An Appraisal of the Competition Law Regime in the Nigerian Petroleum Industry

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Abstract

The petroleum industry occupies a central role in Nigeria's economy, yet for decades it operated within a heavily regulated but competition-deficient environment. This paper critically examines the historical absence of a comprehensive competition framework in the sector, the fragmented legal approaches that preceded reform, and the transformative impact of the Federal Competition and Consumer Protection Act 2018 (FCCPA) alongside the Petroleum Industry Act 2021 (PIA). Employing the doctrinal research methodology, this paper explores how the FCCPA introduced universal competition standards prohibiting restrictive agreements and abuse of dominance, while the PIA provided sector-specific mechanisms promoting market liberalization, transparency, and regulatory accountability. The study also identifies persistent challenges to effective implementation, including regulatory overlaps, infrastructural monopolies, insecurity, and political interference, which threaten to undermine the gains of liberalization. It concludes with recommendations for enhancing competition enforcement, including inter-agency coordination, security reforms, and structural unbundling to promote a competitive and investor-friendly petroleum sector. By bridging gaps in existing literature, this study contributes to understanding the interplay between competition law and market liberalization in Nigeria's energy industry.

Keywords*: Competition law, Petroleum industry, Consumer, market liberalization, Nigeria*

1. Introduction

The petroleum industry is a critical sector of the Nigerian economy for the crucial role it plays in revenue generation and economic growth of the nation. The sector contributes around 10 per cent of the country's gross domestic product and about 80 per cent of government revenues while also forming about 90 per cent of the exports.[1] Despite being one of the most heavily regulated industries, there was little to no control over competition and antitrust in the sector until the passage of the Federal Competition and Consumer Protection Act 2018 (FCCPA) which was assented to

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[1] Olusola Joshua Olujobi, 'Deregulation of the Downstream Petroleum Industry: An Overview of the Legal Quandaries and Proposal for Improvement in Nigeria' (2021) 7 *Heliyon* <https://doi.org/10.1016/j.heliyon.2021.e06848> accessed 15 June 2025.

by President Muhammadu Buhari in 2019.[2] The absence of a legal regime on competition in the industry meant there was no comprehensive mechanism to regulate mergers and acquisitions, anti-competitive agreements, price fixing and abuse of dominance among others.[3] With the advent of the FCCPA which preceded the liberalization of the sector under the Petroleum Industry Act 2021, activities of industry players have now become subject of legal regulation in terms of competition and consumer protection. This paper, therefore, examines the effectiveness of competition law in the Nigerian petroleum sector before the enactment of the FCCPA and subsequent to its promulgation.

2. History of Competition Law in the Petroleum Industry

The history of competition law in the petroleum industry world over will be inchoate without a particular mention of the legendary evolution of the Sherman Antitrust Act of 1890[4] and the Clayton Act of 1914[5] which are the key antitrust laws of the United States.[6] The history of these laws in the petroleum industry dates back to the shadow of the Second Industrial Revolution, a period marked by rapid technological progress, booming railroads, and expanding national markets.[7] Amidst this economic ferment, one enterprise rose to unparalleled dominance: Standard Oil Company, founded by John D. Rockefeller. By 1882, Standard Oil had pioneered the use of the "trust" structure – a legal device that enabled the consolidation of multiple oil refining businesses under centralized control.[8] Through this innovation, Standard Oil quietly amassed near-total control over oil refining in the United States to the point that it dictated prices, suppressed competition, and manipulated railroad freight rates, effectively becoming the face of monopolistic capitalism.[9] Public outrage mounted as Standard Oil and similar industrial giants appeared to subvert not only economic competition but also democratic governance.[10]

Recognizing the mounting threat posed by these behemoths, Congress enacted the Sherman Antitrust Act in 1890, marking the federal government's first legislative attempt to restrain monopolistic conduct, although the courts, rooted in 19th-century interpretations of commerce and contract, initially applied the statute narrowly.[11] A pivotal transformation came with the ascension of President Theodore Roosevelt. While Roosevelt did not seek to dismantle all large corporations, he was determined to rein in those that abused their power. His administration famously pursued

[2] O. B. Akinola, 'The Role of Competition Law in the Nigerian Petroleum Sector' [2009] 1 Petroleum, Natural Resources and Environmental Law Journal 81
[3] Ibid, 91.
[4] Sherman Antitrust Act 1890, 15 U.S.C., ss 1 – 7.
[5] Clayton Act 1914, 38 Stat. 730
[6] Mark Glick, 'Antitrust and Economic History: The Historic Failure of the Chicago School of Antitrust' (2019) 64 The Antitrust Bulletin 3
[7] Laura Phillips Sawyer, 'U.S. Antitrust Law and Policy in Historical Perspective' (Harvard Business School Working Paper No 19-110, May 2019) 1–35
[8] Ibid, 5.
[9] Ibid, 4.
[10] Ibid.
[11] Ibid, 9.

