MIDSTREAM AND DOWNSTREAM PETROLEUM ANTI-COMPETITION AND CUSTOMER PROTECTION REGULATIONS, 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021

MIDSTREAM AND DOWNSTREAM PETROLEUM ANTI-COMPETITION AND CUSTOMER PROTECTION REGULATIONS, 2023

Arrangement of Regulations
Regulation:

PART I

1. Objectives
2. Application

PART II

3. Authority to administer, monitor and ensure compliance with competition and market principles
4. Assessing the market
5. Determining anti-competitive activity
6. Powers of the Authority to prevent anti-competitive behaviour
7. National interest

PART III

8. Publication of terms of supply and distribution
9. Establishment of customer forum
10. Formulation of standards of performance
11. Development of customer service codes
12. Authority to approve customer service codes
13. Duty of a holder of licence, permit or authorisation to notify customers of customer service codes
14. Submission of reports

PART IV

15. Authority to establish customer service desk
16. Authority to receive and investigate complaints
17. Customer Protection Powers of the Authority
18. Submission of complaints

PART IV
19. Fees
20. Offences and penalties
21. Authority to issue guidelines and directives
22. Interpretation
23. Citation
SCHEDULES

PETROLEUM INDUSTRY ACT, NO. 6, 2021

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[ ]	Commencement
In the exercise of the powers conferred on it by sections 33, 164, 165, 166, 210 and 211 of the Petroleum Industry Act, No. 6, 2021 ("Act") and all other powers enabling it in that behalf, the Nigerian Midstream and Downstream Petroleum Regulatory Authority ("Authority"), makes these Regulations —	
1. The objectives of these Regulations are to provide — (a) guidance for holders of licence, permit or authorisation on regulation of market principles and prevention of anti-competitive behaviour in the Nigerian midstream and downstream petroleum industry; (b) customer protection measures in the Nigerian midstream and downstream petroleum industry; (c) the procedure for the determination of complaints from customers in the Nigerian midstream and downstream petroleum industry; and (d) sanctions and penalties for failure to comply with these Regulations.	Objectives
2. These Regulations shall apply to the prevention of anti-competitive behaviour and practices, and customer protection in the Nigerian midstream and downstream petroleum industry.	Application
3. The Authority shall, subject to the provisions of the Federal Competition and Consumer Protection Act in force, have the responsibility to- (a) monitor the state of the markets regulated by the Authority; (b) administer, monitor and ensure compliance with the provisions of the Act and any law or regulation issued in respect of competition and market regulation; (c) monitor market behaviour including the development and maintenance of competitive markets; and	Authority to administer, monitor and ensure compliance with competition and market principles

(d) prevent or stop situations of abuse of dominant power and restrictive business practices.	
4. (1) The Authority shall continually assess whether the petroleum industry is operating efficiently, or whether the existing market arrangements may constitute barriers to entry into the market for new market participants. (2) Where the Authority determines that the petroleum industry is not operating efficiently or that existing market arrangements constitute barriers to entry into the market it may direct a licensee or group of licensees to undertake a specific action to ensure efficient market operations and encourage entry into the market.	Assessing the market
5. The Authority shall – (a) determine whether there is any anti-competitive activity being carried on and exercise its powers under these Regulations to prevent the continuance of the activity; and (b) determine and issue, by notice, any pre-conditions and any transitional arrangements required for any services to be offered competitively by licensees.	Determining anti-competitive activity
6. Subject to the provisions of the Federal Competition and Consumer Protection Act in force, the Authority shall have power to prevent anti-competitive behaviour and may take any or a combination of the following actions— (a) monitor and determine whether any conduct by a licensee or any other person operating or intending to operate in midstream and downstream petroleum operations— (i) has the purpose or effect of substantially lessening competition in any segment of midstream and downstream petroleum operations, (ii) may likely result in anti-competitive or discriminatory conduct, including an unlawful exercise of market power that may prevent customers from obtaining the benefits of a properly functioning and competitive market,	Powers of the Authority to prevent anti-competitive behaviour

(iii) may amount to practices which reflect an apparent or probable effect of crippling, excluding or deterring the entry of another person into midstream and downstream petroleum operations, or (iv) may likely be indicative of an abuse of dominant position in respect of the provision of any service; and (b) consider how best to prevent or mitigate abuse of market power in its decisions and determinations regarding matters including licence, permit or authorisation applications, grant, terms and conditions and the regulation of prices for services in competitive markets.	
7. Notwithstanding the provisions of regulation 6, where the Authority deems it to be in national interest or necessary to preserve or promote the benefits of a functional and effective competitive market, the Authority may, on the application by a licensee or other person with the ability to influence the price of petroleum products — (a) give written approval to the application upon such terms and conditions and impose other requirements as it may deem appropriate; and (b) issue directions to prevent or mitigate any conduct that shall or is likely to lead to the unlawful exercise of market power that will prevent customers from obtaining the benefits of a properly functioning and competitive market. (3) The Authority may, at any time, withdraw an approval granted under this regulation upon such terms and conditions as it may deem appropriate (4) Where the Authority, at the expiration of 90 days time frame, fails to communicate in writing its approval or rejection to the licensee under these Regulations, the application shall be deemed to have been approved.	National interest
8. (1) An existing licensee shall, not later than 60 days from the commencement of these Regulations, publish its terms of supply or distribution including tariffs and prices, other than for negotiated tariffs and prices under section 122 (4) of the Act. (2) A new licensee, shall upon the commencement of petroleum operations, publish its terms of supply or distribution including tariffs and prices, other than for negotiated tariffs and prices under section 122 (4) of the Act	Publication of terms of supply and distribution

