigating Panel and Disciplinary Committee on questions of law arising in proceedings before it, there shall in such proceedings be an assessor.

(2) The Council shall make rules for the functions of assessors appointed under this paragraph, and in particular such rules shall contain provisions for securing that —

(a) where an assessor advises the Investigating Panel or Disciplinary Committee on any question of law as to evidence, procedure or any other

matter specified by the rules, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the Investigating Panel or Disciplinary Committee is deliberating in private, that every such party or person shall be informed as to what advice the assessor has tendered ; and

(b) every party or person shall be informed if in any case the Investigating Panel or Disciplinary Committee does not accept the advice of the assessor on such a question.

(3) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument by which he is appointed and no assessor shall serve on both Investigating Panel and Disciplinary Committee at the same time.

4. The Investigating Panel may, at any of its meetings attended by not less than three members of the Investigating Panel, make standing orders with respect to the Investigating Panel and subject to the provisions of any such standing orders, the Investigating Panel may regulate its own procedure.

5. No member of the Investigating Panel shall sit as a member of the Disciplinary Committee or vice versa.

Miscellaneous

6. A person ceasing to be a member of the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be eligible for re-appointment as a member of that body.

7. The Disciplinary Committee, the Investigating Panel or the Standards Panel may act notwithstanding any vacancy in the membership of any of the said bodies and the proceedings of any of such bodies shall not be invalidated by any irregularity in the appointment of a member of such bodies, or subject to paragraph 1 of this Schedule, or by reason of the fact that any person who was not entitled to do so took part in the proceedings of any of such bodies.

8. The Disciplinary Committee, the Investigating Panel or the Standards Panel may each sit in two or more places.

9. Any document authorised or required by virtue of this Act to be served on the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be served on the Registrar.

10. All expenses of the Disciplinary Committee, the Investigating Panel or the Standards Panel shall be defrayed by the Council.

THIRD SCHEDULE

Sections 44(1)

Institution of Proceedings

1. The trial of offences under this Act shall commence by way of an application, supported by a summary of evidence or affidavit to the Tribunal by the prosecutor.

Order of the Defendant to Appear

2. Where, after the perusal of the application and the summary of evidence, affidavit or any further evidence in such forms as the Tribunal may consider necessary, the Tribunal is satisfied that any person appears to have committed an offence provided under this Act, it shall cause that person to be brought before the Tribunal on such date and such time as it may direct.

Commencement of Trial

3.—(1) When the Tribunal is ready to commence a trial, the defendant shall be brought before it and the Tribunal shall read or cause to be read to him the substance of the complaint against him and he shall be asked whether he is guilty of the offences charged.

(2) If the defendant pleads guilty, the plea should be recorded and he may in the discretion of the Tribunal be convicted.

Plea of not Guilty or no Plea

4. If the defendant pleads not guilty, or makes no plea, or refuses to plead or if the Tribunal enters a plea of not guilty on behalf of the defendant, the Tribunal shall proceed to hear the case.

Presentation of the Case of the Prosecution

5.—(1) After a plea of not guilty has been taken or no plea has been made, the prosecutor may open the case against the defendant, stating shortly by what evidence he intends to prove the guilt of the defendant.

(2) The prosecutor shall then examine the witness for the prosecution whom may be cross-examined by the defendant or his counsel and may thereafter be re-examined by the prosecutor.

Procedure after Presentation of Evidence by the Prosecutor

6.—(1) After the conclusion of the presentation of evidence by the prosecutor, the Tribunal shall ask the defendant —

(a) whether he wishes to give evidence on his own behalf ; and

(b) whether he intends to call any witness other than witness as to character.

(2) If the defendant says that he does not intend to call any witness other than witness as to character, the prosecutor may sum up his case against the defendant and the Tribunal shall then call upon the defendant to enter upon his defence.

(3) Notwithstanding the provision of subparagraph (2), the Tribunal may, if after hearing the evidence against the defendant or any of several defendants it considers the evidence not sufficient to justify the continuation of the trial, record the finding of not guilty in respect of such defendant without calling upon him or them to enter upon their defence and such defendant shall thereupon be discharged and acquitted and the Tribunal shall then call upon the remaining defendants, if any, to enter upon their defence.

