

# **THE STANDARDS ORGANISATION OF NIGERIA (SON) AND THE PROTECTION OF THE CONSUMER IN NIGERIA.**

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## **Abstract**

The Standard Organisation of Nigeria (SON) is the body charged with the maintenance of standard of products consumables in the country whether locally manufactured or imported into the country. The aim here is to inquire into the establishment, constitution and functions of the organisation as provided in the SON Act to examine how it operates to ensure that the public consumes quality goods. The exercise will also look into the problems encountered by the organisation in the performance of its duties and suggest ways of surmounting or circumventing these obstacles to enable it function effectively.

## **Introduction**

Standardization is synonymous with human life. Most human activities involve one form of standardization or another such that many a time, standards are applied unknowingly. For instance, a housewife who carefully selects her ingredients and determines the quantity of each of them may not know that she is applying a standard (Monye, 2003). The term standardization has been defined by the International Standards Organisation (ISO) as a process of formulating and applying rules for an orderly approach to a specific activity for the benefit and with the cooperation of all concerned and in particular, for the promotion of optimum overall economy taking due account of functional conditions and safety requirements. It also means a conscious effort of man to simplify things, reduce unwanted variety and create order (Pollit,1990). It has been described as a system of control of the method of production as well as product standards or composition with the aim of ensuring that only good quality and safe products are put in the market( Monye,2003). Synthesising the foregoing, standardization is the application of required rules in the process of production while maintaining the normal product standards to ensure that goods produced and placed in the market are of good quality and safe for consumption.

The body, in the country today charged with the responsibility of standardization of methods and products is the Standards Organization of Nigeria (SON). Currently the enabling legislation is the Standards Organization of Nigeria Act, Cap S9.( Laws of the Federation of Nigeria, 2004 SON ACT 2004). This work forays into the main aspects of this body because of its essence in the consumer protection arena.

## **Nature and Composition of the Organization**

As the name depicts, the SON is set up to cater for and ensure that the goods produced and consumed in the country are of at least, the minimum required standard. The organization is a parastatal of the federal government and administered by the Ministry of Industries. It is a body corporate, having legal personality with all the incidents. It has two arms through which it operates – a Council which is the governing body of the organization called the Standards Council of Nigeria and the organization itself (Section 1(1 and 2) SON Act 2004). The Council sees to the running of the organization through the formulation of polices in accordance with the intent of the formation of the organization while the organization implements such polices.

The organization is made up of a Director-General (DG) of Standards, the Directors, Secretary and other support staff to help in the running of the organization (Section 1 (2) SON Act 2004). The Council, which is the policy making body of the organization is made up of a seventeen member panel with the chairman who shall be the Director- General of the Federal Ministry of Industry, the D.G Standards and a representative from each of these bodies and fields of activity – the Federal Ministry of Industries, Agriculture and Rural Development, Health, Defence, Commerce, Transport, Works and Housing, University Education and Research, Chambers of Commerce,

Industry and Mines, Engineering and Engineering Consultancy Services, Processing and Manufacturing Industry, Construction Industry, Employers Association, Consumers Association and one person who appears to the Minister to represent interests or fields of activity not already represented. However, the President reserves the right to increase, reduce or vary this composition of the Council (Section 1 (1-3) Schedule to the SON Act 2004).

### **Appointment and Term of Service**

The Director – General shall be appointed by the President based on the recommendation of the Minister of Industries. The law provides that the appointment, remuneration and other conditions for other Directors and the support staff are determined or prescribed by the Council in consultation with the Federal Civil Service Commission (Section 1 (4 and 5) and 24 (1) SON Act 2004). This presupposes that the Council takes care of their appointment. Apart from the Chairman and the D.G; the Minister appoints other members of the Council.

The members of the Council are to hold office for a period of four years from the date of their appointment or the instrument of such appointment. The appointment is renewable. Any member of the Council can resign his appointment, the notice of which shall be in writing, signed by the member and served on the Minister of Industries (Sections 2, 3 and 4 schedule to the SON Act 2004). Any member can be removed from office by the appointing authority that is the President for the D.G. and probably the Chairman but just as the Chairman of the Council because the person still retains his portfolio as the D.G. in the Federal Ministry of Industries from where he took up the position and others by the Minister. Again, the President has the overriding power in this issue of membership of the Council as he can increase or decrease the composition of the Council (Section 1 (1 and 3) and 3 Schedule to the SON Act 2004).

