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REVIEW ARTICLE

Strengthening Nigeria's Digital Money Lending Ecosystem

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Abstract
The article examines the proliferation of short-term, unsecured credit offered by digital money lenders (DMLs) in Nigeria, with a focus on abusive debt collection practices such as unauthorised disclosure of personal information, the use of threats and the defamation of borrowers, often disregarding existing financial consumer safeguards. To balance the growth of digital lending with recognised consumer safeguards, the study employs a doctrinal research approach to assess consumer protection mechanisms within Nigeria's legal and institutional framework. The article proposes several recommendations, including promoting consumer awareness, expanding judicial and administrative channels of reporting and redress, improving and publishing regulatory activities, introducing fair digital lending rules, employing Enforcement Technology to facilitate monitoring and redress, fostering industry collaboration in data sharing, expanding the scope of formal entities providing credit, simplifying access to formal credit and strengthening credit reporting. These measures aim to establish a sustainable, inclusive and empowering digital lending environment for all stakeholders.

Keywords Debt recovery practices · Digital money lending, Online lending · Financial consumer protection · Fintech regulation · Mobile loan apps · Uncollateralised lending

Background

Digital loans are uncollateralised, quick and convenient loans accessed electronically without physical visits, rigorous screenings or identification documents (ID) (Metro Bank, 2024). Digital loans are accessible through applications on mobile phones, computers and tablets. While Nigeria's lending landscape has traditionally been dominated by traditional financial institutions like deposit money banks (DMBs) and microfinance banks (MFIs), online lenders have emerged more prominently in recent times (Central Bank of Nigeria [CBN], 2024).

Banks employ stricter eligibility criteria compared to DMLs. For instance, Access Bank of Nigeria requires a completed application form, employee status inquiry/employer's confirmation form, proof of employment such as a confirmation letter or most recent promotion letter, copies of employment letters and personal identification,

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a Bank Verification Number (BVN), credit checks and a letter of lien/set off (Access Bank, 2024). Similarly, the United Bank of Africa offers personal loans starting at ₦200,000 to salary earners, disbursed into a salary account with the bank (United Bank of Africa, 2024). Applicants must provide valid identification, an employer's undertaking to domicile salary with the bank, an offer letter or employee inquiry form detailing job information and the obligor's staff ID (United Bank of Africa, 2024). These requirements indicate that prospective borrowers must be employed or self-employed and involve employers in the loan application process, even though borrowers may prefer their financial transactions to be private.

These stringent lending requirements primarily benefit high-net-worth clients, who are perceived as less likely to default, can provide the requested documentation and own conventional collateral such as real estate (Omede, 2020, pp. 527, 529). Additionally, Nigeria's expanding credit reporting system, while still grappling with issues like data integrity, reporting delays and low participation of non-bank financial institutions, tends to favour corporate organisations and the wealthy at the expense of low-income earners (Omede, 2020, p. 536). The Central Bank of Nigeria's (CBN) exclusion of alternative finance services providers (FSPs) such as telecommunications companies, retail chains, mobile money operators, postal or courier services, switching companies, fintechs and financial holding companies from lending restricts the potential for healthy competition that could enhance loan access (Guidelines 4.2, 5). This exclusion also overlooks the opportunity to optimise innovative credit assessment using algorithms, broaden access point coverage, expand the customer base, and lower the marginal cost of service delivery (Omede, 2020, pp. 527, 529).

The strain of the COVID-19 lockdown, including rising unemployment and economic downturn, has increased personal debt management issues, prompting many to turn to uncollateralised digital loans (Adebiyi, 2022). These loans, offered by various mobile apps offered on the Apple App Store and Google Play Store, are quick and paperless, often requiring only a borrower's valid BVN and permission to access personal information on their devices (Iremeka, 2021). A credit score is determined by some DMLs by the amount of personal data provided when applying, which could be used if a default occurs (Sanni, 2021).

While this has made loans more accessible, the simplicity of the process, lack of thorough creditworthiness checks and desperation of borrowers have led to adverse consequences (Iremeka, 2021). Often, DMLs rely on subjective interpretations of creditworthiness, increasing the likelihood of defaults, especially among overindebted borrowers lacking self-control or having overly optimistic views of their financial situation (Majamaa & Lehtinen, 2022).

