

Competition Law as a Platform for Consumer Protection: A Nigerian Perspective

J.O Odion Esq LL.M BL
Barrister and Solicitors, Notary Public of Nigeria
Senior Lecturer, Department of Business Law, University of Benin, Nigeria
E-mail:job_odion@yahoo.com

Abstract

The relevance of Competition Law to Consumer Protection has long been identified in developed economies. Although, private enterprise was vigorously pursued in these economies, there was however serious emphasis on fair trading and competition in the supply of goods and services to the consumer.¹ The idea behind this was to prevent the existence of monopolies in the market place. The belief being that when there is competition in the market place, the quality of goods and services supplied to the consumer would be high as each manufacturer or supplier would work assiduously to outdo the other.² The consumer would not only benefit from improved quality of goods and services, he would also get them on fair and reasonable prices.³ Therefore, in this article, we shall examine the historical antecedents to the development of Competition Law as well as the specific fundamentals in the law that can be stretched for the benefit of the consumer in the manner identified earlier.

Introduction

The relationship between Law and Economics has attracted a lot of attention in recent times; this is because there a lot of benefit to be derived from a convergence of law and economics in the resolution of the problems confronting the world. Most advocates of the relationship between law and economics justify their push on the basis that in the distribution of the scarce economic resources available, law plays a pivotal role in striking a balance between the competing ends.⁴ They also argue that in the resolution of the conflict of interest between state intervention in business and contractual obligations economic considerations ought to play a leading role.⁵

As a starter, the term “law and economics” is used to circumscribe the relationship between law and economics, where economic values pre-supposedly plays a domineering role. In this symbiotic relationship methods of economics is used rationalize legal problems and vice-versa.⁶ Accordingly, because of this overlap between legal systems and political systems some of the contending issues are often resolved on the basis of studies in political economy, constitutional economy as well as political science.

Historically, studies in law and economics are traced to Adam Smith, who as early as the eighteenth century discussed the economic effect of Mercantile Legislation. However, the more in-depth analyses involving the use of principles of economics to regulate non-market activities are traceable to the works of the leading lights like Coase Ronald and Calabresi Guido.⁷

There are two schools of thought on the relationship between law and economics, these are the positive law and economics as well as normative law and economics.⁸ Positive law uses economic analysis to predict the effects of the various legal rules. In effect, this school of thought believes that the efficacy of law is determined by the economic benefits derivable from it. Accordingly, a positive economic analysis of tort law would predict the effects of strict liability rule as opposed to the effect of the rule of negligence.⁹ This explains the initial

¹ See http://wikipedia.org/wiki/competition_law accessed on 25/11/2011

² See generally .Taylor Martyn. ‘International Competition Law: A new dimension for WTO accessed on <http://www.google.com/books> 25/11/2011

³ See S.Apinega ‘The Goal of Anti-Trust Laws and The Concept of Consumer Welfare’(208-2009) 4 (1)*A.B.U Law Journal*,161-174

⁴ See T.Leary “ Competition Law and Consumer Protection Law; Two Wings of the Same House (2005) 72 *Antitrust Law Journal*, 1148-1151

⁵Notable Scholars have devoted their studies towards the push for the convergence of Law and Economics; See R. Posner “The Economics of Justice”(1983) *Cambridge Havard University Press*, See also, R.Coase“The Problem of Social Cost”(1960) *The Journal of Law and Economics* 1-44 ,G.Calabresi “Some Thoughts on Risk Distribution and the Law of Torts”(1961) *Yale Law Journal* 70,Markovits Richards “Second-Best Theory and Law of Economics”(1978)75 *Chicago-Kent Law Review* ,265

⁶ See D. Friedman “Law and Economics” *The New Palgrave: A Dictionary of Economics* (1987) available at www.file://localhost/Law_and_economics.htm accessed on 16/04/2012

⁷These classic works of Coase and Calabresi are “The Problem of Social Cost” and “Some Thoughts on Risk Distribution and the Law of Torts” See note 2

⁸See G. Calabresi: “Towards a Test for Strict Liability in Torts” (1972) 81 *Yale Law Review* 1054

⁹See C.Attanasio “The Principle of Aggregate Autonomy and the Calabresian Approach to Product Liability(1988) *Va. Law Review* 677

reluctance by the courts even in Europe to impute a strict liability standard in product liability law. The reason as was observed in chapter two of this thesis was that such a high standard would discourage enterprise and in the long run lead to economic losses for the state.¹ In the words of Grubb:

There is a divide between those who believe negligence provides the best balancing mechanism and those who feel strict liability provides better incentives for producers to prevent harm and better internalizes the cost of the activity²

However, on the part of the normative school of thought, they argue that there is the need to go beyond the economic cost, but to look into the long term economic consequences of various governmental policies and laws. The emphasis is on the economic analysis of efficiency, more often expressed as allocative efficiency.³ It is furtherance of the aforesaid, that the *pareto efficiency* concept in the analysis of the economic efficiency of legal rules was propounded. In the opinion of proponents of this concept, a legal rule is efficient if it could not be changed so as to make one person better off without making another worse off. This was certainly a ground breaking concept with far reaching implications for Product Liability Law and in the long run Consumer Protection. As observed in the introductory chapters, this underscores the basis for consumer protection. Fundamentally, it underscores the basis for the state evolving protectionist laws in favour of the consumer as against the manufacturers and suppliers of goods and services. To what extent would Consumer Protection laws be assessed as efficient in the protection of the consumer? Will it be better to protect the consumers who are more in number than to consider the economic interest of few manufacturers? What should be the basis of ascertaining the efficiency of the institutions put in place for the articulation and protection of consumer rights? Whilst, a *pareto efficiency*, analysis, would determine the efficiency of consumer laws and institutions put in place for its enforcement on this narrow confines, it has been criticized as not totally reflective of the indices for ascertaining efficiency of public institutions.⁴

One of the criticisms often labeled against the *pareto efficiency* concept and by extension normative economics is that the, it that the use of the concept in economic analysis is so abstract and classical that it often undermine Human Rights and the concerns for distributive justice.⁵ It is argued that it concentrates so much on the economic variables that the basic rights of the individual that the law is aimed at protecting is ignored. Accordingly, in the context of consumer protection, economic considerations cannot be placed in the front burners far and above the basic rights of the consumer. Whatever, economic considerations to be examined should be in the context of protecting the economic interest of the consumer as well as ensuring that less public funds are wasted in that regards. It is in the light of the aforesaid that it has been argued that the assumed benefits of law and policy should now be assessed on the “*theory of second best*”. The proposal is that, “if the fulfillment of subset of optimal conditions cannot be met under any circumstances, it is incorrect to conclude that the fulfillment of any subsequent subset of optimal conditions will necessarily result in an increase in allocative efficiency”⁶. Accordingly, any expression of public policy, whose desired purpose is undefined in area of allocative efficiency, is viewed with suspicion. Thus, otherwise economic concepts like mergers and acquisition have been viewed from that perspective.

