Rights and challenges impacting the protective framework for financial technology consumers in Nigeria

[1] Lorrita Ogu LL.M, [2] Jacob Otu Enyia Ph.D. & [3] Godswill Owoche Antai Ph.D.
[1] Ph.D. Candidate and Lecturer in the Faculty of Law, University of Calabar, Nigeria
[2] Associate Professor, Faculty of Law, University of Calabar, Nigeria
[3] Lecturer and Head of Department, Post-Graduate and Diploma, School of Law, Kampala International University, Uganda

Abstract

The rapid growth in FinTech has transformed the financial services sector in Nigeria into one that is more accessible, efficient, and innovative. Yet, this has brought in immense challenges for the protection of consumers within the FinTech ecosystem. The present study focuses on the protective framework of FinTech consumers in Nigeria by exploring their rights and challenges to the efficiency of the mechanisms of the existing regulatory regime. The paper follows a doctrinal approach, taking into consideration the statues, case law, and regulatory policy. It also includes comparisons with the laws of other jurisdictions. Key findings from this research stress how poorly consumer protection laws address such issues: data breach concerns, cybercrime, unauthorized transactions, and open-ended terms of service. It stresses the trade-off between financial inclusion policies and the protection of consumers from abusive practices. The research also evaluates the participation of regulatory bodies including the Central Bank of Nigeria, Nigeria Data Protection Bureau and other stakeholders in implementation for a more robust consumer protection. This research recommends the creation a FinTech Consumer Protection framework that balances innovation with regulatory oversight, enhance digital literacy programs; harmonize existing laws to be more coherent and operational. By addressing these issues, the study hopes to contribute toward a safer and more equitable FinTech landscape in Nigeria that engenders trust and is sustainable.

Keywords: FinTech, Consumer Protection, Regulatory Regime, Data Protection

Introduction

The fast pace of financial technology (fintech) breakthroughs transforms the financial services sector into a solutions-led world that provides greater accessibility, ease and convenience for consumers. Fintech contributes immensely to financial inclusion in Nigeria, allowing millions to gain access to banking, credit, payment systems and investment opportunities that they would not have had. Despite these innovations, the growth of fintech is surrounded by large fears on consumer protection, as more users opens itself up new risks like fraud, data breaches, identity theft and poor dispute resolution processes (Antai, 2024). In Nigeria, the protective framework for fintech consumers is harnessed within a statutory and regulatory framework coupled with self-regulation by service providers. Key among these are the regulatory bodies are the Central Bank of Nigeria and the Nigerian Data Protection Bureau, which play important roles in ensuring that standards related to consumer protection are complied with.

However, the dynamic nature of fintech innovation often outpaces regulatory frameworks, leaving gaps through which consumers fall victim. The critical scrutiny in this study is a wide and intensive survey of rights and challenges impacting the existing protective framework for fintech consumers in Nigeria, showing clearly existing legal, regulatory, and institutional mechanisms for safeguarding their rights, gaps, and newly emerging threats (Edet et al, 2022). In general, the paper assesses how to achieve a balanced approach between innovation and protection for consumers within a changing environment engendered by rapid evolution. By highlighting these issues, the study makes an attempt to provide recommendations for strengthening Nigeria's consumer protection framework to be robust, adaptive, and able to deal with the unique risks of fintech services.

Methodology

This paper adopts a doctrinal research methodology in examining the rights and challenges to the protective framework for fintech consumers in Nigeria. Using a qualitative approach, focusing on primary and secondary sources of law which include statute or legislation, regulation, case law, policy documents, and international instruments relating to the protection of consumers in fintech. Secondary data such as academic journals, books, and industry reports on how fintech has been constantly evolving and shaping the field of consumer protection was also consulted (Antai et al, 2024). Case studies are also utilized in the specific challenges faced by the fintech consumers in Nigeria, such as fraud, breach of data privacy, and dispute resolution mechanisms falling short of their claims.

Literature Review

The study is pegged on the interaction of consumer rights and the changing regulatory landscape with the rapid development of fintech in Nigeria. The protection of consumers in the Fintech area involves the right to privacy, fair treatment, and transparency in terms of service, with avenues for redress. These are entrenched in regulatory guidelines, including the Consumer Protection Framework from the Central Bank of Nigeria and the Nigerian Data Protection Regulation. However, the effective protection of consumers faces challenges posed by regulatory lapses, digital literacy gaps, data breaches, and other unethical practices on the part of some fintech providers. Igbinenikaro and Adewusi (2024) discusses how these rights and challenges interface in the context of Nigeria's fintech industry, and to what extent existing protective mechanisms support consumer rights in view of the rapidly changing character of fintech innovations.