Borrowers have reported that digital loans come with unreasonable terms, usurious interest rates and short repayment cycles (Iremeka, 2021). There are also allegations of discrepancies between declared and actual interest rates, refusal of payment extensions, delays in reflecting manually transferred funds in designated accounts and failure to address technical issues leading to repayment failures and consequent increased interest charges (Abba, 2022a; Iremeka, 2021; Sanni, 2021).

To coerce repayment from defaulting borrowers, some DMLs resort to illegal recovery tactics such as making/sending menacing calls and messages to borrowers and their networks, as well as circulating their personal information on social media instead of contacting guarantors or emergency contacts provided during the loan application process (Abba, 2022b; Iremeka, 2021; Sanni, 2023). Using these unlawful debt recovery methods disregards existing legal frameworks and consumer rights. While a few consumers formally

report such practices to regulators and occasionally pursue legal action, these actions do not appear to deter lenders (Sanni, 2021).

Many financial consumers endure violations of their consumer rights without recourse, often viewing these experiences as a deserved consequence due to feelings of guilt or shame over defaulting on loan terms (Iremeka, 2021). Unfortunately, over-indebted consumers may face bankruptcy, social and financial exclusion, public shame, strained relationships, psychological stress and vulnerability (Stănescu, 2021, p. 180). Moreover, individuals may struggle to recover from the disillusionment and humiliation of public disgrace, mental strain and stigmatisation, often being labelled as 'fraudsters' and 'chronic debtors' (Iremeka, 2021). On the other hand, unpaid creditors risk business disruptions and insolvency, leading to broader economic and societal repercussions (Stănescu, 2021, p. 180). Therefore, Urgent regulatory action is necessary, as failure to act could severely impact the market integrity of the entire financial system (Akinbami & Ngwu, 2016, p. 314).

The subsequent sections of this article highlight three prevalent abusive debt recovery practices in Nigeria ('Trends in Abusive Debt Recovery Practices in Nigeria' section), examine legal and institutional regimes for online loans ('Legal and Regulatory Framework for Digital Lending in Nigeria' section), detail regulatory interventions and borrower remedies ('Strategies for Improving Digital Lending in Nigeria' section), propose recommendations ('Conclusion' section) and conclude with final remarks ('Conclusion' section).

Trends in Abusive Debt Recovery Practices in Nigeria

Disclosure of Borrowers' Personal Data

> Be advised! Mr XYZ, with phone number 08000000000, is a chronic debtor who borrowed funds and is cunningly avoiding repayment despite several calls and messages sent to him. Do not trust such a person with funds, as he/she is a financial liability and has proved to be a credit risk. We can send you the proof. (Ujam, 2023).

As previously discussed, DMLs offer uncollateralised loans with fewer application requirements compared to banks, often relying on access to BVNs, contact lists and personal information (including images, location data and media content) for credit assessment (Iremeka, 2021; Sanni, 2021). In the event of default, DMLs use borrowers' contact lists to send strongly worded messages to their networks, disregarding existing data privacy safeguards in Nigerian laws. This practice contravenes Sect. 37 of the 1999 Constitution, which safeguards citizens' privacy and correspondence, and the Credit Reporting Act 2017, which protects personal data from unauthorised access (Sects. 7, 14). Furthermore, it contravenes the Federal Competition and Consumer Protection Commission's (FCCPC) Limited Interim Regulatory/Registration Framework for Digital Lending 2022, which mandates DMLs, at the point of licensing, to confirm that apps do not access customers' call logs, contacts, photos, and gallery (FCCPC 2022, Form DLG 001, 15).

The Nigeria Data Protection Act 2023, administered by the Nigeria Data Protection Commission, mandates that data collection and processing must be adequate, accurate, lawful, respectful of data subjects' dignity and obtained with consent (NDP Act 2023, 24(1)). Data processing is deemed lawful for 'necessary' reasons including in pursuit of

a data controller's legitimate interests, which must not override the fundamental human rights of data subjects such as their right to privacy (NDP Act 2023, 25(1b) and 2).