Another area in which the synergy between law and economics can be appreciated is with regards to the now popular “*Game Theory*” approach to the resolution of legal problems. The “Game Theory” as the name suggests focuses on the conflict between economic ends and the demands of justice, to what extent can law and justice be sacrificed on the altar of economic expediency?⁷

It is against the background of the foregoing that it is proposed to examine the relevance of Competition Law (a vestige of economic law) to Consumer Protection Law which represents the legal response to the perceived economic exploitation of the consumer. It shall be contended that the potentials of economic law as expressed in well entrenched institutional framework for competition and Anti-trust has helped a great deal in addressing the problems of the consumer.

Competition Law and the Arguments for and against State Intervention in Consumer Affairs

Competition law is an off-shoot of the convergence of the forces of law and economics. It is the belief that where there is a complimentary relationship between law and economics, the laws that are enacted would be more

¹See the arguments canvassed by Calabresi as discussed in chapter two of this thesis.

² A. Grubb: *The Law of Product Liability*, 2nd ed (London, Butterworths Publishers, 2000) ,18

³See S. Steven “Foundations of Economic Analysis of Law”(2004, Harvard University Press,) 132-135; See also: R. Posner: “A Review of Steven Shadwell’s Foundation of Economic Analysis of Law” (2006) *Journal of Economic Literature*, 44

⁴See N. Duxbury “Is there a Dissenting Tradition in Law and Economics?” (1991) 54 *Modern Law Review* , 301-311

⁵Duxbury “Is there a Dissenting Tradition in Law and Economics?” 302

⁶See R.Markovits “Second-Best Theory and Law of Economics: An introduction”(1998) 73 *Chicago-Kent Law Review* , 65

⁷See K.Duncan “Law and Economics from the Perspective of Critical Legal Studies” 1998(From The New Palgrave Dictionary of Economics and the Law

effective in the resolution of the socio-political and economic problems of the citizens¹. In the opinion of some of the early scholars on this subject, an effective law is that which effectively distributes the scarce resources in the economy of a state or one which ensures that the business pays for the risk and losses arising therefrom.

Coase in his in depth analysis of the problem associated with the cost of enforcing state sponsored regulatory measures in business, opined that businessmen should be given the leverage to negotiate and settle their way out of problems associated with the production and distribution of their goods or services.² In his view, the risk of injury or damage to a potential buyer or consumer of goods is a “*transaction cost*” which should be built into the cost of production by the businessman albeit a manufacturer. Accordingly, where the transaction cost is insignificant when compared to the expected profit from the business, then the risk is worth it, as such a risk can be effectively taken care of by the market mechanism. His analogy of the farmer and his farm, the meat supplier and his cows was instructive. It is his arguments that instead of litigation between the farmer and the meat supplier over the destruction of the former’s crops by the latter’s cows, a negotiated settlement that would factor that risk into the cost of production by the farmer and the seller will be less expensive and more effective.³

However, leading the pack of modern day scholars on this subject. Calabresi points out that the cost of an accident include(a) the cost of preventing the accident (b)the cost of the harm done to the victim (c) the transaction cost of enforcing the law to redress the harm. In his view, where the cost of preventing an accident will outweigh the cost of redressing the injury resulting from the injury, it is more financially prudent to treat the accident as part of the production accident.⁴

When developed fully, this theory of allocation of cost often expressed as the “*pareto efficiency*” rule has shaped the development of the theories of strict liability in the law of torts and lately competition law. In the realm of strict liability, it has been suggested that a strict liability standard would increase the transaction cost of most manufacturers and suppliers of goods and services, the fall out would be a decline in production output and in the long run a bleak economy. On the other hand, proponents of a strict liability standard will seek to justify same on rational basis to make the production bear the cost of injury or damage done to the consumers⁵. In the realm of competition law, it was argued that there should be little or no direct state intervention in the prescription of laws to regulate the conduct of business men, it was the belief that market exigencies and forces would determine the behavior of business men or manufacturers. A manufacturer who effectively strikes a balance between his cost of production and the expected profit, is more likely to offer quality goods and service and at reasonable prices.⁶

Competition policy and law will work in the area of laying the blue print for manufacturers and producers of goods and services to compete freely and attract patronage from the consumer. In this regard, monopolies or dominant position of companies or other business organizations are outlawed. Competition law is essentially anchored on a free market system.⁷ The goals of Competition legislation include the following: the encouragement of free and open markets, the provision of fair and equal competitive opportunities to all market participants, the promotion of allocative efficiency, the maximization of consumer welfare and the establishment of transparency and fairness in the regulatory process.⁸ In driving home, these set objectives, competition is expected to create four distinguishable parameters for measuring efficiency in the market place, the “*productive efficiency*” which is aimed at goods and services are produced at minimal cost, “*allocative efficiency*” which ensures that available resources are used efficiently, “*dynamic efficiency*” encourages firms to be innovative in their production methods to reduce production risks and cost, “*inter-temporal efficiency*” which emphasizes the

¹ The early scholars on the relationship between law and economics include R.Coase “The Problem of Social Cost” 1-44, C. Guido “Some Thoughts on Risk Distribution” 75, R. Markovits, “Second Best Theory and the Law of Economics” (1978) 75 *Chicago-Kent Law Review* 265, R. Posner, “The Economics of Justice” (1985) *Harvard University Press*

² Coase, “The Problem of Social Cost”, 5

³ Coase, “The Problem of Social Cost”, 2-6

⁴ Calabresi, “Some Thoughts on Risk Distribution”, 275

⁵ See Guido Calabresi, “Towards a Test for Strict Liability in Torts” (1972) 81 *Yale Law Journal* 1054 See also Steven Shawell ‘Foundations of Economic Analysis of Law (2004) *Harvard University Press* 132