Several theories are guiding this study, and these include consumer protection theory, emphasizing the need to safeguard consumers from unfair practices in particular in complex and asymmetric markets such as fintech. It underlines the need for clear regulations and enforcement mechanisms for ensuring that consumer interests are protected within the digital economy.

There is also the regulatory theory that analyses the role of governmental and institutional frameworks in regulating the fintech sector. It offers a lens with which to frame whether the existing laws and policies are sufficient and adaptable to deal with the issues facing fintech consumers, such as fraud and misuse of confidential data. However, the technological determinism theory shows how technology affects the structures of society, including regulations and consumer behavior. It suggests that technological advances in fintech create an ongoing need to adapt protective measures to new risks and challenges. Last but not least, the stakeholder theory emphasizes the interest of different stakeholders in creating an ecosystem which in itself is balanced, it allows for the protection of consumer rights and as well, nurtures innovation (regulators, fintech companies, consumers, and advocacy groups). The integration of these concepts and theories examines the effectiveness of the current protective framework for fintech consumers in Nigeria, identifying gaps and proposing actionable solutions to address the challenges and enhance consumer rights in this sector (Antai et al, 2024).

Makulilo (2015) highlights the necessity of protecting customers' rights to transparency, data privacy, and fair dealing are adequately protected. He identifies the CPF as an important tool developed by the CBN but laments the lack of enforcement mechanisms. Similarly, Claessens et al (2021) argue that while digital platforms improve financial inclusion, they expose consumers to risks such as unauthorized transactions and poor dispute resolution processes. Iheanacho and Oluwasemilore (2021) critiques the fragmented nature of FinTech governance in Nigeria's regulatory responses. Overlapping mandates by the CBN, NCC, and NITDA are often at the root of regulatory inefficiencies.

According to Lehmann (2019), the need for harmonized regulations that prioritize consumer-centric approaches and adapt to technological advancements cannot be overemphasized. Furthermore, the researcher identifies how such laws as the Cybercrimes Act, 2015, are inadequate to deal with modern FinTech challenges related to algorithmic biases and platform accountability. Ezeocha (2024) identified some major issues that face FinTech consumers in Nigeria: data breach incidents coupled with inadequate redress mechanisms. They note cyber risks, which are increasing over time, as partly caused by weak cybersecurity infrastructure. Similarly, Wezel and Ree (2023) discusses financial literacy as one of the major barriers; most Nigerian consumers lack the knowledge to understand digital financial products and their associated risks. Several authors call for comprehensive reforms: Arner (2018) recommend a unified regulatory body for oversight over FinTech operations and consumer protection. Cumming and Johan (2020) affirm that awareness creation among consumers of their rights will go a long way in ensuring responsible use of FinTech. Furthermore, Nembe et al (2024) suggest the use of artificial intelligence in the regulatory framework to ensure the easy detection of irregularities in digital financial transactions. The literature portrays consensus on the transformative potential of FinTech in Nigeria but also points out critical lapses in the protective framework for consumers. While existing policies provide a foundation, a more robust, harmonized, and consumer-centric approach is required to address emerging risks and ensure sustainable growth in the sector. The study builds on these insights by trying to bridge the identified gaps through empirical analysis and actionable recommendations.

Consumers Rights in Financial Technology Services

There is a popular adage that 'the customer is always right'. The large-scale patronage of Fintech services may not be due to absence of complaints but rather based on the necessity of aligning with the rapid technological growth in every area of man's development. In reality most of the fintech applications are not designed with the consumer as top priority but with the sole aim of maximizing profit even to the detriment of the consumer. The same goes for commercial Banks Fintech platforms that do not prioritize consumer's concerns and complaints about their products and services. This is evident in the delay in addressing issues or resolving complaints of poor networks connection raised by the consumer. These have warranted a third of fintech consumers to patronize more than one fintech service as consumers are not strangers to the fintech services due to the fact that about 22% of customers globally are familiar with the fintech service system. (Atikah, 2020)

As admirable as the Fintech industry have grown to become, it is a risk laden sector with risks from data breaches to trust issues and hacking exposure etc. Thus, it becomes crucial for a policy and legal framework for the enforcement of consumer's right in financial technology industry. The burning issue of data privacy is one that cannot be left unresolved putting into context the available Data Protection Regulations and Laws. Consumers therefore can explore the CBN regulations and guidelines and the relevant and applicable legislation in protecting and enforcing their legal rights via available administrative or judicial mechanisms. Giordana (2018) stated that the rationale being that consumer perceptions about finances and technology are changing at a very rapid pace and the pace of technological development only operated to heighten the sense that traditional firms are not just lagging behind, but also that the nature of the consumers right is changing too.