Northern Securities Co., a railroad trust, in 1902.[12] The case ended with a landmark Supreme Court ruling in 1904 that dissolved the company, establishing a precedent for federal trust-busting. However, the defining moment came in 1911, when Roosevelt's successors carried forward the antitrust crusade and the Supreme Court ordered the breakup of Standard Oil, finding that its business practices violated Sections 1 and 2 of the Sherman Act.[13] Crucially, the Court adopted the "rule of reason", distinguishing between fair competition and unreasonable restraint of trade.

The fall of Standard Oil signified more than the dismantling of a corporate empire – It symbolized the maturation of American antitrust law and the federal government's willingness to challenge concentrated economic power. This event laid the legal and ideological foundation for subsequent reforms, including the Clayton Act of 1914 and the establishment of the Federal Trade Commission, both designed to refine and enforce the principles of fair competition. Though antitrust enforcement would ebb and flow through subsequent decades – shaped by political ideologies, economic theories, and judicial interpretation – the Standard Oil episode remains a seminal narrative in the intersection of law, capitalism, and democracy. It demonstrated that even the most powerful industrial entities could be subjected to legal accountability and it sets a precedent that would echo in future battles over monopolistic control, especially in sectors as vital as energy.

The announcement of the homegrown Structural Adjustment Programme (SAP) by the Ibrahim Babangida administration in 1986, which was approved by the International Monetary Fund (IMF) and the World Bank, initiated deregulation efforts in Nigeria.[14] The aim of the deregulation effort kick started under the SAP, which some researchers have described as World Bank/IMF-imposed,[15] was to roll back state participation in the various sectors of the economy.[16] The sectors of the economy in which this deregulation and privatization drive gained momentum included the petroleum industry where the government sold off her equity participation in some of the downstream oil marketing companies.[17]

The 1990s and early 2000s witnessed incremental efforts toward the liberalization of the oil and gas industry with the introduction of elements of competition by the government especially in the downstream sector. The Petroleum Products Pricing Regulatory Agency (PPPRA) was established in 2003 to regulate petroleum product pricing, promote transparency, and serve as a step toward a deregulated market. Its creation was seen as a transitional mechanism for phasing out subsidies while attempting to attract private sector participation in fuel importation and distribution.[18]

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[12] Northern Securities Co. v. United States 193 US 197 (1904)

[13] New Jersey v. United States 221 US 1 (1911)

[14] Nwankwo O U, 'Deregulation of the Downstream Sector of Petroleum Industry and the Crisis of Development in Nigeria 1999–2012' (2014) African Journal of Politics and Administrative Studies 7(1) https://www.ajpasebsu.org.ng/2014/06/deregulation-of-the-downstream-sector-of-petroleum-industry-and-the-crisis-of-development-in-nigeria-1999-2012/ accessed 8 March 2025.

[15] Okpanachi E and Obutte P C, 'Neoliberal Reforms in an Emerging Democracy: The Case of the Privatization of Public Enterprises in Nigeria, 1999-2014' (2015) 7(3) Poverty and Public Policy 253.

[16] Ibid, 254

[17] Ibid.

[18] Nkogbu O G and Okorodudu O, 'Deregulation of the Downstream Sector of the Nigerian Petroleum Industry: The Role of Leadership' (2015) 7(8) *European Journal of Business and Management* 35

However, the agency's work was often undermined by political interference and the continued dominance of the subsidy regime.

The Federal Government also divested its shares from oil marketing firms such as the National Oil and Chemical Marketing PLC (NOLCHEM) which later became CONOIL, African Petroleum (AP) and Unipetrol PLC (now Oando PLC) leading to the privatization of the companies by the Obasanjo administration between 2000 and 2002.[19]

For several decades, and under various governments, the Nigerian National Petroleum Corporation (NNPC) which was established in 1977 as the country's national oil company, continued to dominate the industry both as a regulator and participant. Thus, there was the need for to dismantle the existing regulatory, procedural and institutional impediments to trade and investment in the industry by institutionalizing an ideal framework which would separate the policy, operational and regulatory responsibilities for the sector.[20] Answers to these recurrent posers would later be proffered with the introduction of the Petroleum Industry Bill and the Federal Competition and Consumer Protection Bill to the National Assembly.

