



## Air Peace, UBA and the FCCPC: Rethinking Early Litigation Strategy

### Introduction

In a pair of decisions delivered on 20 and 22 April 2026, the Federal High Court in Abuja dismissed suits filed by Air Peace Limited and United Bank for Africa Plc, each challenging the investigative powers of the Federal Competition and Consumer Protection Commission (FCCPC).

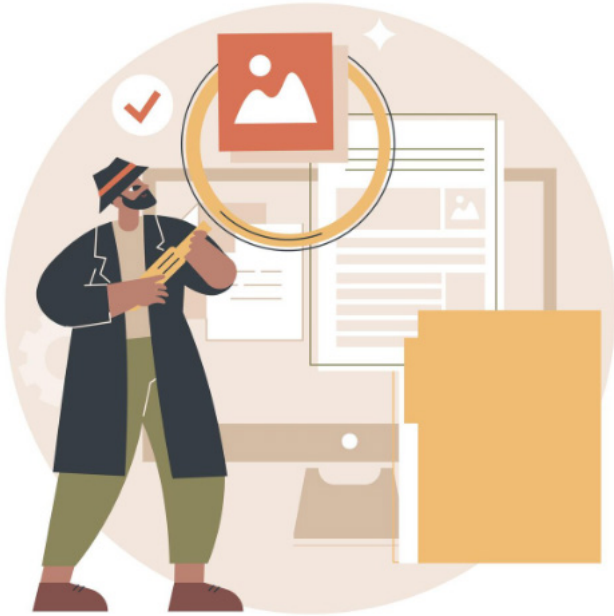
The practical takeaway is clear: courts will not readily halt regulatory investigations at the outset, particularly where the regulator is acting within the four corners of its statutory mandate.

### What the Court Decided

In the Air Peace matter, the airline sought to restrain

the FCCPC from acting on passenger complaints relating to cancellations and unrefunded fares. It argued that aviation matters fell exclusively within the remit of the Nigerian Civil Aviation Authority (NCAA), and that the FCCPC should not intervene in a sector already regulated. It also argued that it was entitled to disclosure of complainants before engaging. The Court rejected these arguments, affirming that the FCCPC's investigative powers under Section 148 of the Federal Competition and Consumer Protection Act 2018 operate alongside sector regulators, not in place of them.

In the UBA matter (Suit No. FHC/ABJ/CS/1972/2025), the bank advanced a similar position, arguing that banking activities are governed by the Banks and Other Financial Institutions Act (BOFIA) 2020 and fall



within the regulatory purview of the Central Bank of Nigeria, thereby excluding FCCPC oversight. The Court dismissed the claim in full, holding that the FCCPC retains overriding authority in consumer protection matters under Section 104 of the FCCPA, regardless of sector-specific regulation. Notably, the Court imposed a ₦2 million cost penalty, describing the action as unmeritorious.

## Key Litigation Takeaways

- **High threshold for early intervention:** Courts will not readily restrain regulators from conducting investigations where the regulator appears to be acting within its statutory mandate.
- **Sector-regulator arguments require a clear legal basis:** Reliance on a primary sector regulator will not, by itself, exclude regulatory oversight unless there is a direct statutory basis for doing so.
- **Investigations will generally be allowed to proceed:** Courts are likely to permit the regulatory process to run its course before considering intervention.

- **Unmeritorious challenges carry cost risk:** The UBA decision shows that premature or weak challenges may attract financial penalties.

## What This Means for Dispute Strategy

- **For regulated businesses:** FCCPC summonses should be treated as live dispute events, not preliminary engagements. Early missteps—whether non-compliance or premature litigation—can shape enforcement exposure.
- **For legal and dispute resolution teams:** Forum and timing are critical. Early-stage suits to restrain investigations may not only fail but may weaken the company's position in subsequent proceedings.
- **For boards and senior management:** Regulatory disputes now carry both legal and reputational risk. Decisions on whether to challenge or engage must be taken with a clear view of litigation exposure.

## The Road Forward

The Air Peace and UBA decisions shift the focus from whether investigations can be challenged to when and how such challenges should be made. In many cases, the more effective approach will be to engage the investigation, preserve legal positions, and challenge outcomes at the appropriate stage rather than at inception.

For guidance on regulatory investigations, jurisdictional challenges, litigation strategy, and enforcement risk management, contact [info@scp-law.com](mailto:info@scp-law.com) or visit [www.scp-law.com](http://www.scp-law.com).