⁶ See R. Coase “The Firm, the Market and the Law in Coase R.H The Firm, the Market and the Law(1988) *University of Chicago Press* 5, See also: G.S Becker, “The Economic Approach to Human Behavior” (1976) *Chicago, University of Chicago Press* 14, See also R. Posner, “Economic Analysis of Law” (1992) Boston, little Brown, 4th edition 151 as quoted in D.Campbell and S. Piccioto “Exploring the Interaction Between Law and Economics: The Limits of Formalism (1998) 18 *Legal Studies* 249 available at <http://www.jstor.org/stable/724810> accessed on 23/12/2012

⁷ See generally: M. Taylor, “International Competition Law: A new Dimension for WTO” Available at <http://www.google.com/books> accessed on 23/12/2012. See also: Easterbrook F “The Limits of Antitrust” (1984) 63 *Texas Law Review* I available at <http://www.wordcat.rg/issn/0040-4411> accessed on 23/12/2012

⁸ See N. Dimgba, “The Need and the Challenges to the Establishment of a Competition Regime in Nigeria” 1-32 available at <http://www.competition-law-in-nigeria.html> accessed on 23/12/2012

utilization of available resources for the long term benefits of the citizenry¹

These goals of competition law have been advanced through a series of municipal legislation in most countries that have imbibed the principles of competition as well as international treaties and conventions between these countries. In Britain, the celebrated case of *Dyer* in 1414 laid the blue print for competition law.² This case emphasized the unenforceability of contracts in restraint of trade as anti-competition. The latter case of *Darcy v Allein* decided in 1602 signaled a significant shift in the development of competition law in Britain, with emphasis on the prevention of monopolies in the market place.³ In the United States, competition law has been expressed in the manner of anti-trust legislation dating back to the Sherman Act of 1890. This Act was enacted principally to outlaw the restriction of competition by large companies who co-operated to fix outputs, prices and market shares.⁴ In 1914, the Clayton Act was enacted to further strengthen the anti-trust regime in the U.S. This Act prohibited exclusive dealings, particularly tying agreements, mergers and acquisitions that often end up with emerging companies assuming a dominant position in the market⁵. Incidentally, with a well developed anti-trust legislation, the United States have provided the benchmark for assessing effective competition legislation in other jurisdictions and most commentaries on competition law and anti-trust legislation are often focused on the anti-trust regime in the United States⁶.

Rachagan⁷, reveals the relevance of a robust competition law to the development of consumer protection. He opines that where markets operate freely and effectively, competition can be expected to bring benefits to the consumer. The producing firms will improve their productivity, prices would ultimately be reduced, there would be improved quality of goods and services and the consumer would be afforded a wider range of choices in the market. He is however of the opinion that developing countries like Nigeria need not copy hook line and sinker the pattern of regulatory framework for competition as it is done in the developed economies. He argues that for developing economies, the technological challenges and the absence of viable production outputs may make the push for absolute competition a debilitating factor in the development of the country. He suggests that before developing countries can take full benefit of competition policies and laws, it must have laid down the blue print for the effective deregulation and privatization of most state controlled institutions. In this way, government monopolies will give way to private investment and competition in the various sectors of the economy.

Posner⁸ underlies the importance of an economic approach to the problems associated with striking a balance between the conflicting interest of the producer and the consumer.

However, in spite of the limitations often placed on the strict application of consumer legislation in an otherwise free market operation, there is a convergence of opinion that consumer interest could still be fully articulated and protected in a free market based on competition.⁹

Frazer¹⁰ in his contribution traced the history of the development of competition law in Britain and projected into the future how the European Union Guidelines on Competition policy would impact positively on the rights of the consumers in Britain. He believes that the then proposed single European single market would be a veritable ground for testing the efficacy of these E.U Guidelines on competition policies in Britain.

Similarly, Snyder¹¹ believes that the ideological basis behind competition policies and laws of E.U states would make the difference in the progress and development of competition policies and laws in the respective E.U states. His contribution is useful as it accords with the views of other commentators like Rachagan, that there cannot be uniformity in the nature and scope of competition laws in most countries¹². Accordingly, the challenge is for most countries especially the developing countries like Nigeria to

¹ Dingba, "The Need for A Competition Regime", 5

² (1414)Hen 5,5 pl26 as reported in Pollock and Maitland; History of English Law Vol. 2 at 453 available on <http://www.google.com/bks> accessed on 23/12/2012

³ (1602) 11 Co Rep 84 as reported in Pollock and Maitland

⁴ See R. Posner, *Anti-trust Law* 2nd ed. (Chicago, University of Chicago Press, 2011), 234-245

⁵ For further commentaries on the Clayton's Act see Easterbrook .F. "The Limits of Anti-trust"(1984) 63 Texas Law Review 1 available at <http://www.wordcat.rg/issn/0040-4411> accessed on 23/12/2012

⁶ See J. Vickers. And D. Hay, "The Economics of Market Dominance" in Hay. D. and Vickers .J.(eds) *The Economics of Market Dominance* ,(London, Oxford University Press,1987) 2, See also Allison. J and Sufrin B 5th *Competition Law* ed. ,(London, Lexis Nexis. 2003) 17,.See also: B.J Rogers and A. MacCulloch , *Competition Law and Policy in the E.C and the U.K* 4th ed.(New York, Routledge-Cavendish,2009)36-53

⁷ S. Rachagan , "Competition Policy and Law in the Consumer Development Interest" available on [www.http/articles.mlans.com/consumer](http://www.articles.mlans.com/consumer) accessed on 04/12/2009, 1 - 23

⁸ R. Posner, *The Economics of Justice* (Cambridge, Harvard University Press,1983)

⁹ See: J.Q Whitman , "Consumerism versus Producerism: A Comparative Study in Law" (2007) 117 *Yale Law Journal*, 340-371

¹⁰ T. Frazer , " Competition Policy after 1992: The next Step"(1990) 53 *Modern Law Review*, 609-623

¹¹ F. Snyder , "Ideologies of Competition in European Community Law" (1989) 52(2) *Modern Law Review* , 149-175

¹² See Rachagan , "Competition Policy and Consumer Protection", 23

develop competition policies and laws that are largely reflective of our ideals and values.