Consent, requested by the data controller in simple, clear language and an accessible format; should be provided by the data subject in writing, orally or through electronic means; should be affirmative; and not based on a pre-selected confirmation (NDP Act 2023, 26(6 and 7)). Consent to data processing must be freely and intentionally given by the data subjects who must be informed about their right to withdraw consent (NDP Act 2023, 25(1a), 26(4), 35). The burden of proving that consent was duly obtained rests on the data controller and consent will be void if the set as a condition for the performance of a contract or provision of a service, that is not necessary for the performance of that contract. It is notable that a data subject's silence or inactivity is not construed as consent (NDP Act 2023, 26).

Prior to collection, a data controller also has the responsibility to inform the data subject of the their identity and contact address, means of communication, specific lawful basis and purposes of processing, recipients of the personal data, rights of the data subject, retention period for the personal data and their right to lodge complaints with the Commission (NDP Act 2023, 26(1)). By the Act, borrowers can assert their rights to rectify, restrict or erase personal data and a data controller must discontinue processing except the data controller demonstrates a public interest or other legitimate grounds, which overrides the fundamental rights and freedoms and the interests of the data subject (NDP Act 2023, 34(1a), 36(2)). Data subjects that suffer harm as a result unlawful data processing personal data are entitled to civil remedies by Sect. 51 of the Act.

From the foregoing elucidation of the data privacy safguards in Nigeria, data disclosure to unauthorised parties or on social media violates borrowers' data protection rights. Online lenders are not authorised to disclose borrowers' non-repayment, except in cases where the information disclosure is to emergency contacts or guarantors who, based on the contract terms, might become liable for repayment. In this case, the information disclosed must be factual and not calculated to embarrass or exaggerate indebtedness.

Use of Threats and Intimidation to Coerce Repayment

> Debtor, do not start your day in an unfortunate way by holding on to our money because you will receive the most unfortunate treatment from us, too… We are calm enough, respect yourself and make full payment of your loan now. Avoid drastic actions taken against you. Also, note that we will not be responsible for any damage our actions might cause if you fail to make payment today because it will be brutal for you… (Abe, 2023)

DMLs employ verbal and written threats to shame borrowers by disclosing their indebtedness to family, friends, religious and professional networks through calls, texts and social media posts (Abba, 2022a). According to some employees, using these tactics helps pressure borrowers attempting to defraud 'small loan companies' that do not have access to comprehensive credit assessment systems (Abba, 2022a). Employees warn borrowers about these actions beforehand, suggesting that borrowers know the consequences of defaulting (Abba, 2021b). Additionally, employees reportedly face verbal threats from team leaders, high workloads (with some responsible for recovering debts from as many as 400 customers per week) and paltry salaries, relying on bonuses of approximately 3% of recovered debts (Abba, 2022a).

Under the Criminal Code Act, individuals who use threats to compel someone to act, including those that threaten injury to a person's reputation, can be convicted of an offence and face imprisonment for up to one year (Sect. 366a). This legal provision could empower consumers to seek redress against DMLs that use reputation-damaging and injury-threatening messages to coerce loan repayment.

Use of Defamation to Compel Repayment

> This is to inform the public that xxx, phone number xxx and spouse of xxx is a deceitful person and has proved to be a ruthless, chronic and unremorseful debtor who goes about collecting money from different companies, currently on the run with our company's money and has refused to pay nor pick his calls. Be informed that he or she has been declared wanted. Please contact us …. Because this person provided us with all your details, …, you can as well call the person to delete your information on the app because soon, his or her picture alongside your own picture will be posted across all social media in the next few hours… (Sanni, 2021)

When borrowers default, some lenders resort to publicising defaulters' information using derogatory language, seemingly calculated to shame borrowers into swiftly settling their debts to avert continued public humiliation (Iremeka, 2021; Sanni, 2021). Using phrases such as 'chronic debtor' is defamatory and could equally be false, particularly where it labels first-time borrowers or defaulters as repeat and persistently defaulting without substantiating instances of repeat offences (Sanni, 2021). Similarly, a customer asking for loan rescheduling or experiencing technical glitches relating to the payment is not ruthless, deceitful or on the run and tagging borrowers as criminals for loan default, which is a civil offence and contractual, is wrong (*Diamond Bank Plc V. HRH Eze (Dr) Peter Opara & Ors* (*2018*)). Furthermore, disclosing borrowers' personal and sensitive financial data to the public is defamatory and discredits their reputation.

