

**THE NIGERIAN CONSUMER AND HOSPITALITY SERVICES:
INTERROGATION OF THE LAW AND POLICY**

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Abstract: *The Nigerian Tourism Sector is an evolving one in terms of law and policy as it affects the protection of the consumer of hospitality services. The need to adopt global best practices for enhanced consumer protection calls for the evaluation of the vexed and challenging issues that negatively affect guests and tourists in the Hospitality Industry via case by case review. The prevalence of unsatisfactory services rendered by the service providers called “Inn-keepers or hoteliers” and their employees, insecurity, inadequate protection of the chattels particularly the vehicles, defective facilities, misrepresentation, negligent driving and the facilities being used as a safe haven for the perpetration of criminal activities are common problems that have become endemic in the sector so much so that there are plethora of criticisms and calls for robust legal framework to effectively check the trend and regulate the industry. In the United Kingdom, the aforementioned issues have since been addressed by the enactment of the Hotel Proprietors Act of 1956. This paper is aimed at addressing issues bedevilling the hotelier-guest relationship, liability regime for negligence of the former in the tourism sector in the light of the regulatory framework with a view of improving consumer satisfaction in the hospitality industry. Advocacy for replication of law and policies from climes like the United Arab Emirates, United Kingdom, United States of America and Israel with experience and economic benefit with a view to portraying shortcomings, relevance and adaptation by the Nigerian Government at Federal, State and Local Government Levels. It is posited that when available legal and institutional policy framework is put in place as well as enforced in Nigeria. The degree of care owed by the hotelier to his guest and unsettled judicial conflicts between Hon. Justice Anya and Adeyi’s authorities will be addressed as it concerns the protection of the consumer in the tourism/hospitality sector.*

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1. INTRODUCTION

Hospitality services are a veritable and indispensable backbone that enables the tourism sector thrives as a major source of foreign exchange in any given country. The role played by tourism as an effective instrument in the generation of employment, internal revenue, preservation of culture, biodiversity, ecosystem, environmental enhancement/beautification, conservation of traditional history and facilitation of overall development of a nation cannot be overemphasised.

It is consequent upon the foregoing that almost every State in the Federation is putting in place an agency, ministry or department to deal with matters bothering on tourism and the hospitality sector for good economic returns. Cross River State, for instance, in a bid to provide legal and institutional framework enacted laws creating the Calabar Carnival Commission and the Cross River State Tourism Bureau.¹ In Practical terms, the State during

the administrations of Governors Donald Duke and Liyel Imoke revitalized and sustainably packaged some tourists' sites and events that attracted visitors from within and outside the country. Notable among them are the Obudu Ranch Resort which served as a holiday and realisation centre in the northern part of the State; the Ugep New Yam Festival which is used to celebrate Yam the "King of crops" in the central senatorial district of the State; the Tinapa Business and Leisure Resort; Marina Resort; Calabar Carnival and the Christmas Festival located in the southern part of the State.

In the light of the foregoing, since the development of tourism directly relates to tour, travels and hospitality, there has been rapid growth in the number of hotels in the State and the country in general. Since tourism is a multi-sectoral activity and hospitality operations constitute an important pedestal for that activity, the business of tourism and the services offered in the hospitality sector is subject to the basic principles of law enunciated by judicial authorities and legislative instruments in the event of disputes between the hoteliers/innkeepers and their guests. The commonly applied legal principles are those founded on the law of contract of law and law of torts with particular reference to the duty of care otherwise called neighbourliness principle wherein Lord Adkin established the tort of negligence in the *locus classicus* of *Donoghue v Stevenson*.²

The phenomenal growth of tourism around the world and developing countries necessitated the enactment of the Nigerian Tourism Development Corporation Act in 1992³ that established the Nigerian Tourism Development Corporation; the National Travel Bureau; State Tourism Board and the Local Government Tourism Committee statutorily saddled with functions of encouraging Nigerians and foreigners to visit tourist sites as part of their holiday activities; the provision and improvement of tourism amenities and facilities including the development of hotels and allied facilities, undertake research in the field of tourism, etc.⁴ as well as the effective implementation of the provisions of the Act for efficient service delivery for the protection of the consumer.

The issues bothering on consumer protection are multifarious and diverse. These follow complaints by guests/tourists relating to brazen sharp practices, poor service delivery, car theft within the premises of the tourist sites/hotels, nonchalant attitude towards genuine complaints, high tariffs, loss of properties of consumers and safety/security concerns. This work interrogates issues and proffers solutions for the enhanced protection of the Nigerian consumer who seeks to enjoy hospitality services within the current regime on the law and policy applicable to the tourism industry.

2. HOSPITALITY LAW

The term "hospitality" refers to generous and friendly disposition of a host, landlord, hotelier, innkeeper in the reception, treatment and entertainment of guests, visitors or strangers while hospitality law is that area of the consumer law that regulates the relationship between the owners and operators of hotels, inns, motels and the guests that patronises their products and services in terms of corresponding rights and responsibilities, burdens and benefits and liability and exceptions therein. Hospitality laws are applicable to hotels, inns, lodgings, guest houses, restaurants, motels, travel agents, and airlines – much of this body of laws equally control the activities of recreational facilities such as holiday resorts, theatres, night clubs and sports facilities.

It is on this substratum that some laws make specific provisions as to the amount to be paid in the event of loss to a guest's property. The United Kingdom Hotel Proprietors Act of 1956, for instance, stipulates that a hotel proprietor shall not be liable for the loss of or injury

to any property brought to his hotel to a greater amount than of £50 for one article or a total of £100 in the case of one guest unless:

- a) The property was stolen, lost or damaged through the neglect or wilful default of the hotel proprietor or his servant; or
- b) The property has been deposited expressly for safe custody with the hotel proprietor, in which case he may require them to be deposited in a box fastened and sealed by the person depositing them.

Conversely, various States have enacted laws in this regard. For instance, section 11 of the Hotel Proprietors Law,⁵ the Innkeepers Laws of Ogun State⁶; Oyo State⁷; and Ondo State⁸; and the others which are in *pari materia* with the aforementioned Lagos Law, provide strict liability for the innkeeper, particularly, in respect of the loss of a guest's motor vehicle in the inn. On the contrary, Cross River State Innkeepers and Hotel Proprietors Law⁹ and the Kaduna State Innkeepers and Hotel Proprietors Law, 1990 in sections 7(c) and 8(2) provide that there is no liability, except contracted for, in respect of motor vehicles or property therein.