3. Literature Review

There has been extensive research into the various aspects of competition law in the Nigerian petroleum industry with different authors explaining and proffering recommendations for effective operation of antitrust principles in the most lucrative sector country's economy. Olujobi[21] examines the deregulation of Nigeria's downstream petroleum industry, highlighting the legal challenges that impede full liberalization and proposing reforms to promote efficiency, transparency, and private investment. He argues that excessive government control, subsidy regimes, and weak institutional enforcement have stifled competition, discouraged investment in refining infrastructure, and perpetuated corruption. However, Olujobi's work is limited to the investigation of the necessity of deregulation in the downstream sector of the petroleum industry without examining the role of existing competition enactments, particularly the FCCPA and the PIA in fostering market liberalization.

In their own work, Okpanachi and Obutte[22] critically examine Nigeria's privatization of public enterprises from 1999 to 2014, arguing that the neoliberal reforms, driven by pressures from global institutions like the IMF and World Bank and framed within the "Golden Straightjacket" of globalization, failed to deliver promised efficiency gains or social equity. The authors highlight systemic issues such as weak democratic infrastructure, inadequate regulatory frameworks, and

[19] Okpanachi E and Obutte P C, 'Neoliberal Reforms in an Emerging Democracy: The Case of the Privatization of Public Enterprises in Nigeria, 1999-2014' (2015) 7(3) Poverty and Public Policy 253.

[20] A E Adeniji, *Nigeria: Antitrust Imperatives for an Energy Sector in Transition* (EnR Advisory, 2002) https://enradvisory.com/wp-content/uploads/2019/02/2002.05.-Nigeria-Antitrust-Imperatives-for-an-Energy-Sector-in-Transition.pdf accessed 11 March 2025.

[21] Olusola Joshua Olujobi, 'Deregulation of the Downstream Petroleum Industry: An Overview of the Legal Quandaries and Proposal for Improvement in Nigeria' (2021) 7 *Heliyon* <https://doi.org/10.1016/j.heliyon.2021.e06848> accessed 15 June 2025.

[22] Okpanachi E and Obutte P C, 'Neoliberal Reforms in an Emerging Democracy: The Case of the Privatization of Public Enterprises in Nigeria, 1999-2014' (2015) 7(3) Poverty and Public Policy 253, 259.

entrenched cronyism among political and economic elites, who exploited privatization for personal gain rather than public benefit. Case studies, including the power sector and banking industry, reveal persistent inefficiencies, corruption, labour disputes, and asset stripping post-privatization, exacerbated by hasty implementation tied to debt relief negotiations. The authors contend that privatization outcomes were further undermined by the absence of competition laws, institutional accountability, and genuine popular participation, perpetuating predatory capitalism that concentrated wealth while neglecting equitable development. They conclude that neoliberal reforms, divorced from robust political institutions and democratic oversight, merely shifted control from state to private elites without addressing structural inequalities or fostering sustainable growth in Nigeria's emerging democracy. Again, the scope of Okpanachi and Obutte's work is limited to the deregulation moves of the Nigerian government since the commencement of the fourth republic up till 2014. It does not cover the developments that have taken place, including the enactment of competition laws, after the period under reference.

Akinola,[23] in his own contribution, discusses the role of competition law in addressing monopolistic practices and fostering efficiency in Nigeria's petroleum sector. The author underscores that despite economic reforms, including privatization and liberalization, the absence of a comprehensive competition law framework has allowed anti-competitive behaviors – such as price-fixing, bid-rigging, and abuse of dominant market positions – to persist, stifling competition and harming consumers. Drawing parallels with sectors like telecommunications, where competition improved services and pricing, the article highlights the petroleum sector's continued dominance by state and private cartels, leading to inefficiencies and inequitable resource distribution. The author critiques pending legislative efforts, notably the Federal Competition Commission Bill (2002) and National Antitrust Commission Bill (2005), which aim to establish regulatory bodies to curb monopolies and promote fair market practices but remain unpassed. Recommendations include urgent legislative action, criminal penalties for anticompetitive conduct, state-level competition policies, and alignment with regional frameworks like ECOWAS. The article concludes that without robust competition laws, Nigeria's petroleum sector reforms risk perpetuating private monopolies, undermining economic growth, and failing to achieve equitable consumer benefits envisioned by deregulation. Like Okpanachi and Obutte, Akinola's work preceded the coming into force of comprehensive legislative legislations that now entrench antitrust principles in the Nigerian petroleum industry but constituted a foundational discourse which formed the normative basis of the eventual statutes.

This paper, aims to bridge the knowledge lacunae created in existing literature by examining the evolution of competition law in the petroleum sector in the specific context of the provisions of the Federal Competition and Consumer Protection Act 2018 and the Petroleum Industry Act 2021 as well as other legislations which entrench principles that promote fair trade and market liberalization in the industry including the possible challenges to the effective implementation of those laws.