In Nigeria's jurisprudence, defamatory statements are those intended to 'lower a person in the estimation of right-thinking members of society, expose one to hatred, contempt or ridicule, cause others to shun or avoid a person, discredit one's office trade or profession or injure their financial credit' (Malemi, 2013, *Sketch Publishing C Ltd. v Ajagbomokeferi* (1989)). Defamation could be either libel or slander, the former encompassing statements presented in a visible or lasting form, including social media (Malemi, 2013, p. 538). Libel is actionable per se, presuming general damages by law, and does not necessitate proving actual monetary or material harm (*Sketch v Ajagbomkeferi*). Only special damages, such as the loss of contracts, money, or employment, require substantiation (*Theaker v Robinson* (1962)).

The Criminal Code Act also prohibits defamatory statements that expose an individual to contempt, hatred, ridicule or damage to their name, profession, trade or reputation (Criminal Code Act 1916, 373). The publication of defamatory statements is a misdemeanour under the Act, punishable by imprisonment for up to 1 year or up to 2 years if the defamatory matter is false to the knowledge of the publisher unless the statements are factual or made in the public interest (Sects. 375, 377). Defamed persons are also entitled to remedies such as monetary compensation, injunctions and public apologies (Malemi, 2013, p. 607). Borrowers would hopefully understand these safeguards and seek legal redress for DML defamation.

Legal and Regulatory Framework for Digital Lending in Nigeria

This section examines Nigeria's legal framework for consumer protection digital lending. Specifically, it discusses the Money Lenders Laws of Lagos and Cross River States, FCCPCs Interim Regulatory/Registration Framework for Digital Lending 2022, Credit Reporting Act 2017, FCCP Act 2018, the CBN Act 2007 and subsidiary legislation.

The Money Lenders Laws

The Money Lenders Laws in Nigeria are specific to each state with slight variations. Section 2 of the Lagos State Law defines a money lender as someone who lends money considering a larger sum being repaid, except for cooperative societies, banks or insurance companies, statutory corporations empowered by law to lend money and licensed pawnbrokers. This definition was also adopted in the case of *Eboni Finance and Securities Ltd. v Wole-Ojo Technical Services Ltd. & 2* (1996).

In Lagos, an individual or entity intending to become a money lender must apply for a license from the Lagos State Ministry of Home Affairs. The application must include a tax clearance certificate for the company (for the past three years for existing companies), a bank reference letter, evidence of payment of a license fee of ₦200,000 and an application form fee of ₦25,000. Applicants must also have a minimum share capital of twenty million naira and a minimum of two (2) directors, including money lending services as an object clause in the Memorandum of Association.

Applicants must also obtain a clearance report from the Commissioner of Police and a certificate from the Magistrate Court. The Ministry of Home Affairs physically inspects the applicant's place of business and issues a license upon satisfying all requirements. The license is valid for one year, and applicants must apply for renewals by obtaining an endorsement from the Magistrate Court and presenting updated tax clearance and evidence of payment of the renewal fee. The license is granted after a re-visitation and inspection by officials of the Ministry.

A licensed money lender is better positioned to recover unpaid loans through legal means such as litigation or other administrative measures. However, the process for obtaining a license is quite lengthy and multi-faceted. It is crucial to streamline the process and establish a one-stop shop for all aspects of licensing by incorporating representatives of the affected agencies within an office or online portal, particularly as digital lending becomes increasingly common. There is also a need to streamline licensing processing across states to eliminate the need for multiple licenses and harmonise consumer protection safeguards and loan recovery mechanisms. Annual licensing renewal also seems unnecessary; applicants can demonstrate continued compliance instead.

In Cross River State, aside from the stringent licensing processes, money lenders must adhere to the strict interest rate formula provided in Sect. 11(1)c of the Cross River State Money Lenders Law of Cross River State. According to this section, unauthorised interest charges above legal thresholds of simple interest at 48% per annum of unsecured loans incur a forfeiture of the loaned sums and a penalty of 100 naira upon conviction. Still, the prosecution of the offence shall not commence except by or with the consent of the Attorney-General. This provision serves to deter usurious lending, hence the steep penalty. However, Esege and Bassey recommend forfeiting the interest only as a penalty for overcharging rather than the stipulation to forfeit the entire loaned sums, including the principal and interest (Eja and Bassey

2011 p. 209). The authors also criticise the requirement of the Attorney-General's consent or personal prosecution as irrelevant and constituting a delay in justice and the possibility of the AG refusing to prosecute (Eja and Bassey 2011, p. 209). This could also open a floodgate of applications requiring the AG's prosecution as the industry advances.