Be that as it may, countries with well-developed hospitality industries are enacting hospitality laws to expressly modify the common law liability for innkeepers in recognition of the risks the innkeepers face as a result of the growth in the size of hotels, increase in the number of travellers and the difficulty of safeguarding property. That is, the way forward and that is the trend today. On this point, the United States of America in recognition of the unnecessary burden placed on modern-day hotels and innkeepers as a result of absolute liability. It is this line of reasoning that underlies the philosophy behind the position adopted in the laws enacted by the State Legislatures in limiting the liability of guests' property lost or damaged by the hotelkeepers or their agents provided the hotel proprietors or their employees follow stringent specific procedures such as posting notices¹⁰ to announce that the hotels' liability is limited and where a loss has occurred, paying a specific amount prescribed by statute to the guest regardless of the fact that the property may be worth more than the amount paid.

At the federal level, the Hospitality and Tourism Establishments (Registration, Grading and Classification) Regulations, 1995¹¹ has made copious provisions regarding the application for the registration of an entity as a Hospitality or Tourism Establishment upon payment of fees prescribed by the corporation;¹² conditions for the grant, refusal, revocation or suspension of certificate of registration;¹³ and the grading of Hospitality or Tourism Establishments as one, two, three, four and five star hotels as provided in the schedule to the Regulations¹⁴. Both the parent and subsidiary legislation that attempted to provide the legal and institutional framework for the regulation of tourism and the hospitality services is a welcome development but a lot more still needs to be done in the specifically in the area of consumer protection.¹⁵

3. HOTEL-GUEST RELATIONSHIP

A consumer in the hospitality business is called a guest. Therefore, the relationship between the hotel and the guest is created once the hotelkeeper accepts such an individual as a guest upon checking him into the hotel. More so, a person may become a guest by handing over his luggage to a porter or an operator of the hotel's limousine service. The hotel-guest relationship determines when the guest exits the hotel or ceases to occupy the position of a transient.

Before now, one who spends a night at an inn was regarded as a traveller; if he stays more than three nights he becomes a boarder. However, section 12 of the Innkeepers and Hotel Proprietors Law¹⁶ defines a guest to mean any person for whom sleeping accommodation has been reserved in the hotel. This statutory definition agrees with the judicial authority of *Bennett v Mellor*¹⁷ where the court held that the innkeeper-guest relationship arises in respect of a man who has come into Manchester on market day and called at an inn for a drink on his way home. The implication of this decision is that the position under the Common Law is that, it was not necessary, in order that a man is a guest, so as to fix the innkeeper with liability that he should have come for more than temporary refreshment. The aforesaid Common Law position was statutorily altered by the Hotel Proprietor Act 1956 applicable in the United Kingdom when it provides in section 2 as follows:

Without prejudice to any other liability incurred by him with respect to any property brought to the hotel, the proprietor of a hotel shall not be liable as an innkeeper to make good to any traveller any loss of or damage to such property except where:

- (a) At the time of the loss or damage sleeping accommodation at the hotel had been engaged for the traveller; and
- (b) The loss or damage occurred during the period commencing with the midnight immediately preceding and ending with the midnight immediately following a period for which the traveller was a guest at the hotel and entitled use the accommodation so engaged.¹⁸

Be that as it may, the word consumer enjoys a wider definition by virtue of the statute guaranteeing consumer protection in Nigeria. It provides.

“Consumer” includes any person- (a) who purchases or offers to purchase goods otherwise than for the purpose of resale but does not include a person who purchases any goods for the purpose of using them in the production or manufacture of any other goods or articles for sale; or (b) to whom a service is rendered¹⁹

Thus, being the principal legislation on consumer protection, the Federal Competition and Consumer Protection Act 2018 supersedes and overrides the provisions of any other law (inclusive of the Innkeepers and Hotel Proprietors Law) but only subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, in all matters relating to the protection of the consumer.²⁰

The combined effect of the foregoing is that, a consumer in the hospitality industry is a guest to whom hospitality services are rendered by operators, owners or agents of hotels, motels, guest houses, resorts, bars, clubs, restaurants, etc., and enjoys benefits and is obliged to fulfil certain obligations to the hotelier, innkeepers and operators, of the hotels, guest houses, motels, bars, tourist sites and allied facilities under the law.

4. STATUTORY DEFINITION OF SERVICE PROVIDERS IN THE HOSPITALITY SECTOR

The hospitality sector is subject to legal and statutory regulations. For instance, section 15 of the Hospitality and Tourism Establishment (Registration, Grading and Classification) Regulations, 1994 defines “hotels” to mean any building or numbers of buildings which are grouped together containing not less than ten bedrooms in which accommodation is provided for the public by a common management and enjoy ancillary

hotel services. While “hotel owner” means any person to whom a license to manage a hotel has been issued and include any person to whom a license has been transferred under these Regulations. Conversely, “motel” means a stopover accommodation establishment with or without sufficient packing space and may consist of a minimum of ten bedrooms.

In the same vein, the Regulation defined “commercial guest house” to mean an accommodation establishment or building with a minimum of five bedrooms. On the other hand, section 12 of the Innkeepers and Hotel Proprietors Law²¹ defined “inn” to mean an establishment held out by the keeper or proprietor as offering food or drink without special contract, to any person presenting himself who appears able and willing to pay a reasonable sum for the services and facilities provided and who is in a fit state to be received, and in the case of a hotel, which offers sleeping accommodation if so realised. Whereas “innkeeper” statutorily means the owner of an inn.

Service providers in the hospitality sector from a community reading of the foregoing statutory provisions refers to a hotel, motel, inn, guest house, relaxation centres, amusement parks, recreational enterprises, tour operation, tourism establishment, travel agents, hire services that are offered to guests and consumers of hospitality products and services within the contemplation of the law.

5. DUTIES OF THE OPERATORS OF HOSPITALITY SERVICES

In the relationship between consumers and owners of facilities offering hospitality products and services. The law has imposed some legal duties on the operators in the hospitality sector, to wit:

a. Mandatory Obligation to Receive Guests:

An innkeeper is under a statutory duty to receive any consumer presenting himself as requiring any of the services and facilities offered by the inn unless there is/are reasonable grounds for refusal²². Thus, where an innkeeper, hotelier or service provider²³ in the hospitality sector refuses to grant accommodation or neglect to offer consumers services as guests on the grounds of race, religion, colour or nationality, they would be held liable in breach of this statutory duty. Thus, in the case of *Constantine v Imperial Hotels Ltd.*²⁴ The plaintiff, a West Indian Cricketer, was refused accommodation at one of the defendant’s hotels on the grounds of his colour. Birkett, J., held that the defendants were in breach of their duty to provide lodging and accommodation to guest as owners/operator/agents or employees of inns and hotels. Again, the issue of discrimination based on the circumstances of birth or sex of the individual reared its ugly head in the *Zambian case of Longwe v Intercontinental Hotels*²⁵ where a plaintiff was refused entrance into the defendant’s hotel based on the rules put in place by the Hotel management to the effect that unaccompanied women should not be permitted entry. The court in allowing her petition ruled that: “the petitioner was discriminated against because she was a female... this was very naked discrimination against females on the basis of their sex by the hotel”

b. Taking Reasonable Care for the Safety of Guests

By the express provision of section 2 of the Law,²⁶ service providers in the hospitality sector are under statutory obligation to ensure that reasonable care has been taken in respect of the safety of their guests to forestall injury through any act of misconduct or negligence on the part of the service providers or their servants while the relationship with the consumer subsist. There is, therefore, a legally determined relationship between the service provider and the consumer in which the former is responsible for the protection of his guest. This issue

concerns the liability of the service provider when a guest is injured while participating in an activity at a location that is owned, managed or controlled by him or his servants.

