

NECESSITIES OF FOOD SAFETY THROUGH NAFDAC COMMITMENT TO THE MANDATE OF CONTROL AND ADMINISTRATION OF FOOD *INTER-ALIA* IN NIGERIA

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Abstract: *The agency assigned with the responsibility for the control and administration of food and drug in Nigeria is the National Agency for Food and Drug Administration and Control, widely known by its short-title as NAFDAC. The mandate of the agency includes addressing food safety in Nigeria. This paper examines the extent the agency has travelled in fulfilling its mandate on food control and administration. The neglect by the agency to extend its mandate to food control in Nigeria leaves a huge gap in the exercise of an important aspect of its legal framework. This neglect to assume responsibility for the control of food in Nigeria has resulted in both food insecurity and unsafe food for human consumption in Nigeria. This paper adopts a comparative assessment of what obtains in some foreign jurisdictions through the vehicle of desktop review of relevant literature, in order to assess the commitment or otherwise of NAFDAC to food administration and control in Nigeria. The paper has four segments: first is on introduction and conceptual, theoretical frameworks of food safety and security; part two cites examples of food safety control measures from other jurisdictions as templates for NAFDAC implementation; part three gives examples of neglect by NAFDAC in food control and administration; part four concludes and that if Nigeria will be ready to walk the talk of “food safety and security” it must ensure that NAFDAC steps up its performances in this direction.*

Keywords: Food safety, food security, food control and administration in Nigeria, NAFDAC

1. Introduction

To emphasise the importance of food, the Food and Agriculture Organisation (FAO) was founded in 1945 by the United Nations (UN), as its lead specialised agency, with the mandate to work “to alleviate poverty and hunger by promoting agricultural development, improved nutrition and the pursuit of food security. Apart from the establishment of the FAO, the UN also established the World Food Programme in 1963 as its frontline agency in the fight against global hunger. And food sufficiency, which is closely tied to food security, is defined by the Food and Agriculture Organisation, as “the availability at all times of adequate world food supplies of basic foodstuffs for the sustenance of steady expansion of food consumption and to offset fluctuations in production prices.”

Apart from the FAO, the UN also set up the World Food Programme (WFP) a United Nations initiative, which also ranks as the world’s largest humanitarian organisation for saving lives in emergencies, using food assistance to build a pathway to peace stability and prosperity, and for recovering from conflict, disasters and the impact of climate change. Over the years, the Programme has expanded to reach millions of people in more than 100 countries, using food assistance to meet emergency needs and support economic and social development. A Yoruba proverb underscores the huge importance attached to food as expressed in some of their proverbs thus: *ebi ki i wo ’nu, k’oro miran tun wo* (hunger in the stomach does not accommodate

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any other business); *okun inu la fi i gbe t'ode* (inner energy from food is deployed for the performance of daily activities); and, *Oba l'ounje* (food is paramount).

The Cambridge dictionary defines 'food' as noun for any nutritious substance that people or animal eat or drink, or that plant absorb, to maintain life, sustain growth, repair tissues, and provide energy which is utilised by every living thing for its daily activities. Other dictionaries too are not left out in accentuating the importance roles played by food in the lives of both lower and higher animals. As indispensable as food is in the lives of living beings, equally important, if not more important, is the safety of food. When the issue of safety is raised with reference to food, it is a matter of fundamental importance to ensure that what we eat is safe, wholesome, and properly manufactured. Food safety has transcended public health to take a berth as a fundamental pillar of national security, economic stability and human dignity. NAFDAC also represents the hub around which the shield standing between the consumer and unsafe adulterated food products revolves. This paper interrogates the connection between food safety and the extent of the agency's responsibility to its mandate under the law.

2. Conceptualising Food Safety and Security

The concept of food safety relates to the sale and consumption of wholesome food, which hold zero-tolerance for risks to human health. When basic food products become adulterated, this will not only be a source of unfairness to buyers (for whom the food bought did not meet the specification of what is paid for), but will also constitute a risk of the contamination of the food with harmful elements. Food, constitutes an essential need both for the existence and sustenance of lives on earth (Scott, 2008).

The concept of the "prevailing needs of man for his preservation" was enunciated by Abraham Maslow (1961) to posit a theory of "hierarchy of needs." Through this theory, Maslow proposed that humans are motivated by a hierarchy of needs starting with basic psychological needs and moving toward safety, love/belonging, esteem and finally self-actualization attempted to explain how drive and motivation are interconnected, when discussing human behaviour.