The penalty of ₦100 for default is also criticised for not being commercially expedient for present-day realities (Eja and Bassey 2011, p. 211). This sum, apt at the time of making the law, is no longer sufficient and could discourage consumers seeking to institute legal action. Legislators are encouraged to review the penalty sum to a more realistic figure. Additionally, the Money Lenders Laws need to be harmonised as a uniformly applicable Act across Nigeria to avoid duplication, streamline processes, simplify compliance and improve lending practices. Lending standards, consumer rights safeguards, realistic penalty sums and clear channels of redress could be better articulated within this Act.

FCCPC Limited Interim Regulatory/Registration Framework for Digital Lending 2022

The Guidelines, introduced by the Federal Competition and Consumer Protection Commission on behalf of the Joint Regulatory and Enforcement Taskforce (FCCPC 2024), outline the licensing and registration processes required by DMLs to conduct business in Nigeria. Applicants must provide detailed information about their companies, including contact details, addresses in Nigeria, phone numbers, email and website addresses, key officials and their roles, sources of funding, affiliations, bank details, interest rate and loan balance calculations (including penalties for late, delayed or non-payments), details of associated apps and digital lending processes (FCCPC 2022, Form DLG 001). Applicants must confirm that their apps do not access customers' call logs, contacts, photos and galleries (FCCPC 2022, Form DLG 001).

While the Guidelines primarily focus on licensing stipulations that could prevent unscrupulous lending practices, they miss the opportunity to establish comprehensive consumer protection provisions. The guidelines allow applicants to begin registration while awaiting the Audit Trust mark from the Nigerian Data Protection Commission and the Compliance Audit Report and Privacy Impact Assessment Report from a duly registered Data Protection Compliance (FCCPC 2022, note 7). While this can promote time savings, it is recommended that applicants should be allowed to commence operation before the reports are published to avoid potentially exposing consumers to incidents of data breaches.

Credit Reporting Act (CRA) 2017

The CRA was established to promote fair and competitive credit reporting, facilitate the sharing of credit information, promote responsible borrowing, prevent excessive indebtedness and discourage irresponsible lending (Sect. 1). Additionally, the Act aims to facilitate access to credit, improve risk management in credit transactions, protect privacy, promote access to accurate and fair information and establish standards for the operation and regulation of credit bureaus (Sect. 1). Section 12 (f) of the Act requires lenders to obtain a credit report from at least one licensed credit bureau before granting credit (CRA, 2017, 12(f)).

Credit bureaus are also mandated to create and maintain credit and credit-related information databases, compile and collate data from providers and users, issue credit reports and investigate requests for credit information (Sect. 3). The databases are helpful for credit scoring, loan considerations, guarantor vetting, Know Your Customer (KYC) checks, credit

facility review or monitoring, debt collection and judgment enforcement (Sect. 7). However, such activities require the data subject's consent, except in cases where disclosure is mandated by court order, lawful investigations, or circumstances related to dishonoured checks (Sect. 9). The Credit Bureau is mandated to uphold the confidentiality, neutrality and accuracy of information held in the registry, aligning with the consent provided by the data subject (Sect. 3).

Data subjects have the right, under Sect. 6, to contest and amend incorrect, inaccurate, incomplete or outdated data. Violations such as intentionally or negligently providing misleading information, disclosing credit information improperly or tampering with the database result in fines (Sect. 20). Other offences include obtaining or using credit information outside the permitted purpose, disclosing credit information without a license, or operating as a credit bureau without a license (Sect. 20).

The CRA enables Nigerians to establish a credit history and potentially enhance their loan eligibility. Requiring lending institutions to obtain a credit report aids in assessing creditworthiness and could deter irresponsible lending and borrowing. However, some authors argue that the collateral registry might not enhance consumer access to credit due to financial sector liquidity shortages (Omede, 2020, pp. 534–6). Additionally, the Act's coverage is limited to banks and formal financial institutions, even though data from alternative FSPs can help determine a person's credit history (Monye et al., 2020, p. 13).