[23] O. B. Akinola, 'The Role of Competition Law in the Nigerian Petroleum Sector' [2009] 1 Petroleum, Natural Resources and Environmental Law Journal 81.

4. Competition Law in Nigeria

For a long time prior to the coming into force of the Federal Competition and Consumer Protection Act 2018, there existed no holistic, comprehensive competition legislation in Nigeria. However, certain statutes were in place which contained provisions that were used to address some anti-trust or competition issues.[24] The Consumer Protection Council Act 1992 empowered the Consumer Protection Council to apply to court to prevent the circulation of any product which constitutes an imminent public hazard, and to compel a manufacturer to certify that all safety standards are met in their products among other functions.[25] The Act has now been repealed by the Federal Competition and Consumer Protection Act (FCCPA) 2018. Similarly, section 121(1)(A) of the Investment and Securities Act 2007 provides that where a merger is necessary, the Securities and Exchange Commission (SEC) shall first decide whether or not the merger is likely to significantly prevent or reduce competition. This provision implicitly empowers the SEC to prohibit any merger that may engender unfair dominance of the market by some companies by way of mergers and acquisitions. Another legislation is the Central Bank of Nigeria (CBN) Act 2007[26] which saddles the Central Bank of Nigeria with the responsibility to, inter alia, ensure monetary and price stability.[27] Trade Malpractices (Miscellaneous Offences) Act 1992 is another piece of legislation towards the goal of competition law in Nigeria. The Act designates and prohibits certain acts as trade malpractices and establishes an investigation panel to investigate allegations against any person under the Act.[28]

Section 5 of the National Agency for Food and Drug Administration and Control Act which contains the functions of NAFDAC is aimed at ensuring quality, safety and fair competition in the food and drug market. The Standards Organization of Nigeria Act 2015 requires the SON to, among other functions, undertake investigation as necessary into the quality of facilities, systems, services, materials and products whether imported or manufactured in Nigeria.[29] The importance of this is justified by the economic, health and safety implications of the influx of substandard goods into the Nigerian market.[30] Also, under the Petroleum Products Pricing Regulatory Agency (Establishment) Act 2003, the PPPRA had the responsibility of determining the pricing policy of petroleum products and moderating volatility in petroleum products prices while ensuring reasonable returns to operators. The PPPRA Act has now been repealed by the Petroleum Industry Act 2021.

Okubor C N and Okumagba E O, 'Antitrust Law: A Refining Catalyst for Economic Growth in Nigeria and Ethiopia' (June 2020) https://www.researchgate.net/publication/371762285_Antitrust_Law_A_Refining_Catalyst_for_Economic_Growth_in_Nigeria_and_Ethiopia accessed 25 March 2025.

[25] Consumer Protection Council Act 1992, Ss 1 and 3

[26] Cap C4, LFN 2010.

[27] Central Bank of Nigeria Act 2007, s 2(a)

[28] Trade Malpractices (Miscellaneous Offences) Act 1992, s 1(a)

[29] Standards Organisation of Nigeria Act 2015, s 5

[30] Isiavwe, O. R. Competition Law in Nigeria as a Pillar for Trade Policy (LL.M thesis, University of Ibadan, 2015)

With the foregoing legislations and many others, it is safe to conclude that while there were sector-specific laws to prevent anti-competitive tendencies, competition law in Nigeria was not codified in one single, comprehensive enactment until the coming into force of the Federal Competition and Consumer Protection Act (FCCPA) 2018. Besides the FCCPA, there have also been improved, more inclusive provisions in sector-specific competition enactments in recent time. One of such is the Petroleum Industry Act 2021 which has now deregulated the downstream sector of the petroleum industry and allows for market liberalization with implications for competition among industry players. Relevant provisions of the PIA to competition in the petroleum industry shall be considered in specific details later in this work.

5. The Nigerian Petroleum Industry

The Nigerian petroleum industry, which has been adjudged as the largest on the African continent,[31]and is generally regarded as the pivot of the country's economy and the hub around which other sectors of the national economy revolves.[32] Revenues from oil and gas exports account for approximately 90 per cent of the country's foreign exchange earnings while also contributing about 80 per cent of the total national revenues.[33] So much is the dependence of the country on oil that oil price is the meter against which the national budget is gauged and a change in price, especially on the south-side, can spell doom for an unprepared economy.[34] It is no exaggeration, therefore, to state that the petroleum industry is the bedrock of the Nigerian economy.