(4) If the defendant or any one of the several defendants says that he intends to call any witness other than a witness as to character, the Tribunal shall call upon the defendant to enter upon his defence.

(5) Notwithstanding the provision of subparagraph (4), the Tribunal may, before calling the defendant to enter upon his defence, call upon the prosecutor to sum up his case against any one or more of the defendants against whom it considers if not sufficient to justify the continuation of the trial and, after hearing the summing up if any in its discretion record a finding of not guilty in respect of any such defendant or call upon any of them to enter upon his or their defence.

Defence

7. When the Tribunal calls upon the defendant to enter his defence, the defendant or his counsel may open his case stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and the defendant may then give evidence on his own behalf, examine his witnesses, if any and, after their cross examination and reexamination, if any the defendant or his counsel may sum up his case.

Right of Prosecutor to Reply

8.—(1) If the defendant or any of the defendants calls any witness, other than a witness as to character, or any document, other than a document relating to character, is put in evidence for the defence, a prosecutor shall be entitled to reply.

(2) If the defendant has called only evidence as to character the prosecutor may at the close of the case for the defence adduce evidence of previous conviction of the defendant.

(3) Notwithstanding subparagraphs (1) and (2), the prosecution may, with leave of the Tribunal, be held a reply on a point of law on any new matter or evidence, other than evidence as to character introduced by the defendant.

Consideration of Finding

9. When the case of the defence and the reply of the prosecution if any, are concluded and the tribunal does not desire to put any further question to the defendant, the Tribunal shall retire or adjourn to consider its finding

Announcement of Finding

10. After the Tribunal has made its finding, the chairman shall announce such finding where the defendant is found guilty, he shall impose the appropriate penalty prescribed in this Act, and issue an appropriate order accordingly.

Issues of Summons for the Witness

11. If the Tribunal is satisfied that any person is likely to give material evidence for the prosecution or for the defence, the Tribunal may issue a summons to such person requiring him to attend at a time and place mentioned therein, before the Tribunal to give evidence in respect of the case and to bring any specified document or things and any other documents or things relating thereto which may be in his possession or power under his control.

Warrant of Witness after Summons

12. If the person to whom any such summons is directed does not attend before the Tribunal at the time and the place mentioned therein and does not appear to the Tribunal on inquiry to be any reasonable excuse for such nonattendance, then after proof to the satisfaction of the Tribunal that the summons was duly served or that the person to whom the summons is directed, willfully avoided service, the Tribunal, on being satisfied that such person is likely to give material evidence, may issue a warrant to apprehend him and to bring him, at the time and place to be mentioned in the warrant, before the Tribunal in order to testify.

Local Inspection

13. It shall be the duty of the Tribunal to make or cause to be made such local inspection as the circumstance of the case may require.

Note of Evidence to be Taken

14. The Chairman or any other member of the Tribunal authorised by the Chairman in that behalf shall in every case, take note in writing of the oral evidence, or so much as he considers material, in a book to be kept for that purpose and such book shall be signed by the Chairman and not less than two other members of the Tribunal including the person who took down the note, at the conclusion of each day's proceedings.

Forms

15. Subject to any express provision of this rules, the forms contained in annex to this rule may, in accordance with any instructions contain in the forms, and with such variation as the circumstance of the particular case may require, be use in the case to which they apply, and when so used shall be good and sufficient in law.

ANNEX

FORM 1

To the Chairman,
Tribunal for the Trial of Offences under the Advertising Regulatory
Council of Nigeria Act

.....
.....
.....

1. Pursuant to section 34 and 36 of the Tribunal for the trial of offences under the Advertising Regulatory Council of Nigeria Act, I hereby apply to the commencement of the trial for the offence of under Section of the Act against the under mentioned person(s) :

- (i)
- (ii)

2. In support of this application, I attach hereto copies of the summary of evidence or affidavit for the consideration of the Tribunal.