These contributions underscore the benefits of adopting these best practices in these jurisdictions which impacts positively on consumer protection in Nigeria. However, we have discovered that the most direct benefit to consumer protection in the context of the Nigerian legal system is competition policy and law. The relevance of competition law to developing countries was aptly captured by a learned author who observed that it is imperative that the pros and cons of competition law be fully understood before its implementation. He also canvassed for a robust public enlightenment on the utilitarian values of competition law in order to win public confidence and acceptability.¹

The relevance of Competition law to consumer protection was further brought to bear by Leary observed that there is a tenuous link between competition law and consumer protection. In his view, both streams of law deal with distortions in the market. Whilst , competition law deal with such antitrust offences like price fixing or extortionate practices that distort the supply side, consumer protection laws address such issues like deceptive advertisement that distort the demand side of the market transaction. Therefore, a convergence of both streams of law is imperative for effective consumer protection.²

Arguments for the infusion of competition law in consumer laws have often brought to fore the arguments for and against state intervention in consumer affairs by way of regulatory measures. Whereas proponents of competition law justify it on the need for the state to avoid interference in private undertakings, the opponents of competition law justify their stance on the need for the state to maintain a stranglehold on such private undertakings.³

The proponents of competition law argue that where there is a perfect market, it is the consumer that would be at the saddle of such a market, this is because , he would invariably determine the type of goods to be manufactured and sold by manufacturers as well as the nature of services to be provided by service providers. The argument is that manufacturers and suppliers will bicker to the taste and demands of the consumer in order to remain in the market and sustain the consumer's patronage.⁴ Invariably, the strength of the consumer is tied to the assumed perfection in the market place. The benchmark for identifying a perfect market is articulated by Ramsay to include the following:

- (i) There are numerous buyers and sellers in the market, thus eliminating the possibility of a dominant actor in the market
- (ii) There is free entry into and exit from the market
- (iii) The commodity sold by each seller is homogeneous
- (iv) All the economic actors in the market have perfect information about the nature and value of the goods in question
- (vi) All the cost of production of the goods are borne by the producer and all the expected benefits are enjoyed by the consumer.⁵

Clearly, these indices of a perfect market are enormous and often not possible in practical terms. Accordingly, it has been argued that the whole idea of a *free market* which is often the basis of a perfect market is presumptuous. This is because it is based on the assumption that these indices outlined by Ramsay will ever be present and that the consumer himself is smart and knowledgeable enough to make the informed choices.⁶ However, in spite of these criticisms, the proponents of a free market justify their views on the basis, that irrespective of the choice made by the consumer, the laws enacted by the state must respect this choice and protect him from the fallouts of such choices. The state should not subrogate itself to the position of the consumer neither should it make the choice for the consumer nor attempt to impose its will on the consumer. It is only in this way that the concept of consumer sovereignty can be guaranteed⁷.

However, the proponents of state intervention argue that without state regulation, there will be no perfect market and the consumer would remain imperiled. They argue that the state should not be seen as an alternative to a free market or a usurper but a complement to a perfect market. In the words of Hutchinson:

¹ See Rachagan , "Competition Policy and Consumer Protection", 23

² T. Leary "Competition Law and Consumer Protection Law: Two Wings of the Same House" (2007) . 72 *Antitrust Law Journal* 1147 at 1147-1148, See also Tim Frazer , "Competition Policy after 1992 :The next Step"(1990) 53 *Modern Law Review* , 609 -633. Snyder Francis " Ideologies of Competition in European Community Law" (1989) 52(2)*Modern Law Review* , 149-177

³ See C. Fried ,*Contract as Promise: A Theory of Contractual Obligations*(Cambridge, Mass, Harvard University Press, 1981) 34

⁴ See I. Ramsay, *Rationales for Intervention in the Consumer Market Place*(London, Office Trading,1984) 12

⁵ Ramsay, *Rationales for Intervention in the Market Place*, 15-16

⁶ See A. Hutchinson "Life after Shopping from Consumers to Citizens" in Iain Ramsay(ed), *Consumer in a Global Economy*(Aldershot, Dartmouth and Ashgale,1997), 25-31

⁷ See S. Breyer "Typical Justifications for Regulations for Regulation" in S. Breyer, *Regulation and its Reform* (Cambridge, Harvard University Press,1982) 32

‘Without the State willing or able to define and protect property rights, enforce contracts and prevent involuntary transactions, maintain a circulating medium and curtail monopoly and anti-competitive behavior, there is no market in any real or meaningful sense...’¹ It has equally been argued that in spite of the regulatory efforts of government a perfect market remains illusory, accordingly private law as a basis for protecting the consumer fails in that regard. Hutchinson and Weatherill have described the idea of a perfect market as ‘alluring as it is unrealistic’² and Cranston has described the free market economist as ‘the foolish man who built his house upon the sand’³

Accordingly, the role of government is to ensure that laws are enacted to ensure that the market is free and devoid of the imperfections highlighted earlier. This is where the campaign for the link between competition law and consumer protection become incisive. It is now trite that the market will fail in the absence of competition. Accordingly, it has been asserted that if the market is to function properly, no individual firm or group of firms should be able to influence price. It has equally been asserted that the notion that rival suppliers in the market will dance to the dictates of the consumer will not be possible unless the State is allowed to bring its feet down and ensure that there is competition in the market. This is where the convergence between the proponents of a free market and the proponents of state intervention can be discerned.⁴

Competition Law and its Relevance to Consumer Protection

Competition Law also known as the Antitrust Laws in the U.S, is that branch of law that promotes or maintain market competition by outlawing anti-competitive conduct by businessmen and companies engaged in business. The history of Competition law dates back to the Roman Empire, then the business practice of market traders, guilds and governments was subject to close scrutiny and proven cases of underhand measures met with severe sanctions.⁵ The first example of Competition law in the then Roman Empire was the *Lex Julia de Annona* enacted in 50BC to protect the grain trade. Similarly under the *Diocletian* Regulations of 301BC, death penalty was imposed on anyone that violated the existing tariff system by buying up, concealing or contriving the scarcity of everyday goods.⁶

Additional legislation came with the enactment of the Zeno Constitution of 1322AD which provided for the confiscation of property as well the banishment of any trade combination or joint action of monopolies which tended to undermine the interest of the ordinary citizens.⁷

However, since the dawn of the twentieth century, Competition Law has attained such a global a focus that it is now backed by series of International conventions.⁸ Modern competition law has been developed at these municipal levels to promote and maintain the competition in the markets principally within the territorial boundaries of nation states, accordingly, Britain and the United States are credited with the most robust Competition Laws.⁹