Some courts have held the service provider liable while others are of divergent opinion. Thus, in *Fabend v Rosewood Hotels and Resorts LLC*,²⁷ the plaintiffs Richard and Margaret Fabend (a husband and wife) in February 1999 vacationed at the Cinnamon Bay Campground in the Virgin Islands National Park on St. John Limited States Virgin Islands operated by the defendants under a concession agreement with the National Parks Service. Richard Fabend was seriously injured while body surfing within the Park boundaries in a swimming area designated by the National Park Service adjacent to Cinnamon Bay Beach and near the campground. He then sued the defendants for breaching their duty as innkeepers from protecting their guest from unreasonable risk of harm. The defendants contended that they did not owe the plaintiff such duty because he was injured while away from an area in the premises outside their control. The court granted summary judgment in favour of the defendant while dismissing the claims of the plaintiff on the basis that he failed to establish that the beach was under the area controlled by the defendants where he was injured.

However, if a Service Provider has sufficient control of the property, adjacent to the area so that he is capable of taking reasonable actions to reduce the risk of injury to guests present on the main or adjacent property, such service provider would not be immune from liability when he fails to take such actions that are reasonable to prevent injury to a guest.²⁸ The basis for this principle of law is that the service provider knows much more about the hazards of his trade than the guest, and can take reasonable (cost-justified) steps to reduce them, while the guest can do little to protect himself against them.

It is in the light of the foregoing that Winter, CJ held in *Banks v Hyatt Corp.*²⁹ that holding a negligent innkeeper liable when there is a 3rd party (third) assault on the premises is sensible, not because of some abstract conceptual, notion about the risk arising within the course of the relation, but because the innkeeper is able to identify and carry out cost-Justified ('reasonable') preventive measures on the premises. If the innkeeper has sufficient control of the property adjacent to his premises so that he is capable of taking reasonable actions to reduce the risk of injury to guests present on the adjacent property, the innkeeper should not be immune from liability when his failure to take such actions results in an injury to a guest. As between innkeeper and guest, the innkeeper is the only one in the position to take the reasonably necessary acts to guard against the predictable risk of assaults. He is not an insurer, but he is obligated to take reasonable steps to minimise the risk to his guests within his sphere of control.

Conversely, the security measures adopted by Hyatt, especially the 'perimeter patrol' demonstrate that Hyatt had the power to take preventive action within the immediate surrounding area. As need above, the jury found that Hyatt did not go far enough allowing the jury's finding of negligence to stand should induce time measures covering both the premises of the hotel and such reasonable preventive action. The court went on to state as follows:

Our decision in this case is strongly influenced by the peculiar facts with which we are presented. Dr. Banks' death occurred only four feet from the entrance doors to the mall and hotel, underneath an overhang, that is actually the second floor of the complex and its immediate environs, and were capable of taking reasonable action to reduce the risk to guests and invitees in this areas...Hyatt's duty to its guests, however, does not embrace a responsibility to take reasonable precautionary measures. We reject Hyatt's argument that its duty cannot, as a matter of law, extend to the location of Dr. Bank's death.

6. DUTY OF SERVICE PROVIDERS TO ENSURE SAFETY OF GUESTS' GOODS

This statutory duty is imposed on service providers by the combined effect of section 3, 4, 5 and 6 of the Cross River State Innkeepers and Hotel Proprietors Law that makes provisions to the effect that a service provider is liable for loss or damage to the property of guests that occur within the premises of their facilities as a result of the misconduct or negligence of the operators or owners or their agents or employees. The legal implication of the stipulations of the law is that where a guest's property, vehicle, goods or chattel is stolen, lost or damaged within the premises of the hotel.³⁰ The hotel proprietor is liable for such property. The only exceptions are where he can successfully plead to the following exceptions: (a) act of God; (b) alien enemies; (c) guest's own negligence (d) motor vehicle left in the hotel therein.³¹

It is, therefore, necessary to establish the point that at common law Hotel Proprietors and Innkeepers and other service providers in the hospitality sector are strictly liable for the loss of the property brought by the guest to their premises. In this context property including luggage, personal effects, personal computer, phone gadget, and his car or trailer left therein. Thus, in *Shacklock v Ethorpe Ltd.*,³² the hotel was held liable by the court for the loss of the property of its guest. The facts of that case are that S brought jewellery worth £600 to a hotel and locked it in her dressing-case. She did not lock her room and the hotel was held liable. In defence, the hotel argued that S's conduct amounted to negligence, which was dismissed by the court.

7. DUTY TO REQUEST FROM GUEST REASONABLE OPPORTUNITY TO INSPECT GOODS OR CHATTEL

This duty is more of a right that doubles as a legal duty so that hospitality facilities are not used as instruments to perpetrate fraudulent, criminal and illegal activities. The law therefore provides in section 7 that it is lawful for the hotel proprietor or his servant to request the guest to give him reasonable opportunity to inspect the goods or chattels brought to the hotel premises to determine whether or not they are harmful, dangerous or otherwise unlawful to keep or for the purposes of proper storage, sealing or deposition in a box save or to reject the goods on the grounds aforementioned.

8. DUTY TO EXHIBIT STATUTORY NOTICE IN CONSPICUOUS PLACES

Every hotel proprietor has the legal duty to exhibit statutory notices as contained in the Schedule to the law, printed in the plain at the entrance, sleeping room and other conspicuous places in the hotel. The law requires the notice to be printed in English Language and Nigerian language widely spoken in the area where the hotel is situated.³³ This may have accounted for the popular board mounted at the car parks of the hotel's premises which read "cars are parked at owner's risk." Thus, the issue as to whether once a hotel has discharged the above duty, it automatically absolves itself of legal liability came up in *Imo Concorde Hotel v Anya*.³⁴ It is to be noted that what represents the correct position of the law in Nigeria as far as liability of hotel to its guest for cars parked in the hotel's premises is concern is the strict liability of the hotel to cars, goods and chattels lost within the premises of the facility as imposed by statutes. For example by the notice accompanying the schedule to the Cross River State innkeepers and hotel, certain circumstances exist for innkeepers and management liable to make good any loss of or damage to a guest's property even though it was not due to any fault of the proprietor or staff of the hotel.³⁵

Furthermore, by the tenor of section 142(3), 144(2) (3), 136 (3) (4), 127 of the Federal Competition and Consumer Protection Act 2018 and Section 4 (c) of the Cross River State Inn-keeper and Hotel Proprietors Law, that provides “a hotel proprietor is liable for the property of his guest which is lost, stolen or damaged within the premises of the hotel unless the damage or loss is in respect of a motor vehicle or property left therein is to the effect that irrespective of such exclusion clauses displayed in the hotel premises, same is not binding on the guest for the following reason.