9. (1) A licensee shall establish or facilitate the establishment of a forum at which customers are able to express their views and raise concerns. (2) The forum shall be held, at least, once every calendar year provided that the Authority may direct that the licensee hold additional forums during the year. (3) The licensee, shall prior to the commencement of the forum, notify the Authority of the date, time, mode (physical or virtual), venue, agenda and expected participants of the forum. (4) The licensee shall not later than 21 days after the conclusion of the forum submit a report to the Authority on the outcome of the forum.	Establishment of customer forum
10. A licensee shall formulate and adhere to standards of performance necessary to ensure the safety, reliability and quality of supply and distribution services to customers.	Formulation of standards of performance
11. (1) A licensee shall develop customer service codes setting out the practices and procedures to be followed in the conduct of specified licenced activities and ensure strict adherence to them. (2) Customer service codes shall include codes governing — (a) installation, testing, maintenance and reading of meters, (b) fault repairs and response to customer emergencies, (c) connection and disconnection of customers, (d) responding to customer complaints and complaint resolution, (e) billing and invoicing, (f) extension of payment and credit facilities, (g) provision of information to customers and the use and protection of customer information, and (h) the establishment of special services for economically or socially disadvantaged customers.	Development of customer service codes

(3) The Authority may publish a licensee's customer service codes on its website upon payment of fees as set out in the Schedule to these Regulations	Schedule
12. Customer service codes shall be approved by the Authority prior to publication and may be reviewed at intervals as may be considered necessary by the Authority.	Authority to approve customer service codes
13. (1) It shall be the duty of a holder of licence, permit or authorisation to – (a) notify customers of applicable customer service codes that shall be adhered to; and (b) make available to customers, the service codes, upon request.	Duty to notify customers of customer service codes
14. (1) A holder of licence, permit or authorisation shall prepare and submit reports to the Authority indicating its performance levels and status of its operations in respect of licensed activities – (a) at least once every year, and (b) at such times as the Authority may prescribe by regulations, guidelines or directives	Submission of reports
15. The Authority shall establish and maintain a customer service desk for the purpose of receiving complaints from the public in respect of midstream and downstream petroleum operations.	Authority to establish customer service desk

16. (1) The Authority shall – (a) receive complaints relating to pricing, product quality, service delivery and billing practices from customers with grievances against companies in midstream and downstream petroleum operations; (b) maintain a directory of complaints brought before it; and (c) investigate complaints received and claims made against companies in midstream and downstream petroleum operations. (d) .	Authority to receive and investigate complaints
17. The Authority shall have power to – (a) summon a person undertaking midstream and downstream petroleum operations for the purpose of investigating a complaint made; (b) compel suppliers, gas distributors and petroleum product distributors to comply with the provisions of these Regulations; (c) enter into or cause the ingress into any facility or premises undertaking midstream and downstream operations for the purpose of inspecting or carrying out investigations into a complaint made against such a facility; and (d) undertake studies and publish reports or provide information on matters that affect the interest of customers and co-operate with or assist any association or body of persons in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the provisions of these Regulations	Customer Protection Powers of the Authority
18. (1) A complaint may be submitted to the Authority- (i) through the Authority's customer complaints portal on its website; and (ii) at the Authority's Regional and State Offices. (2) A complaint to the Authority shall be in a prescribed form in the guidelines to these Regulations.	Submission of complaints
19. The fees in the First Schedule to these Regulations shall be applicable to publication of customers service codes on the Authority's website and filing of complaints.	Fees
20. (1) A person who – a. fails to honour the summons of the Authority in respect of a complaint; b. fails to provide information as may be required by the Authroity;	Offences and penalties

c. makes a false declaration to the Authority or wilfully furnishes any information so required which is in any respect false or insufficient; or d. fails to comply with any provisions of these Regulations; shall, in addition to the sanctions, fines and penalties contained in the Act, be liable to an administrative penalty not exceeding NGN 1,000,000.00. (2) Where, in the opinion of the Authority there is or may be anti-competitive behaviour and, in particular, an abuse of market power, the Authority shall— (a) issue "cease and desist" orders as may be required, (b) require and compel the disclosure of information from licensees, (c) undertake inquiries and investigations, and (d) levy a fine which shall not exceed 5% of the annual turnover of the company for the preceding year.	
21. The Authority may issue guidelines, directives, and notices for the effective implementation of these Regulations.	Authority to issue guidelines, directives
22. In these Regulations — "Act" means the Petroleum Industry Act, No. 6, 2021; "Authority" means the Nigerian Midstream and Downstream Petroleum Regulatory Authority; " "Customer protection" has the meaning ascribed to it in the Act; "NGN" means Nigerian Naira.	Interpretation
23. These Regulations may be cited as the Midstream and Downstream Petroleum Anti-competition and Customer Protection Regulations, 2023.	Citation

SCHEDULE **Regulation 21**

Fees

	Activity	**NGN**
1	Publication of customer service codes on Authority's website	100,000.00

Made at Abuja this ..... day of 2023

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Engr. Farouk Ahmed

Authority Chief Executive

Nigerian Midstream and Downstream Petroleum Regulatory Authority