

**NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL (NAFDAC)**

**FOOD PRODUCTS (ADVERTISEMENT) REGULATIONS 2018**

**COMMENTS ARE WELCOMED FROM STAKEHOLDERS WITHIN 60 DAYS.**

**PLEASE SEND ALL INPUT TO****REGULATORYAFFAIRS@NAFDAC.GOV.NG****.**

**ARRANGEMENT OF SECTIONS**

Commencement:

1. Scope
2. Prohibition
3. Nature of advertisement
4. Non-referential advertisement
5. Application for the approval of advertisement
6. Particulars of application
7. Validity of approval
8. Alteration in approved script
9. Withdrawal of an approval
10. Appeal in case of withdrawal of approval
11. Prohibition of reference to member of health care profession
12. Advertisement not prejudice public confidence
13. Unfairly disparage competition
14. Restriction
15. Prohibition of misleading comparison
16. Accurate interpretation of research findings
17. Scientific articles and literatures to contain both positive features and negative findings
18. Product launches and Press release
19. Claims
20. Energy intake in food product
21. Ambiguous inference to tonic properties
22. Use of the term ‘Nutritious’ in advertisement
23. Advertisement aimed at children
24. Protein intake in food product
25. Penalty
26. Forfeiture
27. Interpretation
28. Repeal of 2005 regulations.
29. Citation

**Commencement:**

**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 30 of the National Agency for Food and Drug Administration and Control Act Cap NI Laws of the Federation of Nigeria (LFN) 2004 and all 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:-**

1. **Scope**

The provision of these Regulations shall apply to all advertisements of food products, imported manufactured, distributed, sold or used in Nigeria.

1. **Prohibition**
2. No person shall advertise any food product unless it has been registered by the Agency.
3. No person shall advertise any food product unless the advertisement has the approval of the Agency.
4. Advertisement shall not be permitted for Breast Milk Substitute and Infant and Young children food. Any descriptive matter appearing on or attached to or supplied with the package shall not include any information on the promotion or advertisement of another product.
5. No person shall-
6. Display, screen or otherwise present an advertisement of a food product unless in accordance with the provisions of these Regulations; or
7. 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
8. Make a claim that the food product contains a particular value when that value is not wholly contributed by the food product, but is partially contributed by other food products to which it may be consumed.
9. Describe a food product as “healthy” or represent it in a manner that implies that a food in and of itself will impart health.
10. Make health claims that encourage or condone excessive consumption of any food or disparage good dietary practice.
11. All nutritional claims shall comply with the Regulations of the Pre-packaged Food (Labeling) Regulation **2018.**
12. **Nature of advertisement**

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, indirectly or by implication.

1. **Non-referential advertisement**

 No advertisement of any food product shall-

1. 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
2. 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.
3. **Application for the approval of advertisement**

All advertisement materials including scripts, story-boards, art work, radio scripts and any other advertisement material as may be required by the Agency shall be submitted along with an application, to the Agency.

1. **Particulars of application**

An application submitted by an advertising agent, distributor, manufacturer or the sponsor of the advert shall contain the following-

1. The brand name of the food product (if any);
2. Place of importation or local manufacture;
3. The name and location address of the manufacturer;
4. The name and address of the local distributor;
5. The name and location address of the advertising company;
6. The date of first introduction of the food product to the Nigerian market;
7. Information about any previous advertisement of the food product in Nigeria;
8. A copy of the old script (if any);;
9. The proposed media for the advertisement;
10. A copy of the registration certificate of the food product;
11. A justification for any special claims on the food product;
12. scripts and recordings
13. Such other materials as may be required by the Agency from time to time.
14. **Validity of approval**
15. The approval of an advertisement shall be valid for a period of one year beginning from the date of approval.
16. Notwithstanding, consumer promotions shall have validity of fifteen weeks.
17. **Alteration in approved script**

Any alteration in the format of the approved script or recording without the approval of the Agency shall render the approval null and void

1. **Withdrawal of an approval**

The Agency may withdraw the approval for an advertisement if-

1. the grounds on which the approval was granted was later found to be false or incomplete; or
2. any of the conditions under which the approval was granted has been contravened; or
3. the standard of the advertisement contravenes the provisions of these Regulations.
4. in the light of new scientific evidence against claims contained in the advertisement.
5. **Appeal in case of withdrawal of approval**

If the approval of an advertisement is withdrawn during the one year period of approval, an appeal shall be lodged within thirty days after the receipt of the withdrawal to the Governing Council in writing and accompanied by supportive information; If no appeal is made after thirty days, the withdrawal stands as issued.