First, the notices and exclusion clauses therein do not form part of the terms and conditions of the contractual relationship between the hotel and the guest. This point was illustrated in the case of *Olley v Marlborough Court Limited*³⁶ where a husband and wife arrived at a hotel and signed the register. They discovered a notice on entering the bedroom, disclaiming liability for loss to any guests’ property. Their property was later stolen from the hotel room and they sued. It was held that the exclusion clause was seen by them after the contract had been concluded, and their action succeeds.

Second, exclusion clauses cannot exempt liability for negligence not specifically covered by the words in the notice however extensive it may be. Hence, such an exclusion clause does not apply where there is a breach of a fundamental term³⁷ that has statutory flavour³⁸. More so, it is to be observed that the law is trite that for an exclusion clause to be binding on a party the content must form part of the contractual document and where it is not a contractual document it must be brought to the attention of the other party in this context the guest by the hotel or its employees.

With utmost deference to the Nigerian Apex Court, its decision in *Imo Concord Hotels Ltd. v Justice Anya* was reached per *incuriam*. This is because a hotelkeeper is liable for the damage caused to its guest by the negligent act of its servants, agents, employees and security men and that case, the hotel was liable as the theft of Hon. Justice Anya’s car occurred as a result of the negligent act of their employees who did not adhere to the standard procedure for checking cars in and out of the hotel premise. Our submission finds solace in the judicial authority of *Williams v. Owen*³⁹, thereby making the hotel in effect the insurer of the property goods, cars and chattels of the guest whilst at the hotel premises.

9. ADVERTISEMENT OF GUESTS PROPERTY SUBJECT TO LIEN BEFORE SALE

The duty for an innkeeper or hotel proprietor to advertise a notice in one newspaper circulating in the area where such goods or some of the chattels deposited or left by the guest equally qualify as the right an innkeeper or hotel proprietor can exercise under lien for unpaid debt for services rendered. Under the relevant provision of the law,⁴⁰ “goods” or “chattels” includes motor vehicles, trailers, wares or merchandise.⁴¹

In this regard, section 10⁴² expressly provides a Hotel Proprietor has a lien upon and may detain any property brought into the hotel by the guest as a guest, whether or not deposited with the hotel proprietor, for the price of the guest’s unpaid bill for board or lodging. Section 11 of the Law went on to grant the hotel proprietor additional right to absolutely sell and dispose of by public auction any goods, chattel or property belonging to a guest indebted to him for twelve weeks and the debt is still unsatisfied. But before such sale, the hotel proprietor will allow one month grace period before advertising same for sale. More so, where he successfully sells off the goods or part of the chattel, he is to satisfy the debt and where any surplus (if any) is remaining after such sale shall on-demand paid to such guest.⁴³

10. PROVISION OF SLEEPING ACCOMMODATION IN A HABITABLE CONDITION

One of the principal statutory duty and business in the hospitality sector is the provision of sleeping accommodation in a habitable, convenient and comfortable atmosphere in accordance with the grading of the facility. This position enjoys the statutory support of section 20⁴⁴ and the Hospitality and Tourism Establishment (Registration, Grading and Classification) Regulations, 1995. This legislative instrument stipulates the classification of Tourism Establishment and the Grading of hotels as one, two, three, four and five stars. By virtue of the provisions of the Regulations, “accommodation establishment⁴⁵ is defined as lodging or board establishment with a minimum of five lodging rooms provided for guests for monetary consideration; these may include Hotels, Motels, Guest Houses, and Guest Inn, Holiday Resorts, Recreational Centres.

To this end, the 1995 Regulations require that the accommodation provided by service providers to guests for lodging must meet the following conditions:

- i. The locality and environment including approach shall be clean, well animated and suitable for a good hotel;
- ii. Clean linen of superior quality, together with pillows, bedding blankets and bed covers supplied each new guest and changed daily;
- iii. Proper lighting in a well-ventilated environment;
- iv. Modern facilities in the bathroom;
- v. Adequate precautions against fire together with firefighting equipment shall be provided to avoid electricity and gas accidents. etc.

Thus, where a guest finds out that the hotel or hospitality facility he has boarded for accommodations is uninhabitable or falls short of the standard provided by law, he may institute an action against the service provider. Although a case dealing with landlord and tenant lease, however, since the principle is relevant to our discussion, we shall rely on it in the absence of local authorities on the subject. The judicial authority is *Baillie v Savage*⁴⁶ where the claimant a tenant of the defendant land successfully instituted an action claiming entitlement for the repayment of the two years rent he paid in full upfront on the basis that the property is an “uninhabitable premises”. The landlord appealed against the decision. The Appellate Court held that since a wall in the building had partially collapsed in the property during the tenancy and the key issue whether the property has been rendered uninhabitable, it was decided that the premises were potentially dangerous according to expert evidence that showed real risk of further damage. The property was therefore declared unfit for occupation and the appeal accordingly dismissed.

An aggrieved guest could explore the principle of law enunciated in the above case where he finds the accommodation he boarded has not met the minimum standard stipulated by statute or that the premises are unfit for human habitation.⁴⁷ In recent years, there have been many cases of consumers suing hotels and claiming being bitten by bed bug during their stay by claiming compensation for loss of wages, reimbursement for travel costs or cancellation of vacation; skin disfigurement and scarring’ emotional distress; anxiety; sleeplessness; pain and suffering; negligence; nuisance; breach of implied warranty of habitation; battery; fraud; discarded property such as clothes and cost related to bringing a bed bug infestation home. To maintain a successful action the guest should provide evidence of:

- i. Medical treatment;
- ii. Pictorial representation of the bites;

- iii. Sign of bed bugs in the room bloodstains in the mattress;
- iv. Report incident to the hotel;
- v. Record time/person taking a report.

