



Federal High Court Affirms ARCON's Authority Over Advertising: Key Implications for Foreign Entities Operating in Nigeria

+234 (0)702 558 0053
3 Theophilus Orji Street, Off Fola Osibo
Road, Lekki Phase 1, Lagos, Nigeria

www.strenandblan.com
contact@strenandblan.com
[@strenandblan](https://www.instagram.com/strenandblan)

Introduction

On 30th April 2025, the Federal High Court sitting in Lagos and presided over by Honourable Justice Akintayo Aluko, delivered a landmark judgment in **Suit No. FHC/L/CS/1262/2024** between **Digi Bay Limited (Trading under the Name and Style of Betway Nigeria) & Ors v. Attorney General of the Federation & ARCON**, marking a significant turning point in Nigeria's advertising regulatory landscape. The plaintiffs sought clarification on ARCON's regulatory reach, particularly concerning digital advertising and individuals not registered as advertising practitioners. The Court affirmed the statutory powers of the Advertising Regulatory Council of

Nigeria (**ARCON**) to regulate all forms of advertising across various platforms, whether traditional or digital. The ruling, therefore, reinforces ARCON's authority as the apex regulatory body for advertising, advertising agencies, and marketing communications, including content directed at Nigerian audiences by foreign entities. For international brands and multinationals, this judgment creates new dimensions of compliance, particularly with respect to registration, prior vetting, and legal exposure under ARCON's expanded regulatory reach.

Evolution of Nigeria's Advertising Regulator

ARCON was established under the ARCON Act 2022, replacing the Advertising Practitioners Council of Nigeria and vesting ARCON with broad powers to license practitioners, set advertising standards, and regulate all marketing communications in Nigeria. Section 3 of the Act establishes ARCON's broad mandate over "any form of

advertising or marketing communications business," and Section 7 grants it authority to vet content before public dissemination. This statutory framework marks a departure from the self-regulatory model of the former Nigerian Code of Advertising, embedding oversight in law.

Key Highlights of the Judgment and Further Regulatory Developments

Following the decision of the Court, several regulatory clarifications and measures have emerged to support the enforcement of advertising standards in Nigeria.

1. Affirmation of ARCON's Statutory Powers Over All Advertising Activities:

Court's ruling serves as a reaffirmation of ARCON's legal standing as the apex regulator of advertising in Nigeria.

The judgment clarifies that ARCON's regulatory powers extend not only to traditional advertising media, but also to new-age digital channels. Most importantly, the Court held that it is not the identity or status of the advertiser that triggers ARCON's jurisdiction, but rather the nature of the activity, that is, whether it constitutes advertising aimed at the Nigerian public. This effectively eliminates any doubt about ARCON's authority to regulate advertising regardless of the medium used, or whether the entity behind the advertisement is a registered practitioner, an individual or a foreign entity.

2. Inclusion of Social Media Platforms and Digital Advertising Within ARCON's Oversight:

The judgment decisively brings social media platforms within the regulatory domain of ARCON. The Court reasoned that although platforms such as Instagram, Facebook, TikTok, and X (formerly Twitter) are privately owned, they constitute public communication channels when used to broadcast promotional content accessible by the Nigerian public. As such, any advertisement displayed on these platforms is now subject to ARCON's pre-approval and regulatory control if it is visible or

directed at Nigerians.

3. Compulsory Vetting of All Advertising Content:

A major takeaway from the judgment is the reinforcement of ARCON's mandate that all advertising materials must be vetted and approved before they are exposed to the public. This vetting requirement applies across all industries, platforms, and advertising media.

4. Clarification of ARCON's Enforcement Powers:

While the ruling confirmed ARCON's power to monitor and enforce advertising standards, it also draws a clear line between administrative enforcement and judicial oversight. Specifically, while ARCON is empowered to issue warnings, notices of infraction, and administrative directives, the authority to impose penalties, fines, or other sanctions lies solely with the Advertising Offences Tribunal.¹ This separation of powers ensures checks and balances and provides a legal pathway for aggrieved parties to contest regulatory actions.

5. Creation of a Special Compliance Task Force:

In strengthening its monitoring and enforcement mechanisms, ARCON has introduced a dedicated compliance task force equipped with the mandate to monitor all advertisements and swiftly flag violations.

³ Section 36(1) Advertising and Regulatory Council of Nigeria (ARCON) Act, 2022.

Implications of the Court's Decision for Foreign Entities Operating in Nigeria

The Federal High Court's decision has several implications for foreign entities seeking to advertise within Nigeria or reach Nigerian audiences through global campaigns. Below are the key legal implications that foreign entities ought to consider:

1. Registration and Licensing Requirements:

key implication of the Court's ruling is that foreign entities seeking to advertise within Nigeria must formally register with ARCON and obtain a valid license to carry out advertising activities.² This includes multinationals with Nigerian subsidiaries and other foreign entities targeting Nigerian consumers through localized campaigns. Following the Court's decision, registration is not limited to foreign entities operating in

Nigeria; it extends to any party, whether based in or outside Nigeria, that engages in advertising or marketing communications directed at the Nigerian market.