3. If this application is granted, I shall be relying on the facts disclose in the summary of evidence and any further evidence the Tribunal may consider nectary at the trial. I attach hereto 5 copies of the charge against the Defendant. A list of the deponents and their addresses is also attached for the purpose of issuing summons to them.

FORM 2

Summons to the Defendant

IN THE TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE TRIBUNAL
FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING REGULATORY COUNCIL
OF NIGERIA ACT

To A. B
.....

Complaint has been made this day by for that on
theday of at in the
..... aforesaid

You are therefore summoned to appear before the Tribunal mentioned above
sitting at onto
answer the said complaint.

DATED this day of, 20.....

.....
Chairman of the Tribunal

*state concisely the substance of the offence

FORM 3

WARRANT FOR THE APPREHENSION OF THE DEFENDANT
TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING
REGULATORY COUNCIL OF NIGERIA ACT

Between

Federal Republic of Nigeria

and

The Defendant

To..... Police officer, complaint has been made
on..... of.....by
.....thatherein after called
the defendant, on the.....day of....., 20.....

Did * you are hereby commanded to bring the Defendant before the Tribunal
mentioned above sitting aton.....to
answer the said complaint and to be dealt with according to the law.

DATED the day of, 20.....

.....

Chairman of the Tribunal

*state concisely the substance of the offence.

FORM 4

SUMMONS TO WITNESS

TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING REGULATORY
COUNCIL OF NIGERIA ACT

Between

Federal Republic of Nigeria

and

The Defendant

To :

(i)

(ii)

Has been charged by :

(iii)at
in.....that he did (iv)
..... and it appearing to me on the application of (iii)
.....that you are likely to give material evidence
therein on behalf of the prosecutor or Defendant.

You are therefore summoned to appear before the Tribunal named above
sitting at.....on theday of,
20..... at the hour of noon to testify on what you know
in such matter.

DATED this day of, 20.....

.....
Chairman of the Tribunal

- (i) insert name of witness.
- (ii) insert name of the Defendant.
- (iii) insert name of the Prosecutor.
- (iv) state concisely the substance of the offence.

FORM 5

WARRANT FOR THE APPREHENSION OF WITNESS IN THE FIRST INSTANCE
TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING
REGULATORY COUNCIL OF NIGERIA ACT

To :A.B.
has been charged byfor that he
on the day of at in the
.....state aforesaid did*
..... and it appearing to
me by the oath that is likely to give material
evidence concerning the said matter and that is probable he will not attend to
give evidence unless compelled to do so.

You are therefore hereby commanded to bring him before the tribunal in the
above sitting at Forthwith to testify what
he knows concerning the said matter.

DATED the day of 20.....

.....
Chairman of the Tribunal

* State concisely the substance of the offence.

FORM 6

WARRANT FOR THE APPREHENSION OF WITNESS

TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING REGULATORY
COUNCIL OF NIGERIA ACT

Between

Federal Republic of Nigeria

and

The Defendant

To.....was duly summoned to appear
before the Tribunal named the above sitting at
on on at the hour of in the
..... noon, to testify what he knows concerning a certain
complaint against

And he has neither appeared thereto, nor offered any just excuse for his
neglect.

And it has been proved on oath that the summons has been duly served on him
and that a reasonable sum has been paid or tendered to him for his cost and
expenses in that behalf.

You are therefore commanded to bring him before the tribunal named above
sitting at forthwith to testify to what he knows
concerning the said matter.

DATED the day of, 20.....

.....
Chairman of the Tribunal

(i) Insert name of witness.

FORM 7

WARRANT FOR COMMITMENT OF WITNESS

TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING
REGULATORY COUNCIL OF NIGERIA ACT

Between

Federal Republic of Nigeria

and

The Defendant

To..... and to the
Superintendent of Nigeria Correctional Service, (i)
..... having appeared or being brought before the
tribunal named above sitting at on the
..... day of,
20..... to testify what he knows concerning a certain matter against (ii)
..... refused to take an oath (or having taken an
oath) refused to answer any (or a certain) question put to him concerning the
matter and did not offer any just excuse for his refusal.