The other staff of the organization have their conditions of service under the control of the Council. This, it is given, also includes the tenure of their employment as the Act is mute on this. It is arguable that since the Council oversees these staff after consulting with the Federal Civil Service Commission, the conditions of service of Federal Public Servants apply to them as well and so, the mode of resignation and removal including pensionability of their appointments should also be as is obtainable under the federal public service.

### **Functions of the Council and the Organisation**

The functions of the Council and the organization are numerous and diverse. The aim is to ensure that the product pushed into the market by producers are of the required quality and the process of production of the acceptable standard. These include *inter alia* to:

- (a) Advise the Federal Government generally on the national policy on standards, standard specifications, quality control and metrology;
- (b) Designate, establish and approve standards in metrology, materials, commodities, structures and processes for the certification of production in commerce and industry;
- (c) Provide the necessary measures for quality control of raw materials and products in conformity with the standard specification;
- (d) Organise tests and do every thing necessary to ensure compliance with approved standards;
- (e) Undertake investigations as necessary into the quality of facilities, materials and products in Nigeria and establish a quality assurance system including:
- (f) Certification of factories, products and laboratories, and ensure reference standards for calibration and verification of measures and measuring instruments (Sections 4 and 5, SON Act 2004).

In order to accomplish these lofty goals, the organization is empowered through the D.G. if he is not satisfied with the quality, purity or potency of any product because such a good is detrimental or hazardous to life and property, apply to a magistrate court within jurisdiction for an order of the court so as to seize, destroy or prohibit any person from selling any such product. It can seal up the premises where such product is stored or manufactured and can direct the producer/manufacturer to rectify the deficiency in the case of low product, if the deficiency is capable of correction. By the

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written authority of the D. G., himself or any staff in that regard, has the right of access at all times, into any building or premises where an industrial or commercial undertaking is being carried on and the nature of the business required such a person to furnish the SON with any information. The court can make any order that a seized product which is in the court's opinion hazardous or injurious to life, be destroyed or disposed of in a manner sanctioned by the court. Where a product is seized the D. G shall direct where it should be kept. Such a product should be returned to the owner should the court refuse to order for its forfeiture or destruction (Sections 17 and 18 SON Act 2004).

The willful obstruction, interference with, assault or resistance of any officer of the organization in course of his lawful duty, or whoever aids, invites, induces or abets any other person to do so is guilty of an offence, and is liable on conviction to a fine of ₦200.00 or imprisonment for 3 months or both. The offence is the same where in furnishing returns where an information is required, a person knowingly or recklessly makes a statement in the return which is false (Section 19 (2 and 3) SON Act 2004).

#### **Establishment of Industrial Standards and Certification Scheme.**

By Sec. 4 (1) b of the Act, provision is made for the establishment of industrial standards known as Nigerian Industrial Standards (NIS). A Nigerian Industrial Standard has been described as a precise and authoritative document established by consensus and approved by the Standards Council of Nigeria, prescribing criteria to ensure that the material, product or procedure is fit for the purpose for which it is intended (SON in Brief : 2). The standards are formulated by technical committees set up by the Council constituted from experts representing various interests such as producers, consumers, technologists, research institutions and testing organizations both in the private and the public sectors (SON in Brief : 3). These experts inquire into all the relevant aspects of the matter before them. Through consensus opinion based on scientific and technical data, they evolve a standard and make a recommendation to the Council. If the Council is of the opinion that such a recommended standard is significant to the national economy, it establishes such a standard to be the standard required for the production of such a good or product and shall be known as the Nigeria Industrial Standards. Manufacturers whose products meet the required standard are permitted to affix a special certification mark showing that such an item is one of those falling under the Nigerian Industrial Standards (NIS) (Sections 12, 13 and 14 SON Act 2004, SON in Brief 14). This is called the Certification Mark or the "Nigerian Mark of Quality". The significance of this mark is to convey to the consumer an assurance that the goods bearing the mark have been tested and certified by the organization to have complied with the relevant NIS and that they may therefore be purchased with reasonable assurance of quality (SON in Brief : 3 – 4).

These standardization and certification of products are good. The certification mark on a good points to the quality, the good having been produced according to the required standard. The relationship of this with the purchaser of the petroleum product is misty and not clear as the customer is not in a position to know whether the product dispensed straight into his car or receptacle is of the right quality. One can only assume that the quality control measure is carried out at the refineries, depots, farm tanks and points or ports of entry of such imported products.