11. CHALLENGES ENCOUNTERED BY CONSUMERS IN THE HOSPITALITY INDUSTRY

The Nigerian consumer in the hospitality sector is faced with a lot of challenges that act as inhibitions to the enjoyment of the facilities offered by service providers and which in turn affect his satisfaction as a guest. These problems shall be discussed below:

a. Statutory Limits for Hotel Proprietor's Liability

By virtue of the express provision of section 6 of the Cross River State Innkeepers and Hotel Proprietorship Law, a guest is greeted with a legislative instrument that has provided for the maximum amount of damage that can be incurred by a hotel proprietor who is liable to make good the loss or damage to property of a guest. For the avoidance of doubt the section is reproduced *verbatim ad literatim in extension*, thus:

Where a hotel proprietor is liable to make good the loss of or any damage to property brought to the hotel, his liability to any one guest shall not exceed five hundred naira in respect of any one article, or two thousand naira in the aggregate, except where-

- i) The property was stolen, lost or damaged through the default, neglect or wilful act of the hotel proprietor or some servant of his; or*
- ii) The property was deposited by or on behalf of the guest expressly for safe custody with the hotel proprietor or some servant of his authorised, or appearing to be authorised, for the purpose; or*
- iii) At a time after the guest had arrived at the hotel either the property in question was offered for deposit aforesaid and the hotel proprietor or his servant refused to receive it, or the guest or some other guest acting on his behalf wished so to offer the property in question but through the default of the hotel proprietor or his servant, was unable to do so.*

The simple legal implication of the foregoing statutory limits placed on the liability of hotel proprietors is to the effect that failure of a consumer to prove negligence, deposition or pinpoint an employee who must be so authorised by virtue of his job description is that such a guest can be entitled to a total aggregate sum of ₦2000 (two thousand naira) for any and all his articles, chattels, property or goods stolen, damaged or lost within the premises of the facility. In the first place this shows the lackadaisical attitude of the legislature in the periodic review of our laws. This is evident in the fact that the current law has existed for more than two decades.⁴⁸ Also, no serious consumer will end up spending at least two hundred thousand naira in the least which covers filing a lawsuit and employing the services of a lawyer just to be awarded two thousand naira aggregate sum in total as damages if the action succeeds or five hundred naira if the article lost, stolen or damaged was just one. To say the least, the aforesaid practice of placing limit to the amount recoverable by the consumer is a serious impediment by the legislature to consumer protection.⁴⁹ Similarly, the amount of ₦2000 or ₦500 is not in tune with present-day reality wherein a dollar and pound sterling is almost equals to five hundred naira. That provision is laughable, annoying and frustrating and therefore should either be totally abrogated or amended to reflect current economic reality in the country that should run into millions of naira if at all there is a need to place any legal

restriction on the liability to be incurred by the hotel proprietor or service providers in the hospitality industry.

12. JUDICIAL RELIANCE ON TECHNICALITIES INSTEAD OF DOING JUSTICE

It is quite unfortunate that till date there are conflicting authorities as to the liability of hotel proprietors and innkeepers in respect of lost, theft or damage to vehicles parked within its premises by a guest who lodged in such facility. The issue is even more worrisome when the highest temple of justice in the land leans more on the side of legal technicalities instead doing justice on the merit of a case as it concerns the liability of hotel proprietors and service providers to cars parked in their premises *vis-a-vis* the display of notices that reads “cars are parked at owner’s risk”.

This vexed challenge can be illustrated by the often criticised case of *Imo Concorde Hotels v Justice Anya*. In that case, Justice Kalu Anya a retired Honourable Justice of the Court of Appeal on December 19, 1986 arrived at the entrance of the Appellant in his Peugeot 505 SR A/C. He interacted with the security men, who registered the number of his car and issued him with a plastic disc number 102. He eventually checked into room 322 after locking his car with the keys in his pocket. The following morning, he came out to drive his car away to the book launch he came to Owerri for only to discover to his chagrin that the car was no longer to be found.

Consequently, he sued the hotel and its security men. In their defence, the hotel admitted that it had parking facilities in its premises for the car of visitors and that it posted security men in and around the hotel to look after the cars so parked and in addition it secured the services of policemen in the hotel at all times. It, therefore, denied liability for the theft of the respondent’s car while contending that he was not charged any fees for parking in its premises and that it has conspicuously displayed the notice at the car park and entrance of the hotel that “cars are parked at owner’s risk”. Furthermore, the Appellant explained that the Respondent’s car was stolen when the security men raised the iron barrier at the gate for another vehicle that the robbers emerged with great speed without stopping for the necessary formalities and security checks. At the trial court, judgment was entered in favour of the learned retired Justice and damages awarded to him in the value of his car, general damages and cost of litigation. Dissatisfied by the Judgement of the court at first instance, the hotel appealed to the court of Appeal which allowed the appeal and overturned the decision of the High Court. Justice Anya then appealed to the Supreme Court of Nigeria that dismissed his appeal and upheld the judgement of the Court of Appeal. The Apex Court’s decision is to the effect that the hotel was not liable for the loss of Justice Anya’s car because it owed him no duty to take care of his car.

Surprisingly, four years later, the same Court of Appeal that held that Imo Concord Hotel did not owe Hon. Justice Anya duty of care overruled itself in the case of *Hill Station Ltd. v Adeyi*.⁵⁰ The facts of the instant case are that Adeyi a sub-manager of Union Bank Plc was a guest at the Hill Station Hotel has gone to the hotel in his personal car on July 3, 1991. On October 30, 1991 whilst still a guest of the hotel, he returned to the hotel in the evening and was issued a gate pass in respect of his Peugeot 504 Saloon car, which he parked near Block C building in which was located Room 508 which he occupied in spite of the fact that he applied three different security gadgets in the car namely a fuel lock, steering lock and engine cut-off, he was amazed when he woke in the morning of October 31, 1991 to discover that his car had disappeared. Adeyi then instituted action against the hotel for the estimated value of his car and damages. The learned trial Judge held that Adeyi was entitled to the sum

so estimated as the value of the car and awarded him damages. On appeal to the Court Appeal, Edozie, JCA (as he then was) in dismissing the appeal of the hotel for lack of merit summarized the position of the law as follows:

The liability of a hotel proprietor for the loss of his guest's property is strict and absence of negligence is no defence. That is, it arises without proof of negligence on his part but subject to certain condition, the liability can be limited in amount. The strict liability imposed on a hotel proprietor in respect of a guest's goods only attached where the goods are within the hospitium of the inn. The goods need not be in the special keeping of the hotel proprietor to render him liable. The hospitium precincts so intimately related to them as to be treated for this purpose as forming part of them. It an innkeeper motor-cars on his premises, he is responsible for their safety. In this case, having regard to the security arrangement at the hotel whereby ingress and egress of vehicles at the hotel for the safety of customers' vehicles, it is futile to argue that the vehicles let into the hotel premises are not entrusted to the care of the hotel.⁵¹

13. INFRASTRUCTURAL DEFICIT

Another challenge faced by consumers in the hospitality sector is poor infrastructural and social amenities. It is no longer news that Nigerian roads are now christened death traps and most of the tourists' sites are located in rural areas that lacked accessible roads. Conversely, the rail system is in a state of comatose not to even mention our airports and the aeroplanes that fly in our airspace. These factors have negatively mitigated against the growth of the hospitality sector due to low patronage from within and outside the country thereby depriving the country of foreign revenue despite the huge potentials the industry carries.

