

# Court Orders NAFDAC to Direct Nigerian Bottling Company to add Warning Statement on the Dangers of Drinking Fanta, Sprite with Vitamin C

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A High Court in Lagos has ordered the National Agency for Food and Drug Administration and Control (NAFDAC) to direct Nigerian Bottling Company (NBC) Plc., distributors of Coca-Cola and other popular sodas in Nigeria, to add a warning statement on Fanta and Sprite bottles stating that both drinks are poisonous when consumed with ascorbic acid (popularly known as Vitamin C).

The order followed a judgement in a suit filed by a Lagos-based businessman, Dr. Emmanuel Fijabi Adebo, and his company, Fijabi Adebo Holdings Limited, against NBC Plc and NAFDAC.

## Background of the case:

According to the Claimants, in March 2007, Fijabi Adebo Holdings Company bought large quantities of Coca-Cola, Fanta Orange, Sprite, Fanta Lemon, Fanta Pineapple and soda water from NBC for export to and subsequent retail in the United Kingdom.

But when the consignment arrived in the United Kingdom, health authorities in that country, precisely the Stockport Metropolitan Borough Council's Trading Standard, Department of Environment and Economy Directorate, raised fundamental health issues on the contents and composition of Fanta and Sprite.

Findings by the United Kingdom health authorities were also corroborated by other agencies in European Union countries, which found the products to contain excessive levels of sunset yellow and benzoic acid, which are known to be carcinogenic.

On account of the irregularities and carcinogenic substances present in the drinks, Mr. Adebo and his company could not sell the Fanta and Sprite. This caused huge losses for the company, as the products were seized and destroyed by the United Kingdom health authorities.

Mr. Adebo, in the suit, urged the court to declare that NBC was negligent to its consumers by bottling Fanta and Sprite with excessive levels of benzoic acid and sunset additives.

The businessman also urged the court to order NAFDAC to carry out routine laboratory tests on all the soft drinks and related products NBC bottles to ensure their safety for consumption.

The Claimants equally alleged that NAFDAC did not carry out requisite tests to determine the safety of the drinks for human consumption. They averred that being registered as exporters with the Nigerian Export Promotion Council, they could legally export NBC products to any part of the world and that the bottling company was aware that the products purchased were meant for export.

In addition to other reliefs, Mr. Adebo and his company sought the sum of N15,119,619.37 as special damages and N1,622,000 being the money NBC admitted receiving from the Claimants.

In its amended statement of defense, NBC admitted supplying the products, but contended that they are meant for local distribution and consumption, as it does not produce for export. It argued that Coca-Cola is manufactured and bottled by various Coca-Cola franchise holders in most countries of the world, including the United Kingdom.

The company denied that it was negligent, as it has stringent quality control procedures to ensure that its products are safe for end-user consumption.

NBC further contended that the claims made by Claimants were speculative, frivolous and vexatious and should be dismissed with substantial cost. NAFDAC did not file any defense.

Justice Adedayo Oyebanji while delivering his judgement stated that NAFDAC failed Nigerians by declaring, as fit for human consumption, products discovered by tests in the United Kingdom as turning poisonous when mixed with Vitamin C. According to the judge, NAFDAC's by certifying that Fanta and Sprite products, without any written warning on the products that it cannot be taken with Vitamin C, could have caused great harm to the health of unsuspecting Nigerians.

“It is imperative to state that the knowledge of Nigeria Bottling Company that the products were to be exported is immaterial to its being fit for human consumption. The court is in absolute agreement with the learned counsel for the Claimants that soft drinks manufactured by Nigeria Bottling Company ought to be fit for human consumption irrespective of color or creed.

It is manifest that NAFDAC has been grossly irresponsible in its regulatory duties to the consumers of Fanta and Sprite manufactured by Nigeria Bottling Company. In my respective view, NAFDAC has failed the citizens of this great nation by its certification as satisfactory for human consumption products, which in the United Kingdom failed sample

test for human consumption, and which become poisonous in the presence of Ascorbic Acid ordinarily known as Vitamin C, which can be freely taken by the unsuspecting public with the company's Fanta or Sprite.”

The court, in the light of the damning evidence before it showing that NAFDAC has failed to live up to expectation, cannot close its eyes to the grievous implication of allowing the status quo to continue as it is.

For the reasons herein adumbrated in this judgment, the court hereby orders as follows:

That NAFDAC shall forthwith mandate Nigeria Bottling Company to, within 90 days hereof, include on all the bottles of Fanta and Sprite soft drinks manufactured by the company, a written warning that the content of the said bottles of Fanta and Sprite soft drinks cannot be taken with Vitamin C as same becomes poisonous if taken with Vitamin C.

The court awarded N2 million against NAFDAC. Interest shall be paid on the costs awarded at the rate of 10% per annum until liquidation of the costs.

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