Financial Competition and Consumer Protection Act (FCCPA) 2018

The Federal Competition and Consumer Protection Commission (FCCPC) broadly oversees consumer protection through the Federal Competition and Consumer Protection Act 2018 (FCCPA). The Act prohibits unfair, unreasonable or unjust terms that aim to absolve service providers from liability for losses due to gross negligence and requires that contract terms be explicitly presented to consumers (FCCPA 2018, 127, 129). Unfair terms, as defined by the Act, are excessively one-sided in favour of anyone other than the consumer and are so unfavourable to the consumer that they are inequitable (FCCPA 2018, 127(2). The Act also mandates conspicuous price disclosure of service costs beforehand and prohibits arbitrary or inconsistent pricing adjustments (Sect. 115).

Companies or their agents are prohibited from using physical force, coercion, undue influence, harassment, unfair tactics or similar conduct against consumers to enforce a contract (FCCPA 2019, 124). Under this legal framework, consumers are advised first to seek redress from service providers. If unsuccessful, they can escalate their complaints to the industry regulator or file a formal complaint with the Commission (FCCPA 2018, 146–8). Consumers also have the right to initiate a civil lawsuit within a court of competent jurisdiction to seek compensation or restitution (FCCPA 2018, 152).

The FCCPC has the authority to temporarily suspend the operations of service providers that persist in actions detrimental to consumers (FCCPA 2018, 153). It can also impose penalties, including imprisonment for up to five years, fines not exceeding ₦10,000,000.00, or both, for violating consumer rights (FCCPA 2018, 155). Corporate entities may face fines not less than ₦100,000,000.00 or 10% of their turnover during the preceding business year, whichever amount is more significant, and their directors can incur personal liability (FCCPA 2018, 155).

The above sections demonstrate that the Act aims to maintain fairness by mandating providers to use fair terms that reflect consumer rights, price services reasonably, avoid arbitrary changes to terms (including prices) and demonstrate decorum and professionalism

in enforcement. It offers various graduated redress channels for speedy resolution while maintaining consumers' rights to pursue litigation.

The Central Bank of Nigeria Subsidiary Legislation

The Central Bank of Nigeria (CBN) is the apex regulator in the financial sector, overseeing all FSPs in Nigeria and playing a crucial role in financial consumer protection (BOFIA 2020, 131, CBN 2007, s.2). The Consumer Protection Department serves as the primary avenue for consumers to file complaints (CBN 2022). CBN's functions extend to the grant or revocation of licenses, maintaining financial stability and integrity, consumer protection, and issuing relevant guidelines and subsidiary legislation (BOFIA 2020, 58, 29, 30).

Under its power to create subsidiary laws, the CBN introduced the Consumer Protection Framework in 2016, which holds particular importance for digital lending. The framework prohibits the dissemination of sensitive data, including contact information, account numbers, balances and statements, without explicit consumer consent or legal parameters (CBN 2016, 2.6). FSPs are also prohibited from using threats, intimidation, misrepresentation or unfair inducements in consumer interactions (CBN 2016, 2). FSPs must implement accessible, affordable, transparent and independent channels, such as toll-free numbers, email, help desks or web chats, to address complaints and resolve disputes (CBN 2016, 2.7).

Additionally, the Framework recommends alternative dispute resolution (ADR) mechanisms like mediation or conciliation for swift conflict resolution (CBN 2016, 2.7.10). The Act specifies various penalties for violating consumer safeguards, including customer refunds, letters of apology, restrictions, suspensions from inter-bank activities and licenses, denial of approvals, publicising violations and sanctions, monetary penalties, product recalls, cancellation of advertisements, issuance of warning letters, suspension or removal of board or management staff, referral to law enforcement agencies for prosecution and revocation of banking licenses (CBN 2016, 2.9.2).

The CBN has also introduced the CBN Consumer Protection Regulations of 2019, which offer similar provisions to protect consumers from unfair, exploitative, unethical and predatory practices. FSPs must operate responsibly, professionally and ethically; provide competent and experienced staff training; offer clear information about their service complaints mechanisms; provide avenues for inquiries; and enable the option to decline transactions before completion (CBN 2019, 5.1). These regulations ensure access to impartial, timely, transparent, accessible and independent complaints resolution mechanisms.