In Britain, Competition Law dates back to 1414 with the celebrated *Dyer’s case*¹⁰; in this case, a fabric dyer had given a bond not to exercise his trade in the same town as the plaintiff for a period of six months but the plaintiff had promised nothing in return, the plaintiff’s attempt to enforce this undertaken was denied by the court which held that the covenant in restraint of trade was illegal and punishable. This marked the advent of Competition law in England as the courts gradually developed this regime of law based on deserving cases until it gradually evolved in a definite stream of laws deserving of codification.¹¹ However, whilst Competition law was being developed progressively, the challenges of industrial revolution and the need to encourage businessmen involved in inventions led the 1561 legislation which introduced a system of industrial monopoly licenses which evolved to modern day patents. However, the abuses associated with the exercise of these licenses led to a judicial review in 1602 in the equally celebrated case of *Darcy v Allein*¹² where the court voided

¹ Hutchinson, “*Life after Shopping from Consumers to Citizens*”, 31

² See G.G. Howells and S. Weatherill, *Consumer Protection Law* (Aldershot, Dartmouth and Ashgate, 1995), 1

³ See also R. Cranston “Consumer Protection Law and Economics Theory in A.J Duggan and L.W Darvall (eds) *Consumer Protection Law and Theory* (Sydney, The Law Book Company, 1980) 243

⁴ See D.Cayne and M.J Trebilock “Market Considerations in the Formulation of Consumer Protection Policy”(1973) 23 *University of Toronto Law Journal*, 396

⁵ See http://en.wikipedia.org/wiki/Competition_law accessed on 26/11/2011

⁶ See Pollock and Maitland: *History of English Law*; Volume 2 Page 453 available on <http://www.google.com/bks> accessed on 14/12/2011

⁷ See Pollock and Maitland op cit

⁸ The General Agreements on Tariffs and Trade (GATT) was signed by most countries in 1947. In 1994 another round of negotiations produced World Trade Organization (WTO).

⁹ See generally; A. Papadopoulos (2010) ‘The International Dimension of EU Competition Law and Policy’ available on <http://www.google.com/books/> accessed on 14/12/2011

¹⁰ (1414) 2 Hen 5, 5 Pl. 26

¹¹ See Papadopoulos, “The International Dimension of EU Competition Law and Policy”

¹² (1602) 11 Co Rep 84b

a sole right of importation of playing cards to England granted to Darcy by the Queen¹In avoiding this grant of monopoly, the court indicated that such monopolies had the tendencies of increasing the prices of goods and decreasing the quality of goods.

Interestingly, modern development of competition law in England has essentially been based on case law, whereas in other European countries a robust legislative framework had been evolved.²

In the U.S, Competition Law is traceable to the Sherman Act of 1890 which was enacted to outlaw the restriction of competition by large companies who co-operated with rival companies to fix outputs, prices and market shares through *pools* and later *trust*.³

A notable commentator on Competition Law in the U.S, has observed that Competition Law in the U.S is anchored on two basic precepts, Firstly, that of individual liberty to do business free of Government intervention and secondly, that of a fair competitive environment free of excessive Economic power.⁴.Incidentally, the Sherman Act strove to maintain this balance, Specifically, Section 1 thereof declared as illegal 'every contract in the form of trust or otherwise or conspiracy in restraint of trade or commerce among several states or with foreign nations'. Section 2 prohibits monopolies or attempts and conspiracies to monopolize. These salient provisions became the weapon in the hands of the courts to enforce anti-competition schemes in the U.S until it was complemented by the Clayton's Act of 1914 which specifically prohibited exclusive dealing agreements, particularly tying agreements and interlocking directorates and mergers achieved by purchasing stock.⁵.However, from 1915 onwards, the courts adopted a more liberalized attitude to anti-competition schemes by adopting the *rule of reason* principle to maintain this balance, this impacted negatively on the level of enforcement of Competition Law. A renewed vigor in the enforcement of Competition law was witnessed in the period between 1936-1972 which was dominated with the *structure-conduct-paradigm* of the Havard School of thought. However, from 1973-1991, the court's application of antitrust laws was based on efficiency explanation, whereas, since 1992 the '*game*' theory has been frequently relied upon in antitrust cases⁶.

8.1 Fundamental Basis of Competition Law

In appreciating the relevance of Competition Law to Consumer welfare it is necessary to delineate the fundamental basis of Competition law. Studies have revealed that the following objectives underlie an ideal legal framework for competition;

- (a) The maximization of consumer welfare by the achievement of most efficient allocation of resources and reduction of cost as much as possible.
- (b) The protection of consumers to ensure that undertakings that work against the interest of the consumer are struck down
- (c) Competition law aims at checkmating agreements whose focus In terms of object is to prevent, restrict or distort competition in the market
- (d) It is also concerned with agreements whose object may not be prevention, restriction or distortion of competition, but whose effect will produce these results i.e. anti-competitiveness
- (e) It prohibits any abuse by one or more undertakings of dominant position i.e. it prohibits the unilateral conduct of a dominant form which apply their market power to exploit others by engaging in anti-competitive behavior⁷

As can be gleaned from the aforesaid, an ideal Competition Law would prevent monopolies in the market and the fall out of such a restriction is the liberalization of the market with the attendant consequences of forces of demand and supply influencing the prices of goods and services. Addressing this issue Leary Thomas Observes inter alia:

Both competition law and consumer protection law deal with distortions in the marketplace, which is supposed to be driven by the interaction between supply and demand, antitrust offences, like price fixing or exclusionary practices

¹ See Papadopoulos , "The International Dimension of EU Competition Law and Policy"

² In 1852,Austria enacted its Penal Code which treated as a misdemeanor and prescribed punishment for persons who reached agreements to raise the prices of commodities to the disadvantage of the public. Canada enacted its Competition Law as far back as 1889 in what has been described as the first Competition statute of modern times. See generally: http://en.wikipedia.org/wiki/Competitin_law accessed on 26/1/2011

³The pool and the trust methods were trade gimmicks employed to manipulate business, the pool system was first introduced by Rail Road constructors to prevent competitors from coming into their territory.

