In exercise of the powers conferred on the Governing Council of the National Agency for Food and Drug Administration and Control (NAFDAC) by Sections 5 and 29 of the National Agency for Food and Drug Administration and Control Act 1993, as amended, and of all the powers enabling it in that behalf, THE GOVERNING COUNCIL OF THE NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL with the approval of the Honourable Minister of Health hereby makes the following Regulations:

Application of Regulations.

1. The provisions of these regulations shall apply to all advertisements of food products, (both single entity or compound) imported into Nigeria or locally manufactured, distributed or sold in Nigeria.

Advertisement of unregistered products Prohibition.

2. No person shall advertise any food product, unless it has been registered by the Agency.

Clearance to be obtained before advertisement.

3. No person shall advertise any food product, unless the advertisement has the pre-clearance and approval of the Agency.

Nature of Advertisement.

4. All advertisements of food products in Nigeria shall be accurate, complete, clear and designed to promote credibility and trust by the general public and health care practitioners and such statements or illustrations contained on the packaging shall not mislead directly or by implication.

Non-referential advertisement.

5. No advertisement of any food product shall:

(a) make reference directly or indirectly to any member of the healthcare profession, hospitals, clinic or pharmacy, etc.; or
(b) imitate the general layout, text, slogan or visual presentation or devices of other food products in a way likely to mislead or confuse the consumer; or

(c) be framed in such a manner as to make reference directly or indirectly to the medical or any of its allied professions, except such reference is scientifically proven.

**Application for the approval of advertisement.**

6. (1) All advertisement materials including scripts, story-board, art work, radio, video tapes, etc. shall be submitted under confidential cover along with an application to the Director-General of the Agency.

(2) All submitted advertisement materials shall be subject to the approval of the Director-General of the Agency.

**Particulars of Application.**

7. An application submitted by an advertising agent, distributor, manufacturer or the sponsor of the advert shall contain the following, that is:

(a) the brand name of the food product;
(b) the name and location address of the manufacturer;
(c) the name and address of the local distributor;
(d) the name and location address of the advertising company;
(e) information about any previous advertisement of the food product in Nigeria;
(f) a copy of the old script, if any;
(g) the proposed media for the advertisement;
(h) a copy of the registration certificate of the product;
(i) a justification for any special claims on the food product;
(j) scripts, story-board, art works, radio and video tapes of the advert; and
Validity of approval. 8. The approval of an advertisement shall be valid for a period of two years beginning from the date of the approval.

 Alteration in approved script. 9. Any alteration in the format of the approved script, story-board, art work, radio or video tapes without the approval of the Agency shall render the approval null and void.

 Unacceptable advertisement. 10. Where an advertisement is considered unacceptable by the Agency, the words "Unacceptable as presented" shall be stamped on it and it shall be returned to the advertiser with the unacceptable information or illustration clearly identified.

 Appeal in case of withdrawal of approval within the two years specified. 11. If the approval for an advertisement is withdrawn during the two year period of approval, an appeal shall be lodged with the Governing Council in writing and accompanied by supportive information within thirty days after the receipt of the withdrawal.

 Restriction. 12. No advertisement for a food product shall contain:

 (a) Any false or misleading information;
 (b) Half-truths, inadequate qualification and limitations regarding safety or quality of the food product;
 (c) Vague, unsubstantiated statements, suggestions or superiority over other competing food products;
 (d) Any false impression that the advertised food product is for universal benefit or should be regarded as a more wholesome and safer alternative to other related food products.

 Data comparison Misrepresentation. 13. (1) No comparison shall mislead directly or by implication and any such comparison shall be supported by reliable current data.
(2) Any reference to competitive manufacturer or their specialties shall be restricted to factual comparison without the use of identifiable product(s) or brand name(s).

(3) All data illustrations presented in an advertisement including charts, graphs and tables extracted from reference studies or other source or reproduced by art work shall be accurate, complete and clear with their source specifically identified.

(4) Data illustrations shall not be misleading or ambiguous or distort the original intended meaning or interpretation either directly or by implication.

14. Any copy of an advertisement shall be written in a manner, which accurately interprets, is valid and representative of research findings and relevant statistics on the food product which shall be written in a manner that reflects only their true validity and significance.