The Regulations mandate transaction transparency and the avoidance of incomplete or misleading information, respectful and courteous treatment of consumers, non-variation of contracts and regard for consumers' rights or liabilities (CBN 2019 1, 3). Furthermore, the CBN prohibits using terms that seek to eliminate or limit institutions' accountability for misrepresentation, negligence or misleading information. The regulations require fair, transparent, comprehensive, factual and unambiguous disclosure of the financial institution's benefits, risks, costs, associated fees and contact details (CBN 2019, 3.3).

Furthermore, lenders must provide extensive information about crucial elements of their contracts, including key features and risks, duration, loan amount, interest calculation methods and available complaint procedures (CBN 2019, 4.4). Additionally, the CBN imposes the obligation of adequate credit risk assessment procedures to evaluate capability, determine consumer credit history, assist consumers facing financial hardship and monitor loan performance to prevent over-indebtedness (CBN 2019 5.2). The regulations also prohibit measures that curtail consumers' right to seek legal redress for breaches, allow

lenders to unilaterally modify contracts, waive established consumer protections or conflict with prevailing laws or regulations (CBN, 2019, 3.3).

FSPs must also provide a comprehensive range of complaint channels, including verbal complaints, letters, emails, telephone lines, social media and digital software platforms (CBN, 2019, 6). These channels should be available around the clock, and FSPs must issue acknowledgements within 24 h (CBN, 2019, 6). In cases of borrower default, debt recovery mechanisms should be transparent, respectful and equitable without using undue pressure, intimidation, harassment, humiliation or threats (CBN, 2019, 5.4). Additionally, FSPs should communicate details regarding notices, private sale options and information on collateral sales solely to borrowers and guarantors, excluding family members or associates (CBN, 2019, 5.5). In seeking redress, CBN encourages consumers to address grievances first with the relevant institutions in case of consumer rights violations but without prejudice to a consumer's right to bring legal action (CBN, 2019, 6).

Like the preceding Consumer Protection Framework, the Regulations provide robust safeguards against intimidation, harassment, data protection breaches, imprudent staff conduct and unfair contract terms. FSPs are equally bound to engage in responsible business practices, provide efficient channels of redress and prevent over-indebtedness by conducting appropriate consumer risk assessments.

Strategies for Improving Digital Lending in Nigeria

Examining the legal provisions above demonstrates the existence of safeguards for financial consumer protection, along with some channels of redress. However, the persistence of abusive practices suggests that more decisive regulatory action and transparent reporting of enforcement activities are necessary to provide adequate consumer support and drive compliance with consumer protection safeguards.

Notably, regulatory bodies in Nigeria have taken various actions to address issues in digital lending, including issuing fines and warnings (Sanni, 2021). The Joint Regulatory and Enforcement Task Force, involving the Independent Corrupt Practices Commission (ICPC), FCCPC and NITDA, demanded Google LLC (Play Store) and Apple Inc. (App Store) to remove apps of violating lenders (Sanni, 2021). The FCCPC has frozen 50 accounts of loan app operators, facilitated the takedown of about 12 apps and reports a 60% drop in defamatory messages, demonstrating ongoing efforts to address challenges in digital lending and protect consumer rights (Adebiyi, 2022). Recently, the FCCPC gave full or conditional approval to 173 digital lending apps to operate in the country, with plans to enforce Google's policy changes to take down unregistered loan apps (Ujam, 2023). The FCCPC also publishes a list of digital money lenders granted full and conditional approvals and those on the watch list or delisted (FCCPC, 2024).

Despite these wins, authorities cite challenges such as limited trained investigators and law enforcement resources, difficulties in obtaining warrants and complexities in navigating legal procedures (Iremeka, 2021). The courts can help by establishing a special court for digital loan cases. Consumers also need simplified reporting and speedy channels of redress, including physical reporting centres, helplines, emails, online mediation and dispute resolution platforms, to settle reports quickly. These should be accompanied by improved consumer awareness and financial literacy to borrow responsibly, fulfil lending obligations and challenge acts that infringe their legal safeguards. To help consumers, information about defaulting lenders should be displayed

at designated offices and on official websites to guide consumers' choice in dealing only with approved DMLs. CBN could also consider using Enforcement Technology (EnfTech) tools to monitor compliance with rules and remotely enforce penalties against defaulters.