You, the said police officer, are hereby commanded to convey the said
..... safely to Nigeria Correctional facility and
deliver to the Superintendent thereof, together with this warrant and you, the
Superintendent of the said correctional facility, to receive him into your custody
and keep him for the period of Unless, he in the
main time consent to be examined and to answer concerning the matter.

DATED the day of, 20.....

.....
Chairman of the Tribunal

(i) Insert name of witness.

(ii) Insert name of defendant.

FORM 8

COMMITMENT OF REWARD

TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING
REGULATORY COUNCIL OF NIGERIA ACT

Between

Federal Republic of Nigeria

and

The Defendant

To.....officer in charge of
Police Station and to the Superintendent of
prison (i) hereinafter called the
accused being brought before the Tribunal named above, sitting at
.....charged with having
(ii)

The hearing of the case being adjourned.

You, the said police officer, are hereby commanded to convey the defendant
back to custody at.....to the correctional facility and
thereto deliver him to the chief superintendent of the said correctional facility,
and to receive him into your custody, and keep him until
..... the day of,
20..... and on that day to convey him before the said tribunal at the hour
of in the noon to
be further dealt with according to the law.

DATED the day of, 20.....

.....
Chairman of the Tribunal

(i) insert name of accused.

(ii) state the offence or offences.

FORM 9

WARRANT OF CONVICTION

TRIBUNAL FOR THE TRIAL OF OFFENCES UNDER THE ADVERTISING
REGULATORY COUNCIL OF NIGERIA ACT

Between

Federal Republic of Nigeria

and

The Defendant

I appeared before the Tribunal
named above sitting at is this convicted for that
he, on the day of, 20.....

.....
Chairman of Tribunal

- (i) insert name of accused.
- (ii) state the offence or offences for which accused is being convicted.
- (iii) insert the Tribunal sentence.
- (iv) insert name of accused.

I, certify, in accordance with Section 2 (1) of the Acts Authentication Act,
Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of
the Bill passed by both Houses of the National Assembly.

OJO O. A., fnia, fcia
Clerk to the National Assembly
27th Day of June, 2022.

EXPLANATORY MEMORANDUM

This Act repeals the Advertising Practitioners (Registration, etc.) Act, Cap. A7, Laws of the Federation of Nigeria, 2004 and enacts the Advertising Regulatory Council of Nigeria Act, 2022 to establish a Council for advertising, advertisements and marketing communications as the apex regulatory authority for the Nigerian advertising industry, make provision for the regulation and control of advertising, ensure the protection of the general public and consumers, promote local content and entrench the best international practices.

SCHEDULE TO THE ADVERTISING REGULATORY COUNCIL OF NIGERIA BILL, 2022

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of the Contents of the Bill</i>	(4) <i>Date Passed by the Senate</i>	(5) <i>Date Passed by the House of Representatives</i>
Advertising Regulatory Council of Nigeria Bill, 2022.	An Act to repeal the Advertising Practitioners (Registration, etc.) Act, Cap. A7, Laws of the Federation of Nigeria, 2004 and enact the Advertising Regulatory Council of Nigeria Act, 2022 to establish a Council for advertising, advertisements and marketing communications as the apex regulatory authority for the Nigerian advertising industry, make provisions for the regulation and control of advertising, ensure the protection of the general public and consumers, promote local content and entrench the best international practices ; and for related matters.	This Bill repeals the Advertising Practitioners (Registration, etc.) Act, Cap. A7, Laws of the Federation of Nigeria, 2004 and enact the Advertising Regulatory Council of Nigeria Act, 2022 to establish a Council for advertising, advertisements and marketing communications as the apex regulatory authority for the Nigerian advertising industry, make provisions for the regulation and control of advertising, ensure the protection of the general public and consumers, promote local content and entrench the best international practices	10th May, 2022.	21st December, 2021.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT



Ojo O. A., fnia, fcia
Clerk to the National Assembly
27th Day of June, 2022..

MUHAMMADU BUHARI, GCFR
President of the Federal Republic of Nigeria
27th Day of June, 2022.