Consumers most importantly have the right to be informed about the potential risk attendant to a particular platform or fintech medium. Many jurisdictions insist that providers warn consumers about the risks that are associated with fintech products (The World Bank Group, 2018). Hence, the fintech companies should put in place foolproof cybersecurity measures for educating consumers against fraud related risks and warning them to protect their password from third parties. This can be summed up as the right to adequate and accurate information from service providers to the consumer. It is easy for consumers to make poor decisions based on misinformation and misaligned incentives between the financial service provider and the consumer. Considering the Nigerian situation, Statista (2021) reported the literacy rate as at 2018 to be 62.02 per cent and as recently as 2022, the non-literate population was captured as 31%, a small fall from 38% in 2021. In view of the peculiar Nigerian situation the right of the consumers of fintech services and products to be adequately informed cannot be taken lightly and where infringed upon the consumer has a right of redress (Suleiman, 2022).

Consumer confidence and trust are key aspects of ensuring a thriving Fintech Industry exists hence another consumer right is the right to adequate disclosure of product features and transparency regarding pricing and redress mechanisms. This is important as this helps create trust and confidence among consumers and can help reduce the consumer's risk (The World Bank Group, 2021). In some Jurisdictions, there may be laws or regulations that provide some form of guidance on how any disclosures is to be made or the foremost of terms and conditions to regulate the products offered. In America for example, the Electronic Transfer Act demands that fees for electronic transfers be disclosed when a consumer enlists an electronic fund transfer service and any changes in the terms and fee is to be communicated to the consumer about twenty-one (21) days prior to the alteration if any. In China by a 2020 Order issued by the Peoples Bank of China disclosing information including fees and usage of information conducive to the financial consumers is mandatory since financial institution are free to determine applicable changes to end users (The World Bank Group, 2021).

The consumer has a right to fair treatment to foster sound business conduct in the Fintech industry. The consumer also has the right to personal data protection and privacy. The European Union General Data Protection Regulation (GDPR) 2018 for Europe set the standard for other power blocs and countries to follow, with Nigeria adopting the Nigerian Data Protection Regulation (NDPR) 2019. Also, entrenching the right to privacy embedded under section 37 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). The consumer also is entitled to be educated on any dispute resolution mechanism or complaints system in the event of a glitch or error in any transaction (Enyia, 2018). Thus, in *Incorporated Trustees of Digital Rights Lawyers Initiative & Ors v NIMC* (LPELR-55623, CA 2021), the court stated that the principle of law as to whether matters of personal data protection under the Nigeria Data Protection Regulation, 2019, fall under the right to privacy guaranteed by Section 37 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

The Nigerian government introduced, through the National Information Technology Development Agency (NITDA), a regulation relating to data protection, which is the Nigeria Data Protection Regulation, 2019 (NDPR 2019), which has now made provision relating to personal data rights and protection, to which the Appellants in the aforementioned case placed heavy reliance on.

One of the principal objectives of the NDPR, 2019 is to safeguard the rights of natural persons to data privacy. It is instructive to observe that the NDPR, 2019 which summarily states in Article 2.9 that the privacy right of a data subject shall be construed to promote, never to limit, the protections to which the data subject is entitled under any data protection instrument created in support of fundamental rights and Nigerian law.

Thus, deducible from the dictum of Agim, JCA (as he then was) in *Nwali v. EBSIEC* (2014, LPELR-2368 CA) as well as the provisions of Article 2.9 of the NDPR, 2019 which I have quoted above, there is no question that the privacy and protection of citizens' personal information will be included in the vague definition of "privacy of citizens" as used in CFRN 1999 Section 37. Regarding the connection between Section 37 of the CFRN, 1999 and the NDPR, 2019, it is important to note that Chapter IV of the CFRN, 1999 encompasses measures that protect the various fundamental rights of citizens.

But as I stated earlier, the nature and scope of those rights and even their limitations, are in most instances furthered by other statutes, regulations or other legal instruments. It is in this instance that the NDPR, 2019 must be construed as providing one of such legal instruments that protects or safeguards the right to "privacy of citizens" as it relates to the protection of their personal information or data, which the trial Court had rightly adjudged at page 89 of the Record to be part of the privacy right guaranteed by Section 37 of the CFRN, 1999. Apart from the provisions of Article 2.9 of the NDPR, 2019 quoted above, which specifically linked the NDPR, 2019 to the fundamental rights guaranteed in Chapter IV of CFRN, 1999, a further look at the provisions of the NDPR, 2019 tends to reinforce this position.