15. (1) No person shall:

(a) display, screen or otherwise present an advert of a food product, unless it is done in accordance with the provisions of these Regulations; or

(b) give to a food product a name which is capable of giving a false impression of the nutritional properties of the food product; or

(c) make any claim to assert, imply or otherwise convey the impression as to the suitability of the food product for use in the prevention, alleviation, management, treatment or cure of a disease, disorder or physiological condition; or

(d) make a claim that the food product contains a particular value when that value is not wholly contributed by the food products, but is partly contributed by other food products with which it may be consumed.
2. All nutritional claims shall comply with the provision of the Prepackaged Food (Labelling) Regulation 2005.

16. (1) A person shall in advertising a food product or on a label of such food product, state that:

(a) the food product is a "source" or "dietary source" of energy if a reasonable daily intake of that food product by a person would result in the daily intake of not less than 450 kilo calories of energy;

(b) the food product is a "good source" or "a good dietary source" of energy if a reasonable daily intake of that food product by a person would result in an intake of not less than 1,200 kilo calories of energy; and

(c) the food product is "an excellent source" or "an excellent dietary source" of energy if a reasonable daily intake of that food product by a person would result in daily intake of not less than 2,250 kilo calories of energy.

(2) No person shall sell a food product for which an energy claim is made and represented as being solely for use in the feeding of children under two years of age, unless a reasonable daily intake of that food product by a child under two years of age would result in the total daily intake by the child of not less than 1,360 kilo calories of energy.

17. No person shall advertise for sale or have in his possession for sale any food product, which is described by a name or words calculated to indicate either directly or by ambiguity, commission or inference that the food product has tonic properties by reason only that such food product contains:

(a) Alcohol; or

(b) Protein or substances prepared from the hydrolysis of protein; or

(c) Caffeine or purine derivatives.
Protein intake in food product.

18. A person shall in advertising a food product or on a label of such food product, state that:
   (a) the food product is "a source" or "a dietary source" of protein if a reasonable daily intake of that food product by a person would result in the daily intake by that person of not less than 9.0 grams of protein;
   (b) the food product is "a good source" or "a good dietary source" of protein if a reasonable daily intake of that food product by a person would result in an intake of not less than 24.0 grams of protein; and
   (c) the food product is "an excellent dietary source" of protein if a reasonable daily intake of that food product by a person would result in daily intake by that person of not less than 45.0 grams of protein.

Repeal of 1996 Regulations.

19(1). The Food Products (Advertisement) Regulations 1996 is hereby repealed.

(2) The repeal of these Regulations Specified in Sub-regulation (1) of this regulation shall not affect anything done or purported to be done under the repealed Regulations

Penalty.

20(1) A person who contravenes any of the provisions of these Regulations shall be guilty of an offence and liable on conviction. In case of:
   (a) an individual, to imprisonment for a term not exceeding one year or to a fine not exceeding N50,000 or to both such imprisonment and fine; and
   (b) a body corporate, to a fine not exceeding N100,000.

(2) Where an offence under these Regulations is committed by a body corporate, firm or other association of individuals :-
(a) every director, manager, secretary or other similar officer of the body corporate; or
(b) every partner or officer of the firm; or
(c) every trustee of the body concerned; or
(d) every person concerned in the management of the affairs of the association; or
(e) every person who was purporting to act in a capacity referred to in paragraphs (a) to (d) of this regulation, is severally guilty of that offence and liable to be proceeded against and punished for that offence in the same manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

Forfeiture 21. In addition to the penalty specified in regulation 20 of these regulations, a person convicted of an offence under these regulations shall forfeit to the Agency the advertising materials and whatsoever is used in connection with the commission of the offence.

Interpretation. 22. In these Regulations, unless the context otherwise requires:

"Advertising" means the publicity and description of all regulated products (which includes any form of notices in circulars, handouts, labels, wrappers, catalogues and price lists, billboards, posters, newspapers, magazines, and any other materials) made orally or otherwise or by means of projected light and sound recordings;

"Agency" means the National Agency for Food and Drug Administration and Control;
“Food” means any article manufactured, sold or advertised for human and animal consumption and any ingredient that may be mixed with food for any purpose whatever, but does not include live animals, birds or fish;

"Food Establishment" means any place or building where any operation for the purpose of production of food product is carried out;

"Label" means a display of written, printed or graphic matter upon the immediate containers;

"Package Labelling" includes the label on the immediate container and all other printed matter such as outer wrapper, carton or leaflet associated with the package.

Citation 23. These Regulations may be cited as the Food Products (Advertisement) Regulations 2005.

MADE at Abuja this day of 2005

DR. ANDEM NYONG ANDEM
Chairman Governing Council
National Agency for Food and Drug Administration and Control (NAFDAC)