The industry consists of three main components which are the upstream, midstream and downstream sectors. The upstream sector of the industry deals with exploration and production crude oil which operations mainly happen in the oil-rich Niger Delta region of the country.[35] Not less than 80 per cent of production activities in the upstream sector are carried out by international oil companies (IOCs) including Royal Dutch Shell, ExxonMobil, Chevron Corporation, Agip, Total SA and Texaco with joint venture agreement with the Nigerian government through the Nigerian National Petroleum Company Limited (NNPCL).[36] The upstream sector of the petroleum industry is now under the regulatory control of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) under the Petroleum Industry Act 2021,[37] a body carved out from the

[31] Yakubu Y F, *Future of Nigeria's Petroleum Industry in view of Global Development in Energy Alternatives* (Report, Energy Commission of Nigeria 2017).

[32] Nkogbu O G and Okorodudu O, 'Deregulation of the Downstream Sector of the Nigerian Petroleum Industry: The Role of Leadership' (2015) 7(8) European Journal of Business and Management 35

[33] Olusola Joshua Olujobi, 'Deregulation of the Downstream Petroleum Industry: An Overview of the Legal Quandaries and Proposal for Improvement in Nigeria' (2021) 7 *Heliyon* <https://doi.org/10.1016/j.heliyon.2021.e06848> accessed 15 June 2025.

[34] Emediegwu L and Okeke A, 'Dependence on Oil: What Do Statistics from Nigeria Show?' (2017) 2(1) Journal of Economics and Allied Research 110

[35] Adebisi S A and Ezebuiro K N, 'Analysis of the Petroleum Industry Act and its Impact on the Nigerian Oil and Gas Sector' (2023) 6(3) Gusau International Journal of Management and Social Sciences 293

[36] Yakubu Y F, *Future of Nigeria's Petroleum Industry in view of Global Development in Energy Alternatives* (Report, Energy Commission of Nigeria 2017).

[37] Ibid; Petroleum Industry Act 2021, s 46

unbundling of the defunct Department of Petroleum Resources (DPR) towards an effective management and regulation of activities in the sector.[38]

The midstream sector of the petroleum industry involves the transportation, storage and processing of crude oil and natural gas after extraction but before refining. The downstream sector of the Nigerian petroleum industry serves as the critical link between petroleum production and end-user consumption, playing a pivotal role in meeting the nation's energy demands and fueling economic activities. At its core, this sector encompasses the refining of crude oil into usable products such as gasoline (petrol), diesel, kerosene, and liquefied petroleum gas (LPG), as well as the processing of natural gas into fertilizers, electricity, and industrial feedstock.[39]

The regulatory authority for the midstream and downstream sectors of the petroleum industry in Nigeria is the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) established under section 29 of the PIA 2021. The Authority is responsible for issuing licenses and permits to operators in the various petroleum related activities in the sectors, regulating distribution of petroleum products, regulating petroleum product pricing and tariffs and encouraging investment and industry development among other functions.[40] Toward the discharge of its functions and objectives under the Act, the Authority is empowered to enact regulations pertaining to the administration of midstream and downstream petroleum liquids operations.[41] This power of the Authority under the Act has also received judicial confirmation in the recent case of HIS Nigeria Limited & Anor v. NMDPRA.[42]

6. Current Regime of Competition Law in the Nigerian Petroleum Industry

Antitrust effects are a common result of energy sector liberalization and they involve difficult policy decisions about trade - offs between its various objectives as it attempts to deal with the transition of the state from a command structure to a market economy.[43]

The enactment of the Federal Competition and Consumer Protection Act (FCCPA) 2018 introduced essential competition principles generally to the Nigerian trade landscape. One major element introduced by the FCCPA is the express prohibition of restrictive agreements, as contained in Sections 59–61 of the Act. These provisions forbid agreements between undertakings that directly or indirectly fix prices, limit production, share markets, or otherwise restrict competition. In a sector like petroleum where market allocation and price-fixing had been prevalent – especially among downstream marketers – the FCCPA's intervention marked a significant shift toward encouraging free and fair competition. Furthermore, Section 72 of the FCCPA prohibits the abuse

[38] Izu-Emmanuel O, 'The Roles of the Nigerian Upstream Petroleum Regulatory Commission in the Petroleum Industry under the Petroleum Industry Act' (2023) 3(1) Achievers University Law Journal 108

[39] Nkogbu O G and Okorodudu O, 'Deregulation of the Downstream Sector of the Nigerian Petroleum Industry: The Role of Leadership' (2015) 7(8) European Journal of Business and Management 35

[40] Ibid; Petroleum Industry Act 2021, ss 31 to 32

[41] Ibid; Petroleum Industry Act 2021, s 125

[42] Unreported suit number FHC/ABJ/CS/1029/2023.