Additionally, the CBN could strengthen collaborative efforts among relevant regulators such as the FCCPC, CBN and NITDA to develop comprehensive lending rules such as fair lending terms covering interest rate caps, mandatory cooling-off windows, fair client solicitation, adequate credit assessment, lawful data use and equitable treatment of clients during debt recovery processes. Specific regulations have been adopted by the Central Bank of Kenya (CBK) where similar recovery practices exist, with the CBK imposing licensing requirements and consumer protection measures on online lenders (Central Bank of Kenya Digital Credit Providers Regulations, 2022).

Furthermore, KYC rules can be reduced so low-income earners can qualify more easily for loans. The CBN can also expand the scope of lenders in Nigeria to include alternative finance providers such as MNOs to offer more choices to consumers, promote competition, encourage innovative product offerings and potentially reduce the cost of accessing credit for consumers. This will also reduce consumers' risk exposure to defaulting DMLs. CBN could also enhance the consumer credit registry to improve credit assessment, facilitate information sharing, and avoid non-performing loans by enabling lenders to access borrowers' credit histories and loan repayment potential before extending loans.

It is essential to clarify that online lenders' right to recover loans from defaulting borrowers is generally acknowledged. There is concern about the fallacy in the assumption that in a loan agreement, the creditor is a professional while the borrower is a layperson with insufficient knowledge about loan terms, repayment timelines and the consequences of default (Majamaa & Lehtinen, 2022, p. 598). Research shows that consumers could threaten online businesses by intentionally defaulting on their obligations (Miedem, 2018, p. 62).

However, abusive debt recovery practices are illegal, and DMLs must pursue legal means of funds recovery. These methods can include judicial debt recovery options such as litigation, ADR and the foreclosure of collateral, as well as non-judicial approaches like reporting to financial regulators or credit reporting bureaus. It is essential to recognise that some of these methods may be slow and relatively ineffective, especially in the case of small claims. Litigation for debt recovery can be lengthy and costly, potentially outweighing the actual losses incurred, and ADR, while generally less expensive and more accessible than court proceedings, can also be time-consuming, lasting for weeks or even months (Stănescu, 2021, pp. 201, 205–206).

Since 2020, FSPs have had the option to utilise the Guidelines on Global Standing Instructions (GSI) 2020, introduced by the CBN and amended in 2022 to curb wilful loan default and reduce the incidence of non-performing loans. The GSI is a last resort for recovering loan amounts and interest (excluding penalties) from defaulting borrowers' eligible and funded wallets and accounts across financial institutions in Nigeria (CBN GSI 2020, 1.1).

Importantly, lenders must prioritise utilising measures that reduce instances of loan default, starting from the preliminary stage of loan application assessments, and carry out proper loan eligibility screening to eliminate consumers likely to or known for default. Although denying a loan to a consumer in urgent need may be difficult, providing loans to individuals already in a cycle of debt will only exacerbate their financial difficulties and increase their likelihood of default.

Conclusion

In conclusion, addressing abusive debt recovery practices in Nigeria's digital money lending sector requires a multi-faceted approach, including increasing consumer awareness and activism, motivating lenders' compliance alongside strengthening regulatory intervention and enforcement activities. The CBN should enforce compliance with consumer protection safeguards by all FSPs, including DMLs operating in the sector, to protect consumer interests. Expanding judicial and administrative channels of reporting and redress, could help all parties. Improving consumer awareness and financial literacy initiatives, introducing fair digital lending rules, and employing EnfTech to facilitate monitoring and redress are also beneficial. Additionally, industry collaboration in sharing credit data for risk assessment can enhance the efficiency of determining credit eligibility assessment by DMLs. Expanding the scope of formal entities providing credit can also increase innovative and niche products to serve more consumers. The CBN must be as proactive in regulating DMLs as it does to traditional banks and other formal financial entities, prioritising consumer protection and responsible lending practices. The goal should be to create fair conditions for all stakeholders in Nigeria's evolving digital lending ecosystem.

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