⁴ See Papadopoulos , , "The International Dimension of EU Competition Law and Policy"

⁵See R. Posner , *Antitrust Law*, 2nd ed,(University of Chicago Press, 2001) , 234-245

⁶See F. Easterbrook "The Limits of Antitrust"(1984) 63 *Texas Law Review*,.1 available on <http://www.wordcat.rg/issn/0040-4411> accessed on 14/12/2011

⁷ See T. Martin, 'International Competition Law :A new Dimension for the WTO'(2006) available at <http://www.google.com/books?> Accessed on 14/12/2011

distort the supply side because they restrict supply and elevate prices. Consumer protection offenses like deceptive advertising, distort the demand side because they create the impression that a product or service is worth more than it really is. In other words, both sets of offenses can be analyzed in economic terms and the appreciation of the nexus will help to resolve apparent tensions¹

This view equally finds immeasurable support from two other leading authors Marsden² and Rachagan. The latter observed *inter alia*:

“The idea that competition policy and law promotes competitive markets rather than the interest of individual competitors makes them in general sense, favorable from the consumer perspective. Most competition laws shun market powers and anti-competitive practices. This results in positive outcome for consumers”³

This is certainly the highpoint of competition law in the area of consumer protection. The emphasis is and ought to be how competition law would address “consumer interest”, and consumer interest as observed earlier are multi-facet. However, it has now been argued that the issues of product or services choice, price and quality may not be exhaustive of the consumer concerns that can be positively influenced by a robust competition law and policy. It has now been suggested that even issues of human rights and the equitable distribution of economic benefits may be the ideal benchmark for assessing the efficacy of competition law.⁴

In the same vein, it has been argued that developing countries need to have a competition law that is designed to take appropriate account of their level of development and the long term objective of sustained economic growth.⁵

However, before determining the paradigm for evolving a competition policy for a developing country like Nigeria, it is necessary to examine how this concept has played out in the developed western countries of Europe and the U.S.

8.2 Competition Law under European Union Law

Competition Law has assumed a high ascendancy in Europe and the successful implementation of anti-competition schemes across the member countries of the European Union has become a benchmark across the globe.

Incidentally, Competition law gained its ascendancy in the aftermath of the First World War, when most European countries started to enact anti-cartel laws to curtail the territorial influence of Germany. It was assumed that Germany’s towering economic influence in Europe precipitated its political expansionist moves.⁶ Accordingly, between 1923-1926 Sweden and Norway adopted a wide range of anti-cartel laws. However, with the economic depression of 1929 competition law experienced a downward turn in Europe, only to be revived after the 2nd world war, with Britain and Germany playing a leading role by becoming the first European countries to evolve a comprehensive Competition law.⁷

However at the regional level the first attempt at having an European based Competition law started with the European Coal and Steel Community (ECSC) agreement between France, Italy, Belgium, Netherlands, Luxembourg and Germany in 1951 soon after the 2nd world war.⁸ The agreement aimed to prevent Germany from re-establishing dominance in the production of coal and steel as it was reasonably assumed that this dominance largely influenced its forays into the 2nd world war. Accordingly, Article 65 of the agreement banned cartels and Article 66 made provisions for concentrations or mergers and the abuse of dominant position by companies. This set the pace for the development European law on Competition, however, in 1957 these rules were expanded to incorporate the Rome treaty also known as the EC treaty, which established the then European Economic Commission. Basically, the treaty of Rome identified the enactment of Competition law as one of the main aims of the Commission. This was done through its prescription for the institution of a system ensuring that competition in the market place is not distorted. The two major provisions of the EU Directives that touched directly on the restriction of trade monopolies are articles 85 and 86 thereof Article 85 prohibited anti-

¹ Supra Footnote I at pp1148-1149.

² See generally, P. Marsden, “A Deregulated Economy without Competition Law, Free Market or Free Jungle”: A paper presented at the 3rd Business Law Conference of the Nigerian Bar Association 25-28, march, 2008, Abuja, Nigeria

³ S. Rachagan, “Competition Policy and Law in the Consumer and Development Interest”(2003) , 7 accessed on www.consins.ciroap.org on 21/05/2012

⁴ Rachagan, “Competition Policy and Consumer Protection”, 3

⁵ Rachagan, “Competition Policy and Consumer Protection”, 4

⁶ See Papadopoulos, “The International Dimension of EU Competition Law and Policy” .22

⁷ See Pollock and Maitland; History of English Law

⁸ See J.G Gastel “The Extraterritorial Effects of Antitrust Law”(1983)179 *Recueil des Cours* 9

competitive agreements subject to some exemptions whilst article 86 prohibited the use of dominant provision by any company or business concern. The treaty as at then also established the principles for competition law for member states, specifically, article 90 made adequate provision for public undertakings, this was aimed at discouraging anti-competition agreements in the interest of the public.¹

Presently, the Treaty of Lisbon is the prevailing legal framework on Competition law in Europe. This treaty has broadened the scope of Competition law by introducing far reaching measures to curb anti-competitiveness amongst members states who are signatories to the treaty. Specifically, Article 101(1) of the treaty made provisions against price fixing and any agreement based on premeditated price adjustments, such agreements were deemed null and *void ab initio*² Additionally, Article 102 prohibited the use of dominant position such as price discrimination and exclusive dealing to undermine the interest of the consumer. However, in spite of these restrictions member states were given the leverage to enact domestic regulations governing mergers between firms so long as such mergers would not significantly impede effective competition.³

Arising from the above, it is clear that globally, especially in Europe and the U.S there exist a robust Legal framework for Competition Law which though originally conceived as an Economic measure has far reaching impact on the consumer. This is more particularly so as the existing Legal frame work discourages monopolies, dominant trade practices, illegal price fixing or adjustments amongst others. The consumer benefits directly from the aforesaid in area of stable prices, variety of goods and services to choose from and potentially the right to choose and enjoy good quality goods and services.

8.3 Competition Law in the U.S

As observed earlier, the development of Competition Law has been more rapid and dynamic in the U.S. This is palpably due to its rich background in capitalism. If the forces of economics and business exigencies were to be left unrestricted and unregulated, the consumer would be greatly imperiled. Accordingly, the Sherman Act of 1890 became the first legislation aimed at regulating competition in the U.S. The Act was in essence a codification of the old common law principles of contracts in restraint of trade.