[43] A E Adeniji, *Nigeria: Antitrust Imperatives for an Energy Sector in Transition* (EnR Advisory, 2002) https://enradvisory.com/wp-content/uploads/2019/02/2002.05.-Nigeria-Antitrust-Imperatives-for-an-Energy-Sector-in-Transition.pdf accessed 11 March 2025.

of a dominant position, including practices such as predatory pricing, refusal to supply, or imposing unfair trading conditions – behaviors that were historically unchecked in the petroleum distribution chain. By codifying these offences, the FCCPA sought to dismantle entrenched monopolistic behaviors and promote a competitive market structure that benefits both consumers and new entrants.

In addition to introducing new standards, the FCCPA also upheld and reinforced earlier liberalization efforts within the petroleum sector. Prior deregulation initiatives, such as the liberalization of petroleum products importation and retailing, had encouraged private participation but lacked a comprehensive competition law framework. The FCCPA provided this necessary legal infrastructure, particularly through Sections 92–98, which regulate mergers and acquisitions. These provisions ensure that consolidation among petroleum companies – whether upstream, midstream, or downstream – does not substantially lessen competition or create entities with undue market power. The Act further empowers the Federal Competition and Consumer Protection Commission (FCCPC), under Section 17, to monitor market practices, investigate anti-competitive conduct, and enforce compliance across all sectors, including petroleum. Thus, the FCCPA not only introduced new competition safeguards but also legitimized and strengthened previous market liberalization measures, establishing competition law as a central mechanism in shaping the modern petroleum industry in Nigeria.

With particular regard to the petroleum industry, the Petroleum Industry Act 2021 (PIA) makes industry-specific provisions to regulate competition or anti-trust activities among industry players. Notable among the initiatives introduced by the PIA is the establishment of regulatory authorities to oversee and control competition in the various sectors of the industry. Chief among these bodies are the NUPRC[44] and NMDPRA.[45] This institutional framework lays a foundation for the entrenchment of competition regulation in the industry.

Sections 210 and 211 of the PIA, for instance, mandate the NMDPRA to promote and regulate competition in the midstream and downstream sectors by ensuring that no participant distorts the market by anti-competitive behaviour or abuse of dominance. Similarly, section 212 enforces the unbundling of vertically integrated operations. By this provision, licensees engaged in multiple segments like production, refining, marketing, etc are required to operate these segments through separate legal entities to avoid anti-competitive leveraging. A holder of a license or permit is also prohibited from discriminating against customers, classes of customers or their related undertakings in respect of access, tariffs, prices, conditions or standards of practice except for justifiable and identifiable differences regarding matters such as quantity, transmission distance, length of contract, load profile, interruptible supply or other distinguishing features approved by the Authority.[46] Where the NMDPRA is of the opinion that a non-competitive activity has been or is being undertaken by any person, it has the power to issue notices and 'cease and desist' orders to halt any such activity pending further investigation or enforcement action.[47]

[44] Petroleum Industry Act 2021, s 46
[45] Petroleum Industry Act 2021, s 29
[46] Petroleum Industry Act 2021, ss 116 and 213
[47] Petroleum Industry Act 2021, s 215

Contrary to the old regime under the repealed Petroleum Products Pricing Regulatory Agency (Establishment) Act 2003, where the PPPRA had the responsibility of determining the pricing policy of petroleum products and moderating volatility in petroleum products prices, the PIA has now liberated pricing of petroleum products by basing it on unrestricted free market pricing conditions.[48] Where the NMDPRA determines that a particular licensed activity is a monopoly service or a service by an excessively dominant supplier, it has the power to regulate the tariffs and prices charged by the respective licensee in respect of those activities.[49]

In furtherance of the promotion of competition by the PIA, the Nigerian National Petroleum Company Limited (NNPCL) is now incorporated as a commercially oriented entity under the Companies and Allied Matters Act.[50] The NNPCL is to conduct its affairs on a commercial basis, declare dividends to its shareholders and retain 20% of its profits as retained earnings to grow its business.[51] It is now to compete on equal terms with private firms, although it retains significant assets.[52] This shift from the hitherto dominant position of the NNPC is to ensure that competition is not stifled.