In Article 1.2 relating to the scope of the Regulation, it is stated in paragraph (c) that "this Regulation shall not operate to deny any Nigerian or any natural person the privacy rights he is entitled to under the law, regulation, policy, contract for the time being in force in Nigeria or in any foreign jurisdiction." From the foregoing therefore, I have hesitation in holding that personal data protection as provided in the National Data Protection Regulations generally falls under the fundamental right to privacy which is guaranteed by Section 37 of the CFRN, 1999. In this light, the trial court recognized this as well when it held that the right to privacy protected by Section 37 of the Nigerian Constitution applies to all private and personal information, including private communications and data (Per Abba Bello Mohammed, JCA in *Nwali v. EBSIEC* (2014, paras D-E, LPELR-2368 CA).

Therefore, on the premises of the foregoing decision of the Appellate Court, a consumer whose right to privacy has been unlawfully breached by the financial technology company can institute an action in a court with the appropriate authority in seeking for redress. Similarly, a consumer aggrieved that his data and right to privacy been violated can lodge a complaint with the National Data Protection Commission or the Federal Competition and Consumer Protection Commission in seeking for administrative remedy against a fintech company.

Issues Affecting Consumers Patronizing Financial Technology Services

The most glaring issue affecting consumers is lack of holistic, unified and standard laws or regulations that creates a conducive fraud-free, risk-free environment in which the consumer can conveniently utilise fintech product and services without hitches and being defrauded by internet fraudsters. This is because in reality the legal framework undergirding the fintech industry in Nigeria is contained in multiple legislations, CBN guideline and other regulations which is confusing and duplicitous. An unlearned consumer would find the task herculean to peruse the regulatory law in the fintech industry in Nigeria.

There is need therefore, to harmonize all the pieces of legislation regulating fintech matters, products and services in one comprehensive legislation for ease of reference and comprehension by the consumer in need. Once consumers know the laws that affords them protection from malpractices involving transactions and services in the fintech industry, then they will be able to enforce same in seeking for redress. Fintech companies are deemed as generally engaging in both issuing product and rendering services depending on their specific business models and objectives. In the fintech industry, consumers typically consume financial services which may be facilitated through various products. The product-based focus on developing and selling financial products while the service-based focus on providing financial services often through subscription models. Some examples of financial products are payment cards, Digital wallet, crypto apps, lending products, investment products and insurance products. Some examples of services are: payment processing, financial planning tools, Regulatory Technology (RegTech) and Robo-advisors.

The know-your-customer principle is relevant to the fintech ecosystem. This is in view of the fact that fintech institutions or commercial banks running fintech services are responsible for managing large swaddles of consumer data and biometrics. The problem or issue confronting these banks, financial technology service providers or other financial institutions operating fintech platform is how to enforce the know-your-customer principle. To address issues of this nature, the National Information Technology and Development Agency pursuant to its mandate under the NITDA Act 2007 regulates electronic communications, transactions and management of electronic data interchange. The Nigerian Data Protection Regulation 2019 was subsequently released by the NITDA. The NDPR 2019 aims to protect natural persons' rights to data privacy, promote safe practices for transactions involving the sharing of personal information, stop personal information from being manipulated, and make sure Nigerian companies maintain their competitiveness in the global market (Akpanke et al, 2022). Primarily, the NDPR applies to transactions involving the processing of personal data of natural persons in Nigeria regardless of how the processing is to take place (Nigerian Data Protection Regulation, 2019). For the avoidance of doubt, the NDPR defines consent, data, and personal data in article 1.3 of the Regulation. The provision of fintech products and services involves the mining of consumer personal data, its processing and storage. The mandatory demand is that personal data must be collected and processed in accordance with specific, legitimate and lawful purpose consented to by the data subject, in this case the consumer of fintech services. The personal data shall also be stored only for the period of use and must be protected against cyber-attacks and other forms of manipulation. The compliance with the NDPR 2019 by fintech companies becomes a serious issue these companies must fulfill to avoid the hammer of the regulators.

In other climes, breach of the provisions of the General Data Protection Regulation incurs some steep financial punishment every company would prefer to avoid. The implication here is that consent must be sought for and validly obtained and if the consumers' information is to be used further over a transaction different in nature from the one the original consent was granted for then further consent must be obtained lawfully. Fintech firms must then comply strictly with the NDPR in managing consumer personal data as any slip up would lead to huge fines set out in article 2.10 of the NDPR 2019. A company in breach of dealing with more than 10,000 data subjects shall pay 2% of annual gross revenue of the preceding year as fine or 10 million naira whichever is greater. On the other hand, if the data set is below 10,000 data subjects, then payment of 1% of annual gross revenue of the preceding year or the sum of 2 million naira whichever is greater would suffice as punishment for breach. Privacy and data management issues stand at the centre of Fintech products and services supply, subscription and management. Ultimately, Fintech services are to be designed with the consumer in mind also putting into consideration the literacy level of the country and potential reality of estranging the majority of the population if services and products are not well tailored to meet the need of everyone.