However, the most comprehensive legislation on competition in the U.S is the Clayton's Act of 1914 which was later amended by the Robinson-Patman Act of 1936. Incidentally, the Clayton's Act was ably complimented by the Federal Trade Commission Act of 1914⁴. Whilst the Sherman Act laid the foundation for Anti-trust regime in the U.s, The Clayton Act laid down an elaborate framework for the enforcement of such regulatory measure, for example sections 1 and 2 of the Sherman Act prohibited contracts, combinations and conspiracies that restrain trade or commerce, or create monopolies. Contracts of such character have been given a liberal definition by the Supreme court in the U.S to include any contract or combination that are expressly or impliedly aimed at unreasonable restriction of contractual freedom of the parties concerned.⁵ On the other hand the Clayton and Robinson-Patman Acts in the words of the learned author under reference:

.....seeks to prohibit unfair practices of competition that eliminate competition and affect growth. These include mergers, consolidation, and acquisition of assets, inter locking directorates exclusive dealing and tying in contracts and price discrimination.....⁶

The fallout of these legislation is that the Federal Trade Commission as the regulatory and enforcement Agency is empowered prohibit such contracts or combinations. The commission does this through its inspectorate and investigatory powers.⁷ Accordingly, the commission has the power to apply or impose appropriate sanctions for violations of these Anti-trust regulations, specifically, it (commission)can break up a company or combination that is created to establish a dominant or monopolistic hold in the market as well as seizing the goods or Assets of such a company.⁸ The commission is equally empowered to arrest and prosecute officers or employees of such a company and where they are convicted ensure that they bag the requisite and

¹See generally; International Competition Network available on <http://www.internationalcompetitionnetwork.org> accessed on 26/11/2011

²See Article 101(2) of the Council Regulation(EC)Number139/2004 of 20th January 2004 on the control of concentrations between Undertakings(The EC merger Regulation) available on <http://eur-lex.europa.eu/lexUriServ/LexUriServ.do?html> accessed on 26/11/2011

³See Articles 106 and 107 Regulation 139/2004/EC

⁴ See generally: A. Adaralegbe: "What is the Regulatory Framework for Anti-Competitive Behaviour of Multi National Enterprises? (2005) 9(3-4) *Modern Practice Journal of Finance and Investment Law*, 465-482 at 471

⁵See *Standard Oil Co V United States* 221 U.S 1 60-70 (1911) as cited by Adaralegbe at Page 471, See also *F.T.C V Cement Institute* 333 U.S 683 (1948)

⁶ Adaralegbe , "What is the Regulatory Framework for Anti-Competitive Behaviour", 471

⁷ The full powers and functions of the Commission was exclusively discussed in chapter six of this thesis

⁸See sections 45-47 of the Federal Trade Commission Act of 1914 which was discussed in chapter six of this thesis.

appropriate penalties.¹ There is also the possibility of individuals bringing civil actions against such violators of these Anti-trust regulations where they suffer physical or financial injuries as a result of such violations.²

It is therefore clear from the aforesaid that the regulatory framework for competition law in the U.S is robust and the institutional framework for its enforcement is well entrenched and functional.

The necessary challenge therefore is to determine how the legal framework on Consumer Protection in Nigeria could be enriched by the enactment and institutionalization of Competition Law in the country.

8.4 Challenges for Competition Law in Nigeria

The challenges for the development of Competition law in Nigeria are traceable to the absence of effective legislation encapsulating the basic principles and tenets of Competition law in the country. This anomaly has equally affected the development of an institutionalized approach to competition in the country. The fallout of the aforesaid is that the benefits that are derivable from competition in business are not readily available to Nigerians. In the context of our work, the immense benefits derivable from Competition law in the area of price stability, freedom to choose as well as an assurance of quality of goods and services are not readily available to the consumer. Justifying the rationale for a robust competition law a learned commentator observed inter alia:

The capitalist economic model believes that the alternative to this would create a monopolistic system in which competition is absent and one party dominates the market. Such dominance leaves consumers with no choice making it possible for the dominating party to manipulate prices of goods to its advantage (i.e. reducing its output thereby ensuring that goods are scarce) Consumers are expectedly unhappy and the economy is weak. Capitalism cannot brook this alternative and seeks to ensure that competition is alive and well in the market...³

However, it must be understood that in the last ten years most stakeholders and scholars of International Economic Law and more specifically proponents of Consumerism have campaigned vigorously for the enactment of Competition Law in the country.

On the 23rd of September 2008, the Director-General of Consumer Protection Council of Nigeria whilst inaugurating a National workshop on Competition law in Nigeria observed that a Consumer Protection regime can only flourish in Nigeria if it is complemented by an effective Competition Law. She added that the absence of a Competition Law in the Country has been detrimental to evolving functional markets in addition to hurting the consumer. Similarly, at another stakeholder's forum on Competition Law held in Abuja, Nigeria on the 13th of December 2010, the Director-General of the Bureau of Public Enterprises, Dr. Christopher Ayanwu, observed that the absence of Competition Law is leaving Nigerian consumers vulnerable to unhealthy business stratagem by businessmen. At the same forum, the Co-coordinator of Consumer Empowerment Organization of Nigeria (CEON) a Consumer Pressure group observed that without a policy to checkmate the activities of business owners who impose high prices for goods and services, the consumer-prey relationship between consumers and suppliers of goods and services would continue.⁴ In his words;

It is natural for firms to compete...but in some situation, the rivalry is undermined, so there is the need to protect the consumer⁵

It is evident from these comments that the push for a Competition Law in the Country has always been vigorous what has been lacking is the will on the part of the legislature to give vent to these agitations. However, there have been spirited efforts towards pushing the legislature to the enactment of this law some of these initiatives have culminated in the various bills on Competition and Anti-trust forwarded to and deliberated upon by the National Assembly.

In pushing for the enactment of these bills into law, these proponents of competition law have consistently argued that an ideal competition law when put in place would promote the allocation and utilization of resources which is usually scarce in developing countries.⁶ They further argue the law would encourage more investment in a particular sector albeit supply of goods and services, with the attendant fall out of increased output in the realm of production, lower prices as well as consumer welfare.⁷

However, antagonists of Competition law contend that it involves Governmental interference in free enterprise and that it often leads to job losses. It has however been contended by the protagonist that whilst state intervention in the mould of Competition Law has long been justified on both Economic and political grounds.

¹ See Section 45(a) –(b) of the Federal Trade Commission Act 1914

² See Section 47 of the F.T.C Act under reference

³ Aderalegbe, "What is the Regulatory Framework for Anti-Competitive Behaviour", 467

⁴ See generally http://www.234next.com/csp/cms/sites/next/news/5554975-Nigeria_needs_Competition_Law.csp accessed on 13/12/2011

⁵ See Babatunde Adedeji, supra

⁶ Apinega, "The Goals of Anti-Trust and Consumer Welfare"

⁷ Apinega, "The Goals of Anti-Trust and Consumer Welfare"

They have equally argued that such side effects as job losses are only in the short term as the long term benefits far outweigh these short term challenges. The protagonists further argue that these short term disadvantages could be taken care of by an appropriate social safety measures.