2. Mandatory Prior Vetting and Approval of All Advertising Materials:

Foreign entities must now ensure that every advertisement, regardless of the format or delivery channel, is submitted to ARCON for vetting and prior approval before it is published. This includes television commercials, website banners and product endorsements. Thus, advertising content that has not been vetted is considered illegal, even if it complies with international standards or has been approved by regulators in other jurisdictions.

² Section 21(1) Advertising Regulatory Council of Nigeria (ARCON) Act, 2022.

3. Increasing Need for Regulatory Alignment:

Foreign entities must now reconsider their approach to advertising in Nigeria by aligning their internal compliance structures with local advertising guidelines. This includes engaging a local counsel to assist with regulatory liaisons, creating timelines for ARCON approval within campaign schedules, and allocating budget and legal resources for compliance monitoring. Businesses that fail to make this shift may find themselves exposed to enforcement risks or unable to launch time-sensitive campaigns in Nigeria.

4. Non-Compliance Attracts Legal and Reputational Consequences:

Following the Court's decision, compliance with ARCON's requirements is not merely procedural but a legal obligation. This implies that non-compliant foreign entities risk enforcement actions, including removal of advertisements, disruption of marketing campaigns, reputational damage, and possible legal sanctions imposed by the Advertising Offences Tribunal.³

³ Section 34 Advertising Regulatory Council of Nigeria (ARCON) Act, 2022.

Strategic Compliance Measures for Foreign Entities

Following the Federal High Court's decision affirming ARCON's authority, it is essential for foreign businesses advertising in Nigeria to implement clear compliance strategies. Here are the key steps to consider:

1. Review Existing Advertising Practices

Foreign companies should conduct internal audits of all their marketing materials, both traditional and digital, to ensure they meet ARCON's standards. This includes checking for truthful content, cultural sensitivity, and proper approvals, especially for digital and influence-based campaigns.

2. Seek Local Legal Guidance

Engaging legal experts who understand Nigeria's advertising framework is crucial. They can offer tailored advice, help draft or update contracts with local agencies or media partners, and ensure all promotional materials are compliant before release. Legal support is also vital for

responding to any regulatory inquiries or enforcement actions.

3. Establish Internal Compliance Procedures

Companies should develop clear internal policies for advertising activities. This involves setting up approval workflows, assigning responsibility for regulatory checks, and ensuring no content is released without prior ARCON clearance. Embedding these procedures into overall corporate governance helps reduce risk and supports accountability.

4. Stay Updated on Regulatory Changes

Since ARCON regularly updates its guidelines, foreign entities must actively monitor changes. Subscribing to official updates, participating in industry discussions, and maintaining a compliance calendar are all effective ways to stay ahead and avoid non-compliance due to outdated practices.

Conclusion

In light of the Federal High Court's affirmation of ARCON's regulatory authority, the advertising landscape in Nigeria has entered a new phase of legal clarity and enforcement. As ARCON intensifies its oversight efforts, proactive compliance will be essential to avoid regulatory sanctions, protect brand reputation, and ensure uninterrupted market engagement in Nigeria. For foreign brands and multinational entities, this decision is not merely advisory but binding. It reinforces the urgent need

to realign advertising strategies with ARCON's requirements, including registration, licensing, and mandatory pre-approval of all marketing communications. Foreign entities are strongly advised to review their current advertising operations, ensure their local agencies and partners are duly licensed, and introduce internal compliance procedures that accommodate ARCON's vetting timelines and documentation standards.

About Stren & Blan Partners

Stren & Blan Partners is an innovative and dynamic Law Firm with a compelling blend of experienced lawyers and energetic talents. We are focused on providing solutions to our client's business problems and adding value to their businesses and commercial endeavours. This underpins our ethos as everything we do flows from these underlying principles.

Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our client's business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence.

Authors



Francisca Igboanugo

Team Lead

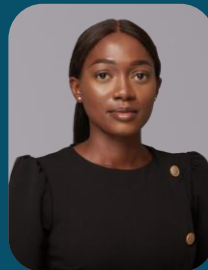
Franciscalgboanugo
@strenandblan.com



Ibitola Akanbi

Associate

IbitolaAkanbi
@strenandblan.com



Oghenemega Igbru

Associate

Oghenemegalgbu
@strenandblan.com



Onyinyechi Isikaku

Associate

OnyinyechiIsikaku
@strenandblan.com



+234 (0)702 558 0053
3 Theophilus Orji Street, Off Fola Osibo Road, Lekki Phase 1,
Lagos, Nigeria

www.strenandblan.com
contact@strenandblan.com
[@strenandblan](https://www.instagram.com/strenandblan)