Rights and Interest of Consumers in Digital Financial Services

Digital financial services are wholly digitalized financial services that does not involve any brick-and-mortar component at any interval of transaction. Consumers of digital financial services have a right to lawful personal data processing. In this instance fintech firms are data controllers while consumers are data subjects. A data controller under article 4.1 (2) of the NDPR 2019 is required to appoint a dedicated Data Protection Officer (DPO) within six (6) months of commencing business where the main activities of the firm involve the processing of the personal data of subjects annually. Fintech firms or commercial banks involved in fintech services are ultimately data controllers and must adhere to the NDPR by ensuring the consumers right to their personal data being lawfully processed is obeyed strictly. The consumer has the right to proper information, the right to seek redress internally and externally, in other words administratively and judicially. The consumer also has the right to representation, right to consumer education and healthy business environment that does not adversely affect his physical or mental and in this situation financial health. The goal of consumer protection is to protect the consumer from harm or injury to their person or property most importantly protects them from losing their hard-earned money.

In this digital age the consumer's key interest is in dealing with platforms that can be trusted. Trust is crucial to ensure continued patronage and the easy migration of consumers from traditional banking to Fintech based banking. The Consumer Code of Practice Regulations 2007 issued by the Nigerian Communications Commission (NCC) and then other CBN Guidelines are all designed to secure sanity and trust in the system with the end consumer in mind. Under the Central Bank of Nigeria Consumer Protection Structure the consumer has the right to confidentiality of their information. This aligns with the right to privacy and data protection already emphasized.

The consumer also has the right to reasonable notice in changes to offers or terms and conditions of the transactions. The right to receive regular statement of accounts and the right to notification over fees and service charges are attendant rights also applicable in the fintech space. On the whole a consumer of fintech services should have the confidence that no harm or foul can come to his finances or person as a result of dealing with fintech firms without a physical office close to the consumer. Thus, the courts must be empowered beyond jurisdictional limitations to be able to determine cases with digital flavour without chickening out under the pretext of lack of jurisdiction. This empowerment to the courts may not come through legislation but by the courts engaging some judicial wisdom in not allowing technical rules prevail over substantial justice.

Financial Technology and the Right of Privacy to Consumer Data

The right to privacy is so crucial it is enshrined in section 37 of the CFRN 1999 (as amended). The privacy of Nigerian citizens as individuals, their homes, correspondence, telephone conversations and telegraphic communications is guaranteed and protected. Although, the constitutional provision does not specifically mention digital communications, by the rule of interpretation known as the Ejusdem Generis principle in interpreting that provision indeed digital communications are also supposed to be guaranteed and protected. The *ejusdem generis* is fully expressed in another maxim *expressio unius est exclussio alterius* explained simply as a canon of construction or interpretation of statutes in which when a general word or phrase immediately follows a list of specifics, the general word or phrase will be interpreted to include only items of the same type or those listed (Garner, 2004). Unfortunately, digital communication is not even part of the list in section 37 of the CFRN 1999 (as amended). The argument is straight forward that digital communications as a result of Fintech dealings are entitled to come under the protection of section 37 CFRN 1999 (as amended). This is further buttressed by the provisions of the NDPR 2019 and the ECOWAS Supplementary Data Protection Act, 2010. Both instruments are not necessarily legislations but subsidiary in nature yet they are aligned in mandating that the privacy of the consumer and the consumer's personal data is a priority. Thus, any information that relates to an identified or identifiable individual related to their personal data must be secured and Fintech firms are obligated to take the necessary steps to enforce same.

Rights of Financial Consumers under the Central Bank of Nigeria Consumer Protection Regulations/Guidelines

Financial Consumer is a phrase that describes individuals or economic agents individual or corporate who purchase or use financial products and services with the intention of improving their wellbeing and businesses (Kerton & Ademuyiwa, 2023). Generally, there is an imbalance of power between consumers and fintech service providers due to the complex nature of financial products and services and the many risks involved since the financial consumer can lose his money, deposit, or investment on such short notice (Aidonojie et al, 2024). The rights of financial consumers generally are few and far between but the main concern is in searching out the specific rights within the CBN regulation asking how much effort has been put into protecting those rights.

The circular and rather frequent changes in the nature of financial products and services mean the need for frequent changes in the regulation or updating putting the regulatory agencies on alert (Musa et al, 2022).