The commencement of operation by the Dangote Petroleum Refinery and Petrochemicals represents a pivotal shift in Nigeria's downstream petroleum sector, with profound implications for market concentration and the trajectory of liberalisation policy.[53] The refinery's sheer scale, with nameplate capacity reported at around 650,000 barrels per day, has led commentators to warn that a single private actor may, in practice, exert outsized influence on domestic supply dynamics which may bear significant implications for pricing.[54] Proponents have argued that the refinery reduces import dependence and can stimulate competition by supplying refined products locally at scale, thereby complementing market liberalisation objectives that followed the removal of subsidy on importation of petroleum products.[55] Critics, however, counter that the emergence of such a dominant supplier risks creating de facto market dominance unless complemented by robust pro-competition regulation and access obligations on feedstock and distribution.[56] Episodes of public dispute between the refinery and independent retailers and importers have

[48] Petroleum Industry Act 2021, s 205(1)
[49] Petroleum Industry Act 2021, s 205(2)
[50] Petroleum Industry Act 2021, s 53
[51] Olaniwun Ajayi, 'NNPC Limited: Understanding the Hybrid Identity of Nigeria's National Oil Company' (2022) https://www.olaniwunajayi.net/blog/wp-content/uploads/2022/07/Publication-on-NNPC-Limited-25.07.22-.pdf accessed 25 March 2025
[52] Ejoh E and Omoile P A, 'Managing Change in Nigerian National Petroleum Company: Stakeholders' Concerns, Challenges and the Way Forward' (2023) *Journal of Public Administration, Finance and Law* 28 108
[53] Gregoire Plug, 'Dangote refinery: how Nigeria's refining ambitions impact trade flows' (BS Project, Haute école de gestion de Genève, 2024) https://folia.unifr.ch/documents/330849/files/BT_PLUG_Gre%CC%81goire_2024.pdf accessed 11 March 2025.
[54] George Dozie, 'Dangote's new monopoly: The dangers of centralising Nigeria's energy future' (*Business Insider,* 10 February 2025) <https://africa.businessinsider.com/local/markets/dangotes-new-monopoly-the-dangers-of-centralising-nigerias-energy-future-by-george/bcc46gc>
[55] Yusuf Usman Ahmed and Muhammad Usman, 'Economic Analysis of the Potential Benefits to Nigeria of the New Dangote Oil Refinery (2023) 8(5) International Journal of Economics and Financial Management 43
[56] George Dozie, 'Dangote's new monopoly: The dangers of centralising Nigeria's energy future' (*Business Insider,* 10 February 2025) <https://africa.businessinsider.com/local/markets/dangotes-new-monopoly-the-dangers-of-centralising-nigerias-energy-future-by-george/bcc46gc>

highlighted the political economy tension between private scale efficiencies and fears of exclusionary behaviour by the new Dangote Refinery.[57] Thus, regulatory interventions, notably quota rules requiring producers to allocate crude to domestic refineries and licensing decisions over importation and distribution, have become central to the efforts to manage these tensions and to preserve a liberalised, contestable market.[58] To this end, the NMDPRA on 8 March, 2025 announced the approval of licences for the construction of three new refineries by Eghudu Refinery Limited in Edo State, MB Refinery and Petrochemicals Company Limited in Delta State and HIS Refining and Petrochemical Company Limited in Abia State.[59] These licences were in addition to those earlier granted to MRO Energy Limited to construct a refinery in Ughelli, Delta State and Process Design and Development Limited in Dole-Wure, Gombe State.[60] Opening up the downstream sector to new participants with the grant of fresh refining licences by the NMDPRA, it is submitted, will obviate monopolistic tendencies in favour of Dangote Refinery or the NNPC Limited when the new licencees eventually commence operation. This achieves the deregulation objectives intended by the PIA and expands the choice of final consumers of petroleum products in Nigeria.

7. Challenges of Effective Implementation of Competition Law in the Nigerian Petroleum Industry

The FCCPA and the PIA have, without doubts, brought about considerable liberalization of the petroleum industry with the several deregulation initiatives they introduced. These initiatives have heralded a paradigm shift from the sole control of the oil and gas market by the government to a more inclusive regime where the private sector is allowed to fairly participate. This achievement notwithstanding, the operation of anti-trust law in the industry is not without some obstacles. Some of these challenges, if not addressed, may hinder the trade freedom and overall economic development sought to be achieved by the various anti-trust provisions of the relevant laws.

One of the notable constraints to the effectiveness of competition in the industry is insecurity that has bedeviled the country for many decades. Crude oil theft and vandalism of critical oil infrastructures such as pipelines constitutes a huge threat to the smooth running and profitability of business for the private sector given the resultant drastic dip in productivity.[61] As a result, investors are scared away while the government incurs increased security expenditures.