14. POOR SERVICE DELIVERY BY THE OPERATORS IN THE HOSPITALITY INDUSTRY

The quest to maximise profit instead of hospitality services for the comfort, convenience and satisfaction of the consumers have driven every Tom, Dick and Harry into the Industry. It is therefore not uncommon to find across the nooks and crannies of every major city in Nigeria hotels, motels, restaurants and allied establishments that in turn employ unqualified personnel to manage their facilities. Of course, these quack employees offer poor services to the dissatisfaction of their guests who do not enjoy the value for their money. Equally, the epileptic power supply in the country adversely has ripple effect on the hospitality industry coupled with hike in fuel price/scarcity of petroleum products which in turn make some guests in some hotels to sleep in darkness and untold discomfort.

15. SECURITY CHALLENGES

The guests are faced with security challenges. The story of Cynthia that was murdered at a hotel in Lagos is still fresh in our memory and if not for the circuit television (CCTV) installed in the hotel that assisted the hotel management and the police to apprehend the perpetrators of this dastardly act, the offenders would have gone unpunished. The question then is how many hotels, inns, motels, bars, restaurants, etc. can afford to install functional CCTV Cameras in their facilities to check crime being committed in their premises?⁵² Closely related is the issue of hotels guaranteeing the privacy of guests who lodges in their facilities.

16. DELAY IN THE DISPENSATION OF JUSTICE

The guest who may have a good case with chances of successfully maintaining an action against the service provider may be discouraged by the technicalities and several adjournments that are inherent in our judicial process that brings about delay in the dispensation of justice. This factor is a challenge to the consumer who wishes to enforce his right; apart from the very fact that the cost of litigation in Nigeria is very high. For instance, the *Hon. Justice Anya v. Imo Concorde Hotels*⁵³ case took about fifteen years from the court of the first instance to the Apex Court.

17. POLITICAL WILL POWER IN THE CONTROL OF SERVICE PROVIDERS

One keeps wondering with the proliferation of hotels, inns, motels, restaurants, clubs, etc. All over the place; whether the authorities saddled with the responsibility to issue a license, exercise control and inspect these facilities are not blinded by bribe and corrupt practices. Or could it be true that corruption is the order of the day in the hospitality industry? If that is the situation, then the safety and satisfactory services of the consumer is highly compromised and jeopardized.

18. NIGERIAN POLICY ON TOURISM AND THE HOSPITALITY INDUSTRY

A policy can be viewed as a well thought out plan or course of action, laid down by an organisation or the government as a guide towards the achievement of identified goals and objectives. It involves the process of setting goals, developing strategies, and outlining tasks and schedules to accomplish the goals.⁵³ The Nigerian policy in the hospitality sector and tourism industry has to do with governmental policies, rules, regulations, legal and institutional framework set to drive the process established to guide, control, supervise, and manage the enterprise, businesses and affairs/players in the industry in order to ensure the promotion, development and the strategic deployment and maximization of the potentials in the sector to grow the economy.

These policies may be short-term, medium-term and long term which affect how the day-to-day operational interactive activities in the tourism sector in Nigeria work together in the marketing, attraction of foreign investors, reception of visitors and map out programmes as well as events that would grow the economy and attract earnings. Agbeji⁵⁴ has therefore lamented that:

Tourism policy, planning and governance in Nigeria are yet to achieve the desired sustainable growth and development of the tourism industry. The transformation of the sector into socio-economic viability, dependability and possible alternative to oil which is the current mainstay of the Nigeria economy is yet to see the light of the day.

The Nigerian government showed seriousness in its development strides and action plan in the industry where she launched the tourism master plan in November 2007. By the content of the master plan, the perceived economic impact of tourism on the Nigerian economy when fully implemented is explained. The efforts of government can also be seen in the enactment of laws at both Federal and State levels and the creation of institutions to execute government policies in this regards.

To this end, the Nigerian Tourism Development Corporation Act⁵⁵ established the Nigerian Tourism Development Corporation to oversee the activities, policies and programmes of tourism all over the Federation⁵⁶ and State Tourism Board with similar statutory functions at the State level.⁵⁷ In the same vein, the Act established the Local

Government Tourism Committee at the Local Government level.⁵⁸ The industry is headed by a minister charged with responsibility for tourism matters in the Federal Ministry of Culture and Tourism.⁵⁹ At the state levels like Cross River State, there is a legislative instrument creating the Cross River State Tourism Bureau⁶⁰ and Tourism Committee in each of the 18 Local Government Areas of the State.⁶¹

According to the government's policy, the industry is to run an institute called the Nigerian Institute for Hospitality and Tourism charged with the responsibility for the training of tourism professionals. Thus, for competent staff and adequate manpower, it is proposed that at least 500 tourism training schools to produce responsible and dedicated professionals that would fully administer the sector for satisfactory service delivery to consumers be established across the country.⁶² At present the sector is majorly funded by budgetary provisions allocated to the ministry of Tourism, Culture and National Orientation. Although this annual budgetary funding is grossly inadequate which in turn hamper the growth and development of the industry.

In a bid to diversify the Nigerian economy, the Nigerian government took a cardinal interest by keying into the Millennium Development Goals campaign championed by the United Nations in 2005. So since Nigeria has enormous potentials for driving national development to help achieve set goals. The Federal Government harnessed the nation's comparative advantage in the hospitality and tourism industry. To this end, the policy trust of Nigeria is the development of sustainable tourism by leveraging on heritage diversity as the basis for promoting domestic and international tourism. In this respect, Nigeria aims at becoming a major tourist destination in Africa within the confines of world market via the medium of development of tourism of international tourism and promotion of domestic tourism.⁶³

By the tourism policy in Nigeria, Nigerian consumers are encouraged to utilize tourism facilities in the country by spending their vacations especially during the harmattan seasons of November and December. In this regards the following objectives of the Nigerian tourism policy are outlined:

- i) To encourage community and public partnerships in tourism development
- ii) To generate foreign exchange, enhance income redistribution, alleviate poverty and create employment.
- iii) To promote geopolitical integration, healthy international cooperation and understanding; and
- iv) To ensure environmental sustainability in the development of tourism resources.⁶⁴

19. CONCLUSION

Tourism and the hospitality industry offers enormous opportunities and stupendous contributions to the development and growth of the world economy. We have featured multifaceted tourism potentials in Nigeria that when fully harnessed within the legal and institutional framework provided by the various laws and policies can positively transform the socio-economic dynamics and reinforce the sense of national identity. A review of the Nigerian Tourism policy as discussed above and holistic implementation of the recommendations below will assist in addressing the critical challenges acting as constraints towards the advancement of tourism at all strata of government.

