

Recently, President Muhammadu Buhari signed into law the Federal Competition and Consumer Protection Act 2019 (“FCCPA”). The Law established the Federal Competition and Consumer Protection Commission (“FCCPC”) and



repealed the Consumer Protection Council Act, Cap C25, Laws of the Federation of Nigeria, 2004

(the “CPC Act”) as well as Sections 118 -128 of the Investment and Securities Act, Cap I24, Laws of the Federation of Nigeria, 2004 (“ISA”). Following its enactment, the FCCPA applies to all undertakings and all commercial activities within, or having effect within Nigeria as well as all commercial activities aimed at making profit and geared towards the satisfaction of demand from the public. It also applies to corporate bodies and agencies of Government engaged in commercial activities as well as corporate bodies engaged in economic activities in which the Government has controlling interests.

One of the most notable sections of the FCCPA is Section 3 which established the FCCPC to replace the Consumer

Protection Council (“CPC”) and saddled the FCCPC with the responsibility of reviewing all mergers and business combinations towards ensuring that these activities do not distort the market. Another noteworthy provision of the FCCPA is its mandate for the FCCPC to set, gazette and publish thresholds applicable to all business combinations, mergers inclusive.

Even though the enactment of the FCCPA has been commended by many in view of its underlying objective, which is to



encourage free trading and competition

between businesses as well as ensure that goods and services made available in the Nigerian market are of a certain standard and quality similar to international best practices, unfortunately, the FCCPC is yet to publish any gazette or threshold on business combinations till date thus causing uncertainty in the market. Towards obviating this problem and ensuring a seamless transition of the aforementioned

hitherto SEC-regulated functions to the FCCPC, SEC and the FCCPC recently issued a notice referred to as the “Joint Advisory and Guidance on Mergers, Acquisitions & Other Business Combinations Notifications” (*“Joint Advisory”*) to the effect that both organizations would jointly review all notifications of mergers and other business combinations until further notice. The highlights of the Joint Advisory are as follows:

- SEC regulations, guidelines and fees which were in existence before the enactment of the FCCPA would continue to apply to all pending/subsequent merger transactions until further notice;
- All new notifications for mergers and requests for approval of mergers are to be filed at the FCCPC's office in Abuja or at the SEC/FCCPA Interim Joint Merger Review Desk in Abuja or Lagos; and
- All applicable fees are to be paid to the FCCPC.

The import of this Joint Advisory is that both bodies would collectively review all notifications and filings while the FCCPC would be responsible for conveying the decision of such reviews to the combining entities. This also connotes that regardless of the enactment of the FCCPA, SEC's rules and regulations on mergers and other business combinations remains in force until the FCCPC issues a notice to the contrary.