The pyramid 'drawn' by Maslow, puts 'physiological needs' (air, water, food, shelter, sleep, clothing, reproduction), at the bottom of the pyramid, yet Maslow submitted that these needs, even though tucked at the base of the pyramid, yet these (psychological) needs must be satisfied not necessarily on an "all-or-none" phenomenon, but at least more or less reasonably, before an individual can attend to needs that are higher up in Maslow's pyramid (Leigh, 2021). This goes to confirm that the issue of food ranks as one of the basic needs of mankind, even before other needs would be considered.

The classification of food as one of the basic needs of mankind beyond other – though important but not inevitable needs – leads to the consideration of the necessity to make that basic need, both safe and secure for taking by both humans and lower animals. Theories of safety and security make the reduction of risks to human life and property their primary concern. These concerns are oftentimes mitigated by the application of the SWOT analyses for identifying the internal strengths and weaknesses alongside external opportunities and threats inherent in an object of focus. Extrapolating the theories on the safety and the need to make food secure for consumption, it is the burden of this study to examine the various prospects through which food meant for human consumption can be compromised in Nigeria and how other foreign jurisdictions have been able to track this malaise within their domains now and in the past.

Then theory of authority imbues NAFDAC with the right to tell businesses in Nigeria what they can and cannot sell and this is expressed in the mandate conferred on NAFDAC for the control and administration of food *inter alia* in the country. When this theory is well understood, it assists us to appreciate the agency as not merely a bureaucratic one churning out

rules, but to be seen rather as a vital shield that the society itself have established for our protection. At the centre of the theory of authority, lies the question “why people should obey the law?” the answer lies in the much-talked about “social contract” which the Legal philosopher John Locke propounded. The “social contract” represents the idea that citizens who give up a little bit of their total freedom, do so willingly, by handing it over to a central government in exchange for the latter’s responsibility to protect the citizen’s rights, health, and safety. The mechanics of the ideals of the “social contract” when extrapolated to the agency’s role in the control and administration of food, in Nigeria, means that the citizens give up the “freedom” to manufacture and sell unregulated food and in exchange for this alienation of “freedom,” the citizens gain the peace of mind that the food they buy from other sources is safe. The small lettering of NAFDAC registration number on food packages represents far more than just an official acknowledgement imprint. It epitomises a symbol of the authority of NAFDAC in action. This numbering is a proof that the legal machinery of Nigeria is working to enforce the social contract, in order to ensure that the citizens right to safe foods is the ultimate which ought to be strictly safeguarded.

On the part of NAFDAC, sequel to the fulfilment of the social contract through the creation of the agency by the Federal Government of Nigeria in 1993, the National Assembly (NASS), enacted specific laws on behalf of the people of Nigeria, to confer this collective authority to the agency. The agency in turn exercises three types of legal power conferred upon it by the NASS. Through its legislative authority, NAFDAC is empowered to set the rules to define what ingredients are safe, how food must be processed, and also labelled. In the exercise of its executive authority, NAFDAC acts the enforcer with authority to inspect factories, do trans-border controls in order to stem the smuggling of contraband goods and it also test products in the laboratories. In the exercise of its quasi-judicial authority, NAFDAC has the power of seizure of goods, if a company violates the rules. It can also shut down factories and impose fines.

3. NAFDAC and Food Security/Safety in Nigeria

In Nigeria, the National Agency for Food and Drug Administration and Control (NAFDAC) is a regulatory body whose mandate includes addressing food safety within its national domains (NAFDAC Guidelines for Food Hygienic Practices, 2003). The agency occupies the position of the leader of the National Codex Committee – General Purposes Technical Committee (NCC-GPTC). The National Codex Committee coordinates CODEX within Nigeria. As the chair of NCCGPTC, NAFDAC is the coordinator of the involvement efforts by Nigeria in the elaboration of the International Food Standards on food labelling, contamination in food, food additives, food hygiene and similar arrangements.

The Procedures currently employed by NAFDAC towards fulfilling her mandate include registration of products, inspection of food establishment and imported products, laboratory assessments, provision of advisory Codes of Practice, Regulations, Guidelines, etc. The agency is also responsible for the issuance of alert notices and monitoring of advertisement of regulated products and similar activities. It can be established that there are guidelines put in place by NAFDAC in respect of Good Manufacturing Practice (GMP), Good Distribution Practice (GDP), comprehensive labelling standards, and traceability requirements (GS1 Data Matrix).

However, the establishment of similar comprehensive provisions cannot be assumed to exist in respect of ensuring food safety in Nigeria, yet there are established guidelines for domestic food preparations, covering specific aspects of domestic food preparation.