The paper shows that at Common Law the service providers in the hospitality industry are strictly liable for the loss, theft or damage to any of the property, goods or chattel of consumers who patronise their services as guests once it occurred within the premises of the facilities within their control. It is revealed that service providers will be absolved of liability

if it is proven that the loss, theft or damage occurred as an act of God, by an alien enemy or as a result of the negligence of the guest themselves. In recent times, the courts are of the firm view that there is no need to prove negligence on the part of the service providers or their employees for them to incur liability. Subject to the aforementioned exceptions, the strict liability applies irrespective of the cause of loss, the value of the property, or whether the property in question was delivered to the service providers or their employees, servants or agents for safekeeping or not as clearly demonstrated by the dictum of Edozie, JCA in *Hill Station Ltd. v Adeyi*⁶⁵.

To this end, countries with well-developed hospitality industries are enacting laws to expressly modify this Common Law position on liability for the service providers in recognition of the risks faced by them as result of the growth of the size of guests and the difficulty associated with safeguarding properties. Our analysis equally covered the conflicting decisions of the Supreme Court in Justice Anya's case and the Court of Appeal's decision in the case of Adeyi on the extent of liability of a service provider to the vehicle of a consumer parked within its premises in spite of the presence of the exemption clause "cars are parked at owner's risk". This judicial review is vital as Anya's authority remains binding though with due respect to the Apex Court we are of the humble opinion that that decision was reached *per incuriam* and the Court of Appeal's judgment in Adeyi's case that though is persuasive but represent the correct position of the law not just in Nigeria but the world over (the United Kingdom and the United States of America inclusive).

20. RECOMMENDATIONS

Having interrogated the challenges inherent within the Law and Policy on the Nigerian consumer in the hospitality industry, the authors submit that the Nigerian Tourism Development Corporation Act; Cross River State Tourism Bureau Law; Cross River State Innkeepers and Hotel Proprietors Law and the Federal Competition and Consumer Protection Act are due for legislative review and amendments in order to enhance the protection of consumers who patronise hospitality services.

Furthermore, the law should provide an even playing ground for the consumers and the operators/owners of hospitality facilities for the purpose of maximizing profit. By this approach, the interest of the guest and that of the service providers should be balanced. That will provide the way forward and correspond with the current trend across several jurisdictions. For instance, in the United States of America, the position of the law is that absolute liability is unnecessarily burdensome on modern-day holiday resort owners, innkeepers, hotel proprietors and operators of motels. Thus, all the States legislature have adopted statutes that will limit the liability of service providers for loss, theft and damage to guests' properties provided they follow stringent rules of engagement, abide by the standards, follow the ethics and comply with procedures applicable to the hospitality sector and tourism industry in general. This approach is recommended for legislation in Nigeria with suitable modification to conform to the peculiarities of our environment.

In addition, the laws on tourism and the hospitality sector should be amended to vest jurisdiction to hear matters on this area of the law on the Federal High Court, States High Court, High Court of the Federal Capital Territory and the Magistrates Courts by way of providing consumers unfettered access to the temple of justice in a bid to seek for redress for defective service. This is to avoid the congestion of matters in the Competition and Consumer Protection Tribunal⁶⁶ located only in Abuja and maybe Lagos.

More so, in the light of the conflicting judicial authorities of the Nigerian Supreme Court and the Court of Appeal on the liability of hotel proprietors to cars of their guests

parked in their premises. The situation calls for a reinterpretation of the law and specific provisions in the legislation embodying stringent conditions relating to security, develop the industry and introduce certainty in order to settle the confusion created by the courts. In the interim we hope that the Supreme Court will be bold enough to overrule itself in Anya's case by upholding the correct position of the law as decided by the Court of Appeal in the Adeyi's case when next opportunity presents itself. The courts can also by way of judicial review of legislative instrument declare certain obnoxious provisions of the laws on hospitality excluding or limiting liability null and void in conformity with the current position of the law on the subject.

Also, service providers in the hospitality sector must ensure that they employ staff with the requisite skills, competence and passion so as to offer satisfactory services that meet international standards to their guests. It is equally important for the government to place a priority on tourism through increase funding to provide training institutions to promote professionalism in the tourism industry and address the challenges of poor infrastructures, insecurity, eco-tourism, transportation and communication, marketing and expansion. Conversely, the privacy of their guests should be respected and protected while crimes should be reported to the law enforcement agencies so they would not be regarded as accessories before the fact or accessories after the act by way of installation of functional CCTV cameras and other modern gadgets.

Conversely, there is an urgent call for consumer campaigns, workshops, seminars and introduction into the school's curricula at all levels of education by the Federal, State and Local Government as well as Consumer Advocacy Groups as to enlighten consumers on their rights and the remedies under the law for redress where defective services are provided by service providers in the hospitality sector. In the same vein, regulatory agencies should demonstrate political will, shun bribery and corruption by ensuring compliance by service providers in the tourism industry with the provisions of the law. The need for the Nigerian Tourism Development Corporation, Cross River State Tourism Bureau and Ministry of Tourism and Culture to partner and form a synergy with private sector and other public agencies has become critical and urgent as government alone cannot do it if tourism must become the vehicle of development that will act as the catalyst for the Nigerian economy.

REFERANCES

¹ Cross River Tourism Bureau Law, Cap T2 Laws of Cross River State of Nigeria, 2004

² [1992] AC 562

³ Cap N137, Laws of the Federation of Nigeria, 2004

⁴ *Ibid*, section 4

⁵ Cap. 64 Laws of Lagos State, 1994 repealed section 3 of the Inn-keepers Law Cap 56 of 1958 applicable to Lagos State

⁶ Cap. 49, 1978

⁷ Cap. 51, 1978

⁸ Cap. 50, 1978

⁹ Cap 15 Laws of Cross River State of Nigeria, 2004

¹⁰ Section 15(2) (b) NTDC Act

¹¹ Sequel to section 4 (2) and section 20 of NTDC Act

¹² Section 1 Hospitality and Tourism Establishments (Registration, Grading and Classification) Regulations, 1995