The consumer protection regulation was issued by the Central Bank of Nigeria (CBN) to further entrench the gains made by the Central Bank of Nigeria (CBN) Consumer Protection Framework issued on November 7, 2016 which had the objective of strengthening consumer confidence in the financial services industry in general promoting financial growth stability and innovation. The CBN Consumer Regulation makes provision for basic minimum standards required of institutions under the CBN's regulatory umbrella mandating those institutions which include Fintech firms and companies to treat consumers fairly, fully disclose, transparency, and address complaints and redress in order to protect the rights of consumers ultimately ensuring that such institutions can be held accountable (Ekpenisi et al, 2024).

The objectives and scope of the CBN regulation are clearly spelt out in Part One of the Regulation while Part Two stipulates the first and most potent consumer right which is the right to fair treatment. The Regulation seeks to protect the consumer from unfair institutions and in extension fintech firms. The scope of the regulation is detailed in Article 2 to apply to all institutions licensed by the CBN. The Regulations are to form part and parcel of any consumer related transaction agreement and any agreement entered into between such financial institutions and other unregulated institutions (Aidonojie et al, 2024).

The fair treatment requirement is to ensure equity, financial inclusion and absence of bias. The right against unfair treatment also extends to unfair contract terms. The Regulation grants the consumer the right to transparency from financial institutions and the right to disclosure. Any advertisement of product and services must be factual, unambiguous, and accurate, permitted by the Director Consumer Protection Department of the CBN. Both pre contract and contractual disclosures must be made to the consumer (Aidonojie et al, 2024). The consumer must have ample time to go through receipts and credit contracts at least two to three days minimum time frame. The regulation also affords consumers the right to make complaints and freedom of choice, right to data protection and privacy. The direct implication of the regulation is that it placed an onus on the financial institutions to develop internal policies and practical models to ensure compliance. The reality is that the Regulations are breached all day long even by traditional commercial banks let alone Fintech firms that are often limited in accessibility. Some other lending agencies indulge in outright harassment of consumers defaming consumers who are in default. The CBN Consumer Protection Department definitely would have to engage its research team to address some of these issues (Antai et al, 2024).

Rights of Financial Consumers under the Banks and Other Financial Institutions Act 2020

It has already been emphasised that the KYC principle applies even over Fintech service but so also does the basic rights attendant to the banker-customer relationship. However, with fintech involving enormous impersonal interface it is important that the rights of the consumer go beyond just the right to demand for deposit at any time or the right to confidentiality. Rather with the new regime that will be introduced by the Data Protection Act 2023 it is clear that the right to personal data protection, the right to consent, the right to withdraw consent at any time, the right to erasure are attendant rights available to consumers of Fintech services (Aidonojie et al, 2024).

Enforcement of Consumer Rights against Fintech Companies

Enforcing consumers' rights in the financial technologies sector provides a premise to ensure responsibility and accountability over digital transactions. Due to the operation of financial technological providers in an ever-evolving tech space, disputes concerning cases related to unauthorized transactions, data compromises, and other unfair dealings continue to surface lately. The challenge in Nigeria is to effectively apply the existing laws and regulations, coupled with the establishment of efficient redress mechanisms to protect consumer rights. This section discusses mechanisms, challenges, and opportunities for enforcing consumer rights against FinTech companies, focusing on regulatory, judicial, and alternative dispute resolution approaches.

Damages

Damages is a legal remedy or compensation awarded to a person or entity for harm or injury suffered due to wrongful act or negligence of another person or entity. The purpose of damages is to restore the plaintiff to their original position before the harm occurred to the extent possible, aiming to hold Defendants accountable and provide fair compensation to Plaintiffs for harm suffered. Damages awarded by the courts could be special or general damages. Special damages is provided for in section 54 of Sale of Goods Acts 1893 to the effect that noting in the law is to affect the right of the buyer to recover special damages in any case whereby in law, special damages may be recovered. The legal implication of this provision is that if an extra loss arises as a result of a special circumstance known or ought to be known to the seller at the time of the contract then the buyer can claim.

The Court awarded damages in the sum of N5, 050, 000.00 (Five Million and Fifty Thousand Naira), in the case of *Barr. Ezugwu Emmanuel Anene v Airtel Nigeria Ltd* (FCT/HC/CV/M/2908/2017) to assuage the plaintiff for the injury he has incurred arising from unlawful deductions and the sending of unsolicited messages to him. The case illustrates the point that, fintech users can sue and recover damages for telemarketing, false and misleading advertisements as well as unsolicited messages and calls sent to their phones or spam mails unlawfully sent to their personal computers or emails.