1. **Prohibition of reference to member of health care profession.**
2. No advertisement shall make reference directly or indirectly to any member of the healthcare profession, hospitals, clinic and health centers.
3. No advertisement shall make reference directly or indirectly to any professional body or any such organization without approval from the Agency.
4. **Advertisement not to prejudice public confidence**

No advertisement shall bring the food industry into disrepute, undermine or prejudice public confidence in food.

1. **Unfairly disparage competition**

No advertisement shall unfairly disparage any company of its competitive products either directly, indirectly or by implication.

1. **Restriction**

No advertisement shall contain-

1. half-truths, inadequate qualification and limitation regarding the safety or effectiveness of the product; or
2. vague or unsubstantiated statement or suggestion of superiority over competing product; or
3. any false impression that the advertised food product is for universal cure or should be regarded as a more effective and safer alternative to other related food products.
4. statements or visual presentations likely to alarm or generate irrational or unfounded fears among the target audience or suggest that a state of good health may be impaired by not using the product.
5. messages portrayed in an exaggerated or misleading manner the effect of the advertised product on the human body.
6. **Prohibition of misleading comparison**
	1. No comparison in an advertisement shall mislead the public either directly, indirectly or by implication and where there is comparison it shall be supported by reliable current scientific data.
	2. A reference to a competitive manufacturer or its specialties in an advertisement shall be restricted to factual comparison without the use of identifiable regulated product or brand name.
	3. Data illustrations including charts and graphs, tables extracted from reference studies or other sources or reproduced by art work, presented in an advertisement, shall-
7. be accurate, complete and clear, with their source specifically identified;
8. not be misleading or ambiguous or distort the original intended meaning or interpretation either directly or by implication.
9. **Accurate interpretation of research findings**
	1. A copy of an advertisement shall be so written as to accurately interpret valid and representative research findings.
	2. Statistics in an advertisement shall be so written as to reflect only their true validity and significance.
	3. Any claim or quotation from a scientific literature concerning the safety and adverse reaction, use in children or during pregnancy or any such precautionary statements with the constraints of the accepted product information, shall specify the scientific source of the claim or quotation.
	4. Copy of any reference cited by an applicant or in the advertisement shall be provided to the Agency for verification.
10. **Scientific articles and literatures to contain both positive features and negative findings**
	1. A claim or quotation shall contain both the negative and positive findings and shall be readily verifiable by the Agency.
	2. A claim based on, or quotation that has been selected from a scientific article or series of articles which emphasize only the positive features while ignoring negative findings, shall not be acceptable.
11. **Product launches and Press release:**

All product launches and press releases for food products shall obtain approval from the Agency.

1. **Claims**
	1. Claims for food products shall be substantiated before approval.
	2. Superiority claims may be used only when a product proves to be superior to an identified comparator or to all products in same category.
	3. Top parity claims and ‘Natural claims’ may be permitted provided they are adequately substantiated.
	4. No advertisement for food products shall state or imply in absolute terms or by quotations taken out of context that any food product has guaranteed efficacy.
	5. Any statement claiming or implying a superlative function such as “the product of choice“, or any such statements, for a cosmetic product shall not be used unless it can be adequately substantiated.
	6. *“*Best-selling*”* claims when used shall not imply superiority in any form to other products in same category.
	7. “Duration of action” claims in cosmetic product advertisements shall be allowed provided such claims can be adequately substantiated.
2. **Energy intake in food product**

A person shall in advertising a food product or on a label of such food product, state-

1. That the food product is a “source” or “dietary source” of energy if a NRV of that food product by a person would result in the daily intake of not less than 450 kilo calories of energy;
2. That the food product is a “good source” or “good 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 1,200 kilo calories of energy;
3. That the food product is an “excellent source” or “an excellent dietary source” of energy if a NRV of that food product by a person would result in the daily intake of not less than 2,500 kilo calories of energy;
	* 1. 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 of not less than 1,360 kilo calories of energy.
4. **Ambiguous inference to tonic properties**

No person shall advertise for the sale or have in his possession for the sale of any food product in a manner that describes it either by name or words, directly or indirectly that the food product has tonic properties by reason only that such food contains;

1. Alcohol; or
2. Protein or substances prepared from the hydrolysis of protein; or
3. Caffeine or purine derivatives.
4. **Use of the term “nutritious” in advertisement**

No advertisement which describes any food shall include the word “nutritious” or any other words of the same significance unless―