In June 2024, the Lagos State Government identified unregistered tiger nut drinks as a significant driver behind a severe cholera outbreak in Nigeria. While tiger nuts themselves are edible nuts commonly grown in the Northern Nigeria and transported down south where it

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maintains a steady large number of admirers and patrons (the nuts are known as *ofio* in the Southwest Nigeria), they are not inherently dangerous, but could get contaminated during preparation, with the *vibro cholerae* bacteria, during the processing of the drink, with unhygienic water or reused plastic bottles.

Usually, unregistered products are implicated in these outbreaks. Health officials found that many implicated drinks were sold in unlabelled or reused pet bottles without registration from the NAFDAC. However, it is the view canvassed in this study that if NAFDAC had been proactive (and not reactive) it could and should have nipped these ugly incidents in the bud.

Potassium bromate is a food additive used to strengthen dough, increase bread volume, and create a fine crumb structure. It is a suspected human carcinogen linked to kidney and thyroid cancer in animal studies, leading to its ban in many countries. While bromate is banned in the European Union, Canada, Nigeria and Brazil, it is still allowed in the US and Japan. In a study carried out by a group of scientists for assessing the exposure of potassium bromate ($KBrO_3$) and trace metals through bread consumption, discovered that the consumption of bread exposed to bromate harbours associated risks to dietary habits among the Ado-Ekiti Southwest, Nigeria residents. Samples were randomly chosen from local bakeries and these samples were later analysed in the laboratory using an Atomic Absorption Spectrophotometer to determine the level of trace metals including lead (Pb), manganese (Mn), nickel (Ni), Chromium (Cr), zinc (Zn) and Cadmium (Cd). It was discovered that all trace metal concentration in breads produced in this part of the country were higher than the FHO/WHO permissible limits.

The Bromate is usually introduced into bread because it acts as oxidising agent, making dough more elastic, tougher, and better at retaining gas, resulting in a lighter softer loaf. The health hazard of bromate in bread is huge. The element is classified as a Group 2B carcinogen (possibly carcinogenic to human), it has been linked to cancer in animals, including renal and thyroid issues. Bromate in bread poses residual risks. Although it ideally decomposes into harmless bromide during baking, improper baking time or excessive usage can leave residual bromate in the final product (Shanmugavel, 2020).

In a publication by a daily newspaper platform on bromate, the newspaper medium titled its news report, “Bromate: How our daily bread is becoming daily poison revealed the “back and forth,” accusations and refutations by concerned bodies (Ndujile, 2024).

Even though the element is banned in Nigeria, just as in the UK, Canada and Brazil. In Nigeria, bakers still cash-in on NAFDAC’s reactive mode of articulating its mandate, by their continuance to use the element. However, bakers in Nigeria have devised a way to calm the nerves of consumers of bread in Nigeria, by writing on the labels tucked inside the bread or even on the nylon wrapper used for packaging the bread, the following words: “Bromate free.” Yet, the consumer cannot vouchsafe for the baker that for a fact, the bread is actually bromate free. This is in furtherance of our culture of doubts and mutual suspicion with which both the consumers and bakers of bread hold one another.

There was an incident that gained currency over the Internet in respect of the claim by a reviewer, a Nigerian woman who claimed that a loaf of bread that did not get spoilt for over two months. The claim sparked huge concerns and constituted a serious buzz over the internet (Chatta, 2026). The claim sparked concerns about consumers’ safety and risks, resulting in the interest showed in the saga by the Federal Competition and Consumer Protection Commission (FCCPC) a body established by the Federal Competition and Consumer Protection Act (2018). This is the principal legislation for tracking competition and consumer protection administration in Nigeria. The FCCPA is a piece of comprehensive legislation which is total in its reach and coverage as far as consumer protection issues are concerned and also extends its oversight to all corporate bodies in Nigeria – whether they are governmental agencies or private companies – as long as such bodies engage in commercial activities (Leigh, 2022). The FCCPA is *inter alia* consumer-centred and also exists to cover issues which touch and concern

competition. The FCCPC said it has opened an investigation into the bread review which raised questions about product quality and the agency has further engaged the NAFDAC to analyse the bread sample the reviewer referenced in her review (Sobowale, 2025).

Ata Esa refers to spoiled peppers, not a specific recipe, but they are commonly used to create a “buka style” (local restaurant) stew. While the rotten pepper is popular for its taste, some experts advise caution against using *ata esa* (rotten tomatoes/peppers) due to the presence of fungi like *Aspergillus flavus*, which can produce toxins (aflatoxins) that are harmful to the liver and kidneys, even after cooking.