Injunction

The Court as an institution for the protection and enforcement of the rights of fintech consumers can invoke its jurisdiction to grant injunctive reliefs in deserving cases. An example of a case where injunction was granted is *Nigerian Telecommunications Plc v Chief S J Mayaki* (2007, 4 NWLR Pt. 1023, pg. 173). The facts of the present case are quite instructive and relevant to fintech users who may wish to institute legal action against fintech operators who engage in unsolicited calls, sending of unwanted messages and telemarketing. Thus, Mayaki, a legal practitioner was a subscriber to defunct NITEL's telephone line No. 820890. Sometime in October 1996, NITEL disconnected his line on the basis that, the telephone has accumulated a debt of N1,966.70k, transferred the telephone line to another subscriber. But the plaintiff denied owing such debt and sued NITEL Plc at the High Court of Lagos State for various reliefs *inter alia*, damages for loss of income of $30,000.00 thirty thousand US dollars arising from loss of a valuable retainership transaction due to loss of access to the telephone line; an order directing NITEL to release the plaintiff's line No: 820890 forthwith or providing him with another telephone line with International Direct Dialing System in exchange.

The trial court granted all the reliefs of the plaintiff. The defendant denied liability and being aggrieved with the decision of the court of first instance appealed to the Court of Appeal. Although, the judgment was set aside by the Court of Appeal Lagos Division on the grounds of the failure of the trial court to rule on pending application before it. The case is still a good authority for consumers of financial services and products to rely upon in seeking for legal redress where their mobile numbers are unjustifiably blocked, unlawfully suspended or illegally transferred to another user without their consent. In deserving cases, consumers can seek for injunctive reliefs alongside damages and declaration as was the case in *Darman v Minister of Internal Affairs* (1982, 3 NCLR 915).

Certiorari

Financial technology consumers seeking to enforce their rights ought to know that the court is not a father Christmas. Thus, on the authority of *NIPOST v Ibrahim Dogo* (CA/K/256/2001), if a consumer fails to sue the appropriate defendant within a certain limit especially if NDPC, NCC, CBN or any other government body is a party, after three months the action may become statute barred which means he cannot have his reliefs granted by the court no matter how good the case may be (*Umanah v. Attah, [2006], 12* PCM pt. 2, page 487). Furthermore, fintech users are at liberty to approach the Court to issue the writ of certiorari to the provisions of sections 34 and 48-51 of the Nigeria Data Protection Act, 2023 in deserving circumstances. These may arise where "an extraordinary writ may be issued by the Court at its discretion to the Nigeria Data Protection Commission directing it as an inferior quasi-judicial body or administrative agency to deliver its record in the case to it for judicial review". (*Bamaiyi v. Attorney General of the Federation, 12 NWLR, pt. 727, pg. 468)*.

Mandamus

A fintech consumer equally has the right to apply for mandamus where the occasion demands in enforcing his right in the financial sector. An example of the court exercising its power in issuing mandamus was seen in the South African case of *Satellite Data Networks (Pty) Ltd* v *Telkom SA Ltd (WLD, 2000/1776, Unreported).* In the instant case, a matter in which there was a discontinued supply of telecommunication facilities and services to the plaintiff, pending the determination of the suit, the Court ordered the Respondent to immediately return to the Applicant all telecommunication facilities and services that were in place as of February 22, 2000, including the Respondent's remote exchange equipment, related equipment to facilitate client connections, the Applicant's national backbone services, the Applicant's client circuits, and the Applicant's regular telephony services, including telephone and telefax services. Also, in the case of *Banjo v Abeokuta Urban District Council* (1965, NMLR 295), the court held that if a body such as the Nigerian Data Protection Commission, Central Bank of Nigeria or NITDA departs strictly from the conditions laid down by law empowering it to perform its public duty, then an order of mandamus would lie against it. Consumers can therefore sue telecommunications operators, media houses or administrative bodies by praying the court to compel them to perform specific public duty as was the case in *Shugaba Darman v Minister of Internal Affairs.*

Prohibition

Consumers of products and services offered by fintech companies have right

to institute an action against such service providers including a prohibitive order in cases involving complaints of breach of data privacy, unlawful debiting of a customer's account as well as illegal charges or unathorised disclosure of a user's information. A case to illustrate this point is, the decision of the court in *Odutola v NITEL* (2006, All FWLR pt. 357, pg. 73) where the court held that a telecommunication outfit just like a fintech operator being a corporate body is liable in damages for breach of contract or act of negligence committed against its consumers by its employees, agents or legal representatives.