It is in the light of the aforesaid, that some proponents have called for an end to the arbitrary abuse of the Nigerian market by some operators which has continued to persist because of the absence of a political will by government to enact a Competition law and policy.

No doubt, it can be gleaned from this analysis that there is an inexorable nexus between Competition Law and Consumer Protection, this is because it is not farfetched that an ideal Competition law would lessen dominant or monopolistic business tendencies by businessmen in Nigeria. Once monopoly is relaxed in the market place and the influx of as well as the activities of market associations or business organizations whose main objectives is to aggregate business stratagem of price fixing and adjustment is relaxed, then the consumer would be better for it.¹

It is in the light of the aforesaid, that attempts have been made to enact a holistic legislation on competition policy in the country. In 2000, the National Anti-Trust Bill was sponsored by the National Assembly. The Bill was aimed at regulating competition in the country by prohibiting unfair competition and unreasonable combination in restraint of trade, commerce and industry. The Bill as contemplated would prohibit monopolies, regulated mergers and acquisitions as well as policing all forms of business practices which constitute the abuse of a dominant player in the market place.² It would also have promoted the welfare and interests of consumers by providing them with competitive prices and choices. Unfortunately, however, the Bill suffered a chequered progress and was eventually abandoned. However, in 2002, the Executive arm of government sponsored its own version of a National Competition Law through the Bureau of Public Enterprises (B.P.E). The Bill was equally not passed into law. However, the most current effort at enacting a competition law in the country is traceable to the efforts of Senator Joel Ikenga of the 6th National Assembly in 2008. The unique thing about this private Bill is its prescription for an institutionalized approach to the enforcement of competition law and policy in the country. The Bill accordingly provided for the establishment of the Nigerian Trade and Competition Commission akin to the United States' Federal Trade Commission. This Bill passed through the first reading on April 23 2008 and the second November 6 2008 before it was referred to the Joint Committee on Establishment and Public Service Matters, Judiciary, Human Rights, Legal matters and Commerce. However, as consistent with previous bills it was not passed into law.

8.5 Is there an Existing Legal Framework for Competition Law in Nigeria?

Although, there is yet to be a holistic legislation on Competition in Nigeria, there exist though some statutes that have been used to address some issues relating to Anti-trust and by extension Competition in the country. One of such legislation is the Investment and Securities Act.³ There exist some salient provisions under this Act aimed at regulating mergers and acquisitions, with the sole aim of preventing "Dominant" position of some companies in the country, for instance section 121(1) (A) of the Act provides as follows:

Whenever required to consider a merger, the commission shall initially determine whether or not the merger is likely to substantially prevent or lessen competition

Implicitly, the Security and Exchange Commission, the apex regulatory body can prevent or strike down any merger or acquisition scheme that is likely to create a dominant position in the market. However, by the tenor of the Act, the emphasis is on the investor's profile as distinct from the genuine desire to protect the consumers. Commenting on this apparent disconnect between this attempt at Anti-trust legislation in the country and consumer goals, Apinega observed inter alia;

In the U.S.A, it is now generally accepted that the ultimate purpose of anti-trust laws is to benefit consumers. The fact that consumer welfare is the primary goal of antitrust is no longer a bone of contention. The only contention now is with respect to the meaning of "Consumer Welfare"⁴

The learned author having examined the trend of antitrust legislation in the U.S.A and the U.K submitted that the Investment and Securities Act under reference failed to draw a *nexus* between antitrust and consumer welfare. In his words:

In Nigeria as noted earlier, there are no comprehensive antitrust laws from

¹It is arguable that an ideal Competition Law would make a Price Control Legislation unnecessary as it is clear that healthy competition would ultimately impact on prices of goods and services. The experience in the Telecommunications industry in Nigeria is a test case.

²See Sections 12-18 of the Proposed Competition Bill under reference

³ Act Number 105 of 2007

⁴ Apinega, "The Goal of Anti-Trust and Consumer Welfare", 162

which to determine the goal of antitrust may be the meaning of consumer welfare. The provisions of the Investment and Securities Act regulating mergers and acquisitions, particularly section 121(1) (a) suggests that the main thrust of regulating mergers is to prohibit a merger that prevent or lessen competition

This problem is further exacerbated by the proviso created in the Investment and Securities Act permitting a merger scheme if done for the purpose of technological advancement. Accordingly, Section 118 of the Act is made subject to Section 121 in the sense that such altruistic intent in mergers and acquisitions may be considered by the commission. Section 121 (1)(b) (i) (ii) provides inter alia:

- “(i) Whether or not the merger is likely to result in any technological efficiency or other pro-competitive gain which will be greater than and offset the effects of any prevention or lessening of competition that may result or is likely to result from merger and would not likely be obtained if the merger is prevented and
- (ii) Whether the merger can or cannot be justified on substantial public interest grounds”

These attempts to rationalize mergers or Acquisition that may create monopolies on the basis of economic exigencies show clearly that the Investment and Securities Act cannot really be classified as Competition legislation. The leeway given to such monopolies in the guise of economic or technological advancement meant that the consumer interest or welfare was relegated to the background. In the words of Apinega:

The lacuna in the ISA is that while tending to approve merger that is likely to substantially prevent or lessen competition, It has failed to make provisions for control of monopoly practices.....The law and the regulator(S.E.C) should be more concerned with what amounts monopoly(prevention or lessening of competition in order to identify it in any disguised form.....¹

Conclusion

Clearly, the challenges of protecting the consumer are enormous. The consumer needs to be protected from the vagaries of the supply of sub-standard products, poor services and extortionate prices. This cannot be totally achieved through direct legislative intervention prescribing quality and standards. This penal legislation can be complemented by a legal framework that discourages monopolies or dominant position in the market. This is where competition law has become imperative.

A competition regime will complement consumer protection laws by ensuring that producers of goods and suppliers of goods and services compete fairly and favorably amongst themselves for consumer patronage. The fall out of such a healthy competition will be the improvement in the quality of goods and services offered to the consumer and the reasonable price he will pay.

We have shown that competition law has helped in consumer welfare in the U.K and the U.S. We have therefore canvassed for the enactment of a competition law in Nigeria to supplement its consumer protection laws. This we believe will improve the level of protection they enjoy currently in Nigeria

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¹ Apinega , “The Goal of Anti-Trust and Consumer Welfare”, 168

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