4. The Practice in Some Selected Jurisdiction as Guide for NAFDAC

The United Kingdom started going experiencing significant public health concern which manifested in food poisoning issues beginning from the late nineteenth century. From this period up to early twentieth century, the recognition of foodborne illnesses took a leap in the consciousness of Britain. There was however an initial mistaken assumption that “ptomaine poisoning” rather than specific bacteria was responsible for the food poisoning malaise being experienced in the country. From the few recorded incidents of contact with food poisoning in the UK, the country experienced a phenomenal increase in the number of victims to an estimated 2.4 million cases of food poisoning annually, by the year 2026 (Hardy, 2007).

This significant increase in incidents of food poisoning in Britain was triggered largely by *Campylobacter* and *Norovirus*. The latter causal factor of food poisoning in Britain, the *Norovirus*, spreads easily through contaminated food, water or surfaces with symptoms typically lasting between one to three days with no vaccine existing for the cure (CDC, 2023). Much earlier in the UK, legislative actions have always responded to or directed at specific incidents of exposure of the public to danger through incidents of contamination of food with injurious substances. One of such direct statutory response to specific incidents of food contamination was the Statute of Bread and Ale (1266).

In more recent periods, modern legislative efforts have been also been developed in direct statutory response to particular events of food poisoning. The first of these initiatives in the modern time took its bearing from the mid-nineteenth century and the piece of legislation arose out of the fright brought about by unsafe foods and food poisoning and other more recent food safety legislation have also been enacted as a result of concern by members of the public to matters such as *salmonella* in eggs, which arose out of the BSE in the 1990s. This led to the establishment of a judicial inquiry presided over by Lord Philips (Phillips, Baron Phillips of Worth Matravers, 2022). One of the negative fallouts of the BSE is that up till the present moment, many countries still restrict beef importation from the UK as well as discouraging the receipt of blood donation from people who lived in the UK between 1980 – 1996.

In South Africa, there has been major episodes of food poisoning, between 2017-2018 and as recently as 2024. The *Listeriosis* outbreak occurred in 2017-2018 in South Africa. Regarded as the world’s deadliest, *Listeriosis* is caused by *Listeria monocytogenes* ST 6 which inhabits ready-to-eat processed meat mainly ‘polony from Enterprise Foods/Tiger Brands in Polokwane.’ The South African government responded by making a nationwide recall of ready-to-eat meat, leading close to 15 African countries who recalled who recalled South African products. In 2018, when the outbreak ended, the World Health Organisation (WHO) congratulated South Africa for achieving this huge feat.

Other recent issues occurred in 2024. Known as the “spaza shop cases,” there were several deaths of children for suspected contaminated foods sold in spaza shops. The government responded by giving orders to all spaza shops to register within 21 days. And even though foreign-run spaza shops were blamed, fortunately, South African domestic laws came to the rescue as they were readily in place to both prevent tragic incidents such as food poisoning event in South Africa and for curbing the malaise of food poisoning in that country.

5. Conclusion and Recommendations

It has become inevitable to interrogate the type of ‘a food and drug control and administration agency’ NAFDAC is, if its mandate *inter alia* to exercise functions and powers to “regulate and control the importation, exportation, manufacture, advertisement, distribution, sale and use of food, drugs, cosmetics, medical devices, bottled water and chemicals” have been exercised more in the breach of the agency’s responsibility in the aspect of food. A nation’s well-being is hinged on the good nutrition its citizens enjoy. Several folklores and traditional proverbs abound among all ethnic groups in Nigeria on the importance of nutritious food and how it is a *sine-qua-non* for a glowing skin. Among the Yoruba in Nigeria and along the West African coast, a proverb says *ounje lore awo*, meaning that “nourishing food is resulting in a bright skin.”

In order to continue to be relevant, and for the agency to do its job satisfactorily, the authority conferred on NAFDAC for the control and administration of food must be seen as legitimate. This means that both the public that the agency is protecting and the businesses that the agency is controlling, must believe in the rightful claim of authority by the agency. When a regulatory agency loses its perceived legitimacy, maybe as a result of corruption or compromised processes, or unpredictable enforcement techniques, it leads to a systems breakdown.

There will be a bypass of rules, leading to increase in counterfeit foods and unhygienic manufacturing procedures. On the other hand, a diligent exercise of its authority on its mandate by the agency – NAFDAC – transparently and fairly will breed trust in the populace. Businesses will comply with safety rules in their manufacturing and production processes and consumers will be able to buy with confidence in the knowledge that what they are buying is both safe and fit for purpose.