- ¹³Sections 2, 4, 5 of THE (R & C) Regulations
- ¹⁴Sections 9 and 10 of THE (R & C) Regulations
- ¹⁵Nigerian Tourism Development Corporation Act and Hospitality and Tourism Establishments (Registration, Grading and Classification) Regulations
- ¹⁶Cap I5 Laws of Cross River State, 2004
- ¹⁷(1793) 5 Term Rep 273
- ¹⁸Section 2(1) (a) (b) Hotel Proprietors Act 1956 (UK); Section 3 of the Kaduna State Innkeepers and Hotel Proprietors Law, 1990
- ¹⁹Section 167 (1) Federal Competition and Consumer Protection Act, 2018
- ²⁰Section 104 Federal Competition and Consumer Protection Act, 2018
- ²¹Cap. I5 Laws of Cross River State, 2004
- ²²Section 1 of the Innkeepers and Hotel Proprietors Law, Cap I5, 2004
- ²³[1944] KB 693
- ²⁴The term Service Providers is a generic and general term that refers to innkeepers, hoteliers, tourist/tour guides/couches, operators of motels, amusement parks, leisure, relaxation parks, centres, holiday resorts, etc.
- ²⁵(High Court of Zambia, 4 November, 1992) cf Eni Eja Alobo, *Criminal Law and Sexual Offences in Nigeria* (Lagos: Princeton & Associates Publishing Co., 2016) 274
- ²⁶Innkeepers and Hotel Proprietors Law of Cross River State Cap I5, 2004
- ²⁷(2002) 181 F. Supp. 2d 439; (2001) 174 F. Supp 2d 356; *Poleyeff v Seville Beach Hotel* (2001) 782 So. 2d 422 (Fla Dist. Ct. App.)
- ²⁸*Banks v Hyatt Corp*; (1984) 722 F. 2d 214, 226-27 (5th Cir.)
- ²⁹*Supra*, 731 P.888 Cited from John E. H. Sherry, 'The Business & Economics 1993, Laws of Innkeepers; for Hotels, Motels, Restaurants, and Clubs' <<https://books.google.com.ng>> Accessed on 23rd July, 2019.
- ³⁰Section 4 (a) (b) of Innkeepers and Hotel Proprietors Law, Cross River State, 2004
- ³¹Section 4(b) and 3 Innkeepers and Hotel Proprietors Law of Cross River State, 2004
- ³²[1939] 3 All ER 372; (1939) 55 T.L.R. 895
- ³³Section 9 of Innkeepers and Hotel Proprietors Law of Cross River State, 2004
- ³⁴[1992] 4 NWLR (Pt. 234) 210
- ³⁵Paragraph of the Notice in the schedule to Cross River State Innkeepers and Hotel Proprietors Law, 2004
- ³⁶(1949) 1 KB 532
- ³⁷*DHL International Nigeria Ltd. v Udechekwu Chidi* [1994] 2 NWLR (Pt. 329) 720 at 735 per Edozie, JCA
- ³⁸Hospitality and Tourism Establishments (Registration, Grading and Classification) Regulations, 1995 sequel to sections 4 (2) & 20 of NTDC Act
- ³⁹[1955] 1 WLR 1293
- ⁴⁰Sections 10 and 11 of Cross River State Innkeepers and Hotel Proprietors Law, 2004
- ⁴¹Section 11(5) of the Law Overrides the Decision in *Shacklock v Ethorpe Ltd.*, *Supra* that property does not include motor Vehicle
- ⁴²Innkeepers and Hotel Proprietors Law of Cross River State, 2004
- ⁴³*Shacklock v Ethorpe* [1939] 3 All 372; *Marsh v. Commissioner of Police (McGee)* [1944] 1 KB 99 held that a hotel proprietor acquired possession of chattels belonging to his guest as luggage in his capacity as innkeepers or as pledgee to secure payment of his bill, prove the determining factor in a given case.
- ⁴⁴National Tourism Development Act Cap N137, LFN, 2004
- ⁴⁵Paragraph 15 of the Regulations, 1995

⁴⁶[2018] EWHC 3035 (Chancery Division)

⁴⁷*James E. Knight v Maria Halls Hausthammar* [1981] L.A.NO. 31235SC

⁴⁸1991 to 2019 is 28 years, that is, the Cross River State Innkeepers and Hotel Proprietors Law has been in existence for twenty eight years without review and amendments in the light of present day reality in respect of the value of the naira in the exchange market.

⁴⁹Similar provisions can be seen in section 2(3) (a) (b) (c) of the United Kingdom Hotel Proprietors Act 1956 where liability of limited to £50 (fifty pounds) for one article and £100 (hundred pounds) in the aggregate for one guest.

⁵⁰At the Supreme Court is cited as *Anya v. Imo Concorde Hotel Ltd.* [2002] 18 NWLR (pt. 799) 377; (2002) 12 SC (Pt. 11) 77

⁵¹[1996] 4 NWLR (Pt. 442) 294

⁵²This legal reasoning represents the current and correct position of the law not only in Nigeria but in jurisdictions like the United Kingdom and the United states of America as can be deduced from the decisions of the Courts in *Creighton v Delisle Union Memorial Hospital* (1962) 34 DLR (2d) 606; *William v. Linnett* (1951) 1 All ER 278; *Pringle v Price* (1970) 73 W.W.R. 705.

⁵³*Imo Concord Hotel v Anya, Supra; Mccarty v Pheasant Run, Inc.* (1987) F.2d 1554 (7th Cir.); *Nordmann v National Hotel Co.* (1970) 425 1103, 1107 (5th Cir.).

⁵⁴Pius A. Agbegbi, 'Exploring Tourism Policy Planning and Governance in the Transformation of Nigeria Economy' [2014] (3) (3) *Journal of Tourism & Hospitality* <https://www.longdom.org/open-access/exploring-tourism-policy-planning-and-governance-2167-0264-1000129.pdf> Accessed 19th July 2019

⁵⁵*Ibid*

⁵⁶Cap N137, LFN, 2004

⁵⁷S.1 NTDC Act Cap N137, LFN, 2004

⁵⁸S.7 NTDC Act, LFN, 2004

⁵⁹S.10 NTDC Act, 2004

⁶⁰S.22 NTDC Act 2004

⁶¹Section 1 Cross River State Tourism Bureau Law Cap T2 Laws of Cross River State, 2004

⁶²Section 11 of Cross River Tourism Bureau Law, 2004

⁶³Agbegbi, *Op. Cit.*

⁶⁴Basse Frederick and Egon Christian, 'Nigerian Tourism Policy: A Critical Appraisal and Re-Appraisal [2016] (20) *Journal of Tourism and Sport* <https://iiste.org/Journals/Index/php/JTHS/article/viewfile/3,7,8/32590> Accessed 19th July 2019

⁶⁵*Supra*

⁶⁶Sections 39 and 55 of the Federal Competition and Consumer Protection Act, 2018