#### **Practical Approach to the Realization of Objectives.**

The SON, in the bid to ensure that goods are produced according to the established standards, conduct routine inspection of production lines in industries, conduct tests on sample goods taken from factories and the open market. Manufacturers in order to affix the NIS mark, can send the product to SON for laboratory analysis before they are licensed to use the certification mark on their products. The Council reviews the standard at intervals of at least every three years, 'though the 'SON in Brief' publication says yearly subject to continued good performance of the manufacturer and his willingness to continue with the scheme (SON in Brief : 4, Section 12 (4) SON Act 2004). In the face of the variance on the period for revision, the provision of the Act should prevail, the 'SON in Brief' being just a publication of the organization. The standard can be revoked by the Council and the whole process for establishing a standard is repeated to regain the standard (Section 12 (5) SON Act 2004).

To make sure that standard goods are consumed in Nigeria, the SON devised a conformity assessment programme for locally produced and imported goods. These are the MANCAP, that is

the Mandatory Conformity Assessment Programme put in place by SON to ensure that all the locally manufactured products conform to the relevant NIS before such products are presented for sale in the Nigerian market or exported (MANCAP in Brief: 1). The SON Conformity Assessment Programme (SONCAP) is a new policy evolved by the SON to check and control the importation of substandard and unsafe products into the country. This policy is a new import requirement which took effect from 1<sup>st</sup> December 2005. The programme is a set of conformity assessment and verification procedure applicable to certain regulated products imported into Nigeria. The compliance of such products is with the applicable NIS specification and other approved international standard prior to shipment (SONCAP in Brief:1). Where such goods meet the required standards a SONCAP certificate is issued and this is a mandatory custom clearance document without which such goods will be subjected to delays and possibly denial of entry (SON in Brief: 15).

The SONCAP publication did not list the regulated products to which the policy applies but it listed some products termed “Life Danger Items” to which non- conformity with the required standard pose potential danger to life and property which goods must not be allowed to reach the consumer unless they have been tested and confirmed suitable. These are motor vehicles and other types of tyres, food products, electrical appliances and products such as bulbs, cables, switches/gears etc (SON in Brief:15). Certain products are not included in this list, for example, petroleum products. Not having them in the list is surprising as they are among the products that pose the greatest danger to human life when they are not of the expected quality, and moreover, without them, most of the regulated items cannot be put into use or conveyed to their various destinations of use for the potent danger to manifest.

The SON’s involvement in product import inspection and ensuring conformity within the country of locally manufactured goods is to the benefit of the Nigerian consumer which benefit includes improving the quality of life of Nigerians through consumption of quality products, protecting the Nigerian consumer from consuming health hazard, unsafe and poor quality products that can endanger life and ensuring that Nigerian consumers get value and satisfaction for their money through the consumption of quality products (SON in Brief : 17 – 18).

### **Consumer Protection Activities: Complaint and Investigation**

By S 5(1) (a) of the Act, the SON is empowered to do everything necessary to ensure compliance with standards designated and approved by the Council. In order to actualize this, SON is involved in consumer protection activities. Therefore, the body has put in place Consumer Protection/Collaboration and Enforcement Unit which ensures that substandard products (both locally manufactured or imported) are apprehended or impounded particularly where the quality of the products deviate from the prescribed relevant specifications or may constitute health hazard or cause harm to life and property (SON in Brief:11). The defective products are confiscated and destroyed publicly to serve as deterrent to other manufacturers and importers (Section 17 (1) SON Act 2004). On the other hand, where the product is below the required standard but does not constitute health hazard, or create harmful effect to the consumer, the producer or importer concerned is directed or ordered to effect corrective measures to bring the goods to the required standard under the supervision of the organization (SON in Brief: 11). The SON also investigates consumer complaints and gives assistance in their resolution in collaboration with the manufacturers. Such consumer complaints provide a feed back in products performance and help to provide information on different aspects of standards implementation.

Thus SON receives complaints as to defective, sub-standard, fake and adulterated products. These complaints are investigated and if found to be genuine, then a remedial process is initiated to either compensate the complainants or the goods are repaired or replaced or the defaulting producer is handed over to the police as the case may be (Babatunde, 2000). The SON received and investigated about 166 consumer complaints’ on various products between 1993 and 2002 (SON Annual Reports 1993 – 2002). Some of these information were from corporate bodies and private individuals. In most of these cases, the manufacturers /sellers against whom the complaints were made owned up to the complaints . They made amends and undertook to improve on the product quality. The above figure shows that only very few consumers complain about sub standard products which goes to show the poor consumer awareness in the country.