Even though NAFDAC is the body statutorily placed at the vanguard of ensuring that there is safe food in Nigeria, what we see is that the entity is headed on the opposite direction as exemplified in its neglect of the food aspect for which it possesses a mandate for its control and administration. Currently, NAFDAC is constrained from actualising in full, and this should be a matter of concern which raises deeper questions about the kind of lookout the federal government is maintaining over her citizens. The verdict to be returned in the conclusion of this study is that there is a wide room for NAFDAC to step up its acts in the area of food administration and control.

In this respect, a lot of arguments needs be made in support of extending NAFDAC’s jurisdiction over “street food.” Street food is commonly obtained at a bustling roadside spot, a trendy food stand, and or a neighbourhood night-market stall. These ubiquitous locations of readily-available food constitute a boost to our local economy. The essentials of street food refer to the ready-to-eat foods and beverages that are prepared and sold by vendors in public places, especially on streets, markets, and transit hubs.

For convenience sake, the scope of the definition could be extended to cover food prepared for serving at public events and similar public places such as inside trains, ships, and aircrafts operating within Nigeria, and public food prepared in celebration of important festivals in the community. The true nature of street food is rooted in its cultural and social importance. It is the identity of a community and whenever people are desirous of having an experience of the authentic taste of a city, rather than visit 5-star hotels, they will rather come to the streets. Street food is popular among the populace for its many attractive characteristics.

However, it remains to be seen the extent of the golden rule governing the preparation and vending of street food in the open, is observed by the vendors. The same characteristics responsible for the popularity of street food also dictate a major responsibility for its safety. There is a compelling need by the vendors to maintain a clean workstation, insist on the wearing of aprons by their workers, using of hairnets and the chef’s headdress by both female and male

workers and handling money away from the food. These are not supposed to be just rules of hygiene, they require the authoritative enforcement by a governmental agency.

In evaluating how well NAFDAC has been exercising its mandate on street food, the performance can be described as hands-off, decentralised and largely reactive. Rather than policing the individual roadside *akara* or *suya* or jollof rice vendors, NAFDAC instead regulates street food and the activities of their vendors by strictly controlling the commercial ingredients vendors use.

If the agency claims that it is up and doing in the exercise of its mandate especially on the aspect of food, the retort of course will then be that the effect of what the agency does in the area of food control, which it considers as effective, is not so much felt or at all in Nigeria.

In order to improve on the mandate of NAFDAC as the agency in charge of the control and administration of food in Nigeria, the following recommendations are objectively suggested for consideration by the agency as follows:

- (a) Beyond the formal processes of applying for and obtaining NAFDAC “certification” of quality which is represented through the vehicle of the NAFDAC registration number, the agency should pay unannounced and unscheduled, periodic visits to food manufacturing and production plants for checks on their level of compliance with the agency’s rules. After the various hurdles has been scaled over by the company and the unique NAFDAC number is issued for printing on the food packages, there is nothing suggesting that follow-up tests will be carried out at periodic intervals thereafter. This is however necessary in order to keep the companies on their toes and not to relax their responsibilities for quality assurance of their products;
- (b) The word ‘food’ is not defined in the glossary of words in the NAFDAC Act. To this end, deliberate efforts should be made to define the scope and genus of food to include in the definition and to extend the agency’s control and management over food, to include “street food” and raw food;
- (c) NAFDAC should extend its strategy to taking random sampling of food off the shelves at the supermarkets and provisions stores and subject such food to scientific analysis;
- (d) There should be a seamless synergy between the agency and some of the food reviewers with a view to keeping NAFDAC’s channels of complaint open for the reviewers’ escalation of information to NAFDAC, in respect of implicated food production sources. This should however be done with the mind of discouraging unfair competition among rivals and competitors of food production factories;
- (e) Where in the course of its random checks, NAFDAC discovers a substandard product released to the market, the agency should immediately trigger the recall processes to end the further distribution of the compromised product and also evacuate expiry food products from the shelves without much ado; and
- (f) The agency could extend its control to check the malaise of dangerous preservatives applied on perishable food products by their importers and other handlers in the importation value-chain of these foods, especially the bulk sellers and retailers of these foods.

The foregoing recommendations cannot be considered sacrosanct, nor are they by any means exhaustive. They will however serve as the initial steps taken by the NAFDAC to improve on the mandate granted it under the law establishing it. The end-result envisaged will both serve the interests of both the society and the citizenry.

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