Declaration

Thus, in the case of *Multichoice Nigeria Ltd v Mr. Bankole Azeez* (2010, All FWLR pt. 524, pg. 161), the Court of Appeal rightly declared that the scrambling of network services of a subscriber without justifiable reason or legal excuse despite the payment of the network subscription fee by the subscriber amounts to an illegal act and breach of contract actionable in law. The court established the principle that, there is an implied term in the contract between financial technology company and its consumers in the instant study by virtue of a legal duty imposed by the law that prior notice of any increment of its subscription fee must be given by the service provider to the subscribers or users failure to which there is a breach of the contract which entitles the subscriber to recover damages from it.

Specific Performance

In *Afrotech Technical Services v MIA & Sons Ltd* (2000, 15 NWLR pt. 692, pg. 730), the Supreme Court defined specific as an equitable remedy granted as relief in form of a decree in situations where damages would not assuage or adequately compensate the plaintiff for the injury he has suffered. Also, in *Best (Nig) Ltd v Blackwood Hodge (Nig) Ltd* (2011, Vol. 1 & 2 MISC 55), the court stated in clear terms that; the court must be discreet enough to exercise its discretion judicially and judiciously in granting an order of specific performance and that, a judge must balance the interest of both parties properly in a bid to do justice to the contending parties in the exercise of his discretion. Thus, a claimant in a telecom suit can pray the court to grant an order of specific performance by including his data in Do-Not-Disturb Call List or Registry or restore/reconnect his disconnect line(s) due to the popularity of the mobile number and the proprietary interest attached to the line pursuant to the subscriber-service provider relationship (Enyia, 2018).

Reception of Electronically Generated Evidence

Since we live in the digital age, it has become pertinent for judges, lawyers and consumers who feel aggrieved by the activities of advertisers to abreast themselves with the legal issues and procedure associated with the reception of computer-generated evidence in court sequel to the provisions of section 84 of the Evidence Act, 2011 and the recent authority of *NBA v Kunle Kalejaiye, SAN* (2016, 6 NWLR pt. 1568, pg. 393). This has become even more important as the proof of misleading advertisement will ultimately involve computer/internet evidence to establish a case in court. In order to enforce their claims in court, subscribers should engage competent legal practitioners vest in information and communication technology, computer and financial law to prosecute their matters in judicial proceeding. This point was emphasised in *NITEL v Simon Ugbe* (2002, 11 WRN 143) where Hon. Justice Muntaka-Coomassie, JCA held that in contentious matter of which an action involving the protection of the fintech consumers' rights and interest. Such an action is most likely going to be commenced by writ of summons and a full trial conducted since the facts may be contentious.

Summary of Findings

This research highlights significant gaps in consumer protection laws, particularly in addressing emerging digital threats. Data breaches, cybercrime, unauthorized transactions, and opaque terms of service pose serious risks to consumers. The study underscores the tension between financial inclusion policies, which aim to expand access to financial services, and the need to protect vulnerable consumers from abusive practices. It calls for a comprehensive review and strengthening of consumer protection regulations to ensure adequate safeguards in the digital era.

It is no gainsaying that the manner that customers engage with financial institutions has been completely transformed by the quick digitization of financial services. Although there are many advantages to technology, there are also many new risks that customers must now consider. This study explores the crucial topic of consumer protection in the digital age, pointing out serious flaws in current laws and the pressing need for change. The rising incidence of cybercrime and data breaches is one of the most urgent issues. Malicious actors steal private and financial data by taking advantage of flaws in digital systems and this leaves customers are at risk of fraud, identity theft, and other financial losses.

Conclusion and Recommendation

The introduction of technology and advances in the delivery and accessibility of its services has led to the financial services industry's steady expansion. Despite being heavily reliant on innovation and technology, these services are very different from one another particularly from their conventional means of entry. Furthermore, because of their form of access, there are difficulties in using them. To persuade customers to use the service, these issues such as the dangers of identity theft and cybercrimes should be resolved. It is pathetic that there is a huge loophole in the Fintech sector in Nigeria as there are widespread issues which are still left unsolved. This paper concluded that there is a dire need for Fintech companies to shore up their cybersecurity systems. There is also the need to educate consumers of their rights as it relates to data privacy, as majority of customers are not keen on adopting fintech services due to financial illiteracy.

The Nigerian government, by establishing a transparent and encouraging regulatory environment, can promote a flourishing fintech sector. This entails creating precise regulations and standards that strike a balance between consumer protection and innovation. The government may promote investment and entrepreneurship in the industry by simplifying licensing processes and establishing clear regulations. Furthermore, a robust regulatory environment may foster customer and fintech company trust, encouraging broader use of digital financial services. Finding a balance between innovation and regulation is essential, though. While loose restrictions might hurt consumers, too onerous regulations can hinder progress.

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