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The organization could not investigate foreign products without the names and or addresses of the manufacturers or local goods without relevant information that may assist in tracing the manufacturer or producer (Monye, 2003). This probably accounts for the low number of consumer complaints received within 10 years as shown above. Again, the organization does not investigate products that have been tampered with as a matter of policy. Thus, such products were not among those investigated within the period (Monye, 2003). But the question is: Do consumers know of the existence of the SON, its role and with regard to those that know, are they aware of the effect of tampering with substandard products in relation to SON's investigation?

**Inadequacy of the Provisions of the Act and Recommendations.**

Most of the wrongs provided in the SON Act are criminal wrongs. They basically apply to standards. Section 15 of the SON Act makes it an offence for any person not the authorised manufacturer to use a standard established under the Act or a false certification mark purporting it to be the real one. The person on conviction pays N1000.00 fine or one year imprisonment or both. Likewise, not complying with the Mandatory Industrial Standard is an offence with a fine between N50,000.00- N100,000.00 or at least prison term of five years. The seller of such a product will be fined between N5,000.00 and N10,000.00 or at most two years imprisonment or both (Section 15 and 16, SON Act 2004).

The provisions of the SON Act present lesser areas of faults by reason of the fact that it deals mainly with the establishment and maintenance of standards. It has a minimal membership of seventeen persons and so performance will not be a hectic task. But the appointing authority, the Minister of Industries, solely appoints the representatives of the six ministries involved while the appointment of the representatives of other bodies is in consultation with the appropriate body (if any) (Section 1 (1), SON Act 2004, S 1 ( b and c) of the Schedule to the SON Act 2004). This means that where there is no such body, the minister alone appoints all the members of the organization without having recourse to any other person or organization. This portends danger as regards quality in that any matter that will come before the body from any person with the remotest relationship with the Minister will likely receive easy passage, an unsafe set-up for a body in charge of ensuring standards for products sold to the public we must agree. This is especially against the backdrop of the fact that it is the SON that certifies the quality of goods before they can be regarded as consumable. So the appointment of its members should be carried out with proper checks and balances to ensure the appointment of the right persons.

Any member of the council is re-appointable as many times as possible (Section 4, SON Act 2004). There is no number of terms which the person will serve and he becomes ineligible to be re-appointed. This can make room for the appointment of stooges and people who may not be performing provided that the person(s) has a god-father that can influence his continuous stay in the organisation.

The organization does not investigate goods without the name and address of the manufacturer or producer (Monye, 2003), whether locally produced or imported. For such imported goods, the SON is supposed to be positioned at all ports and points of entry of goods in this country. So, how would such products find their way into the country in the first place? And where they do, is it not the SON that should be held responsible for their passage through the ports. It would therefore be untoward for it to turn back to assert its refusal to investigate such goods where there is a complaint by the consumers on them. The SON should be held culpable for the existence of such goods within our shores *ab initio*. Is not this a case of blowing hot and cold at the same time? This goes to show that the delays and possible denial of entry of goods without the issuance of SONCAP and consequential clearance by the custom declared in the SON in Brief, is a ruse. It will take negligence of duty on the part of the SON for such goods to come into this country. Import inspection ought to have revealed such unidentified goods.

The non-investigation of such local goods is nothing short of fighting shy and really shirking their responsibilities as it is empowered to enter any factory premises to investigate and carry out tests to ensure compliance with standards (Section 4 and 5 SON Act 2004). Besides, it can follow up and trace any manufacturer of any product through the sellers.

The organization or agency oversees the market place to ensure that quality products are imported into or produced in the country. The role of the SON in quality control is all-embracing.

The SON is to carry out tests on local and imported products to ascertain the standard and make certain that the required standard is maintained. To be able to carry out this function, it established the SONCAP and MANCAP for regulated products imported into the country and those manufactured locally. The body is urged to ensure that quality products are consumed in the country whether locally manufactured or imported. They must meet the minimum standard required by the law.

The appointment of members of the SON should be by the Minister in conjunction with specific bodies to be so named in the Act to avoid the appointment being a one-man affair with the attendant negative consequential effects. Such bodies whether nominating or recommending representatives, should endeavour to project and present people who are qualified academically and experientially but not in any way on the basis of federal character or quota system. Membership of the SON by the nature of its functions, should be handled with deserving importance and not with levity and want of seriousness.

### **Conclusion**

The position of the SON in the life of the consuming public makes it imperative that the organization must work optimally to satisfy the consumers. Appointment of members should be with utmost care with nominating/appointing bodies selecting qualified members. Such appointees should apply themselves to their duties. This will mean the SON functioning properly thereby, ensuring the production and consumption of quality products by the consumers.

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