* 1. the food contains a range of nutrients including carbohydrate, fat, protein, vitamin and mineral;
	2. the food contains a substantial amount of energy of more than 40 kcal/ 100 g or 20 kcal /100 ml;
	3. the food contains source of protein not less than 5 g/100 g or 2.5g /100ml;
	4. the food contains at least four vitamins of an amount that meets the criteria for claim as source and two minerals (excluding sodium) of an amount that meets the criteria for claim as source; and the amount of the nutrients mentioned in sub-regulations (a) and (d) is declared.
1. **Advertisement aimed at children**
2. No advertisement for food that is directed at children shall-
3. exploit their illustrations that might result in their physical, emotional or moral harm;
4. try to sell by appealing to emotions such as pity, fear, loyalty or self-confidence; exploit children’s natural tendency to play by advertising food accompanied by games or toys; or actively encourage children age restriction to undermine parental authority, including guiding diet and lifestyle choices.
5. portray images or events which depict unsafe uses of a product or
6. unsafe situations which may encourage children to engage in activities which may endanger them physically, emotionally or morally and/or
7. create an unrealistic impression in the minds of children or their parents or caregivers about safety.
8. condone or encourage the consumption of food items that are detrimental to children’s health.
9. require a purchase to participate in a promotion or include a direct exhortation to make a purchase to participate in a promotion.
10. feature ingredients or premiums unless they are an integral element of the food item being sold.
11. **Protein intake in food product**
	* + 1. A person shall in advertising a food product or on a label of such food product, state-
12. That the food is “a source” or “a dietary source” of protein if a NRV of that food product by a person would result in not less than 9 grams of protein;
13. That the food is “a good source” or “a good dietary source” of protein if NRV of that food product by a person would result not less than 24 grams of protein;
14. That the food is “an excellent source” or “an excellent dietary source” of protein if NRV of that food product by a person would result in not less than 45 grams of protein;
15. **Penalty**
	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 :
16. an individual, to imprisonment for a term not exceeding one year or to a fine not exceeding 50,000 or to both such imprisonment and fine; and
17. a body corporate, to a fine not exceeding N100, 000.
	1. Where an offence under these Regulations is committed by a body corporate, firm or other association of individuals every:-
18. director, manager, secretary or other similar officer of the body corporate; or
19. partner or officer of the firm or
20. trustee of the body concerned ;or
21. person concerned in the management of the affairs of the association ;or
22. 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.
23. **Forfeiture**

In addition to the Penalty specified in these Regulations, a person convicted of an offence under these Regulations shall forfeit to the Agency the advertisement materials and whatsoever is used in connection with the commission of the offence.

1. **Interpretation**

For the purpose of these regulations, unless the context otherwise requires:-

In these Regulations, unless the context otherwise requires-

1. “**Advertising**” means the publicity of goods and description of all products (which includes any form of notices in circulars, handouts, labels, wrappers, catalogues and price lists, bill boards, posters, newspapers, magazines, and any other documents) made orally or otherwise or by means of projected light and sound recordings;
2. “**Agency**” means the National Agency for Food and Drug Administration and Control;
3. “**Food**” means any article manufactured, sold or advertised for use as food or drink for man, chewing gum, and any other ingredient that may be mixed with food for any purpose whatever, but does not include live animals, birds or fish, fodder or feeding stuff for animals, birds or fish other than supplements produced for addition to animal and poultry food stuff;
4. “**Health personnel**” includes any nurse, hospital assistant, medical assistant, midwife, catering officer and any other person working in the health care system.
5. “**Health professional**” includes any hospital administrator, medical doctor, nutritionist, food technologist, dietician, pharmacist, health education officer, medical social worker and matron (or alternative designation) working in the health care system.
6. “**Label**” means a display of written, printed or graphic matter upon the immediate containers;
7. “**Package labeling**” includes the label on the immediate cover of all other printed matter such as outer wrapper, carton that is associated with the package.
8. **Repeal of 2005 Regulations**
9. The Food Advertisement Regulation 2005 is hereby repealed.
10. The repeal of the Regulations Specified in Sub-Regulation 25(1) of this regulation shall not affect anything done or purported to be done under the repealed Regulations.
11. **Citation**

These Regulations may be cited as the Food Advertisement Regulations 2018.

**MADE at Abuja this ……………………….day of …………………………..2018**

 **……………………….**

**Inuwa Abdulkadir Esq**

**Chairman Governing Council**

**National Agency for Food and Drug Administration and Control (NAFDAC)**