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[57] Mary Izuaka, 'Dangote refinery attempting to maintain monopoly – PETROAN' *Premium Times* (Lagos, 5 November 2024) <https://www.premiumtimesng.com/news/top-news/751935-dangote-refinery-attempting-to-maintain-monopoly-petroan.html?tztc=1> accessed on 11 March 2025

[58] Camillus Eboh, 'Nigeria to block oil export permits for producers who do not fill refinery quotas' *Reuters* (Abuja, 3 February 2025) <https://www.reuters.com/world/africa/nigeria-block-oil-export-permits-producers-who-do-not-fill-refinery-quotas-2025-02-03/> accessed on 11 March 2025

[59] Damilola Aina, 'FG okays three refineries for 140,000bpd production' *The PUNCH* (Abuja, 9 March, 2025) <https://punchng.com/fg-okays-three-refineries-for-140000bpd-production/> accessed on 11 March 2025

[60] Ibid

Izuaka M, 'Crude Oil Theft, Pipeline Vandalism Poses National Emergency Challenge – NEITI' *Premium Times* (8 November 2023) https://www.premiumtimesng.com/business/business-news/640969-crude-oil-theft-pipeline-vandalism-pose-national-emergency-challenge-neiti.html accessed 8 March 2025

Another major hurdle is regulatory overlap and foreseeable jurisdictional conflicts. The FCCPA vests competition regulation broadly in the Federal Competition and Consumer Protection Commission (FCCPC), while the PIA establishes sector-specific regulators like the NUPRC and the NMDPRA. These bodies are also empowered to enforce competition rules within the petroleum industry. This duality raises practical concerns about conflicting decisions, regulatory duplication, and bureaucratic delays, which could undermine coherent competition enforcement and create uncertainty for market participants.

Another significant challenge is the persistent dominance of state-owned or politically connected entities, particularly the NNPC Limited which, despite its commercial reformation under the PIA, retains considerable market power across the petroleum value chain. Genuine competition requires a level playing field, but where a single actor holds infrastructural advantages – such as control over pipelines, depots and terminals – private competitors may be effectively excluded or disadvantaged. Even with the FCCPA's provisions against abuse of dominance and the PIA's promotion of competitive markets, political interference, weak enforcement mechanisms and institutional capacity deficits could allow anti-competitive practices to persist unchecked, particularly in strategic areas like crude oil lifting, gas processing, and retail distribution.

8. Conclusion and Recommendations

The development of competition law in Nigeria's petroleum industry marks a transition from a monopolistic, state-controlled structure to a regulated, liberalized framework aimed at fostering efficiency, innovation, and consumer welfare. The Federal Competition and Consumer Protection Act 2018 introduced broad antitrust principles, while the Petroleum Industry Act 2021 complemented these by creating sector-specific regulators and commercializing state enterprises like NNPC Limited. Together, these laws lay the foundation for a more dynamic petroleum sector, balancing deregulation with legal safeguards against anti-competitive practices. Despite these legislative advancements, effective implementation faces significant obstacles, including overlapping regulatory mandates between the FCCPC and petroleum-specific agencies, lingering infrastructural dominance by NNPC Limited, and security threats like crude oil theft that deter private investment. Political interference, weak institutional capacity, and structural barriers to market entry also hinder the realization of competitive neutrality. Without decisive regulatory coordination, stronger enforcement, and systemic reforms, the objectives of competition law in the Nigerian petroleum sector may remain aspirational rather than transformative.

To address the adverse impact of insecurity on competition and investor confidence in the Nigerian petroleum sector, there is an urgent need for a multi-stakeholder security framework tailored to protect critical oil and gas infrastructure. This should involve coordinated action between federal security agencies, host communities, and private operators, leveraging technology such as pipeline surveillance drones, satellite imaging, and smart sensors. The federal government should also invest in capacity-building for security personnel and adopt incentive-based community engagement strategies to reduce sabotage. Furthermore, policy measures should provide

guarantees or insurance mechanisms to mitigate the risk exposure of private investors, thereby encouraging sustained private sector participation despite the prevailing security risks.

To prevent regulatory conflicts and foster a coherent competition regime, a clear delineation of regulatory responsibilities among the FCCPC, NUPRC, and NMDPRA is essential. This may be achieved through an inter-agency coordination framework or memorandum of understanding that delineates the jurisdiction of each regulator, particularly in matters involving market conduct and pricing. Statutory amendments may also be considered to clarify the FCCPC's primacy in general competition matters while allowing for sector-specific input from industry regulators in technical or operational issues.

To address the entrenched market dominance of state-affiliated entities such as NNPC Limited, reforms must go beyond legal formalism and address structural imbalances in infrastructure access and policy enforcement. A robust third-party access regime should be operationalized and monitored to ensure transparent and non-discriminatory access to pipelines, depots, and export terminals. In addition, the privatization and unbundling of key infrastructural assets currently under the control of NNPC Limited should be explored to democratize access and promote effective competition.