

Legal Implications of Sensitive Content and the Viewers' Discretion: An Interrogation of Content Warning Rule in Nigeria

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ABSTRACT

The expansion of digital media has led to increased access to diverse content, including materials that some viewers may find sensitive or triggering. This raises questions about the role and legal implications of content warnings in Nigeria. This paper interrogates the role and legal implications of content warnings or viewers' discretion advisories within the Nigerian legal framework. It examines the concept of sensitive content, the function of content warnings in empowering viewer autonomy, and analyzes the existing Nigerian legal landscape, including constitutional provisions, regulatory frameworks like the National Broadcasting Commission Act 2004 (The "NBC Act") and the Nigeria Data Protection Act (NDPA), to ascertain the legal standing and necessity of such warnings. While Nigeria lacks explicit legislation mandating universal content warnings, this research explores the relationship between evolving media consumption, ethical considerations, and newly emerging legal principles that could shape the future of content warnings and legal implications.

Keywords: *Sensitive content, viewers' discretion, content warning rule, digital media, media consumption*

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INTRODUCTION

As Nigerian audiences increasingly engage with global and local digital media, the question of how to navigate the intersection of potentially distressing content and individual sensitivities becomes paramount (Nwankwo 2012; Potter 2019 & Kigho-Oyolo 2020). This necessitates a critical examination of the role and legal implications of content warnings, also known as viewers' discretion advisories, within the Nigerian legal framework. This research delineates the multifaceted nature of sensitive content, acknowledging that it is subjective and culturally influenced, while also considering relevant legal definitions within Nigerian data protection laws (Adediran, 2002). Subsequently, the study explores the intended function of viewer discretion advisories in fostering informed consent and potentially mitigating psychological harm. The absence of specific legislation mandating universal content warnings across all media in Nigeria (Akinfeleye, 2008) raises critical questions. Should there be a legal obligation to provide such warnings? What would be the scope and limitations of such a mandate, considering constitutional guarantees of free expression?

Conceptual Classification

Sensitive Content generally refers to material(s) that may evoke strong emotional responses, anxiety, discomfort, or distress in some individuals. Sensitive Content can include, but is not limited to, depictions and discussion of violence, sexual content, trauma, self-harm & suicide, hate speech, disturbing imagery, etc. (Warburton, 2016). The perception of what is sensitive can be subjective and influenced by personal experiences, religion, cultural backgrounds, and individual sensitivities.

According to Oxford Languages, sensitive content is anything that may offend a reader or user, particularly in relation to religion, race, gender, politics, sexuality, disability, or vulgar language.

Viewers' Discretion is a warning or advisory message that precedes a piece of content, such as a television program, film, video, or online material. This means that the content may contain material(s) that some viewers may find offensive, disturbing, upsetting, or inappropriate. Essentially, it means alerting viewers to potentially sensitive material so that they can make informed decisions.

A Content Warning Rule can be defined as a **legally prescribed or judicially recognized obligation** imposed on content creators, distributors, or platforms for dissemination to provide explicit notification to potential audiences

regarding the presence of material that may foreseeably cause harm, distress, or offense, thereby enabling individuals to make informed decisions about access and consumption.

Nigerian Legal Landscape, Potential Relevance to Sensitive Content and the Idea of Mandatory Content Warnings

The Constitutional Provisions to consider are:

1. The Constitution of the Federal Republic of Nigeria, 1999 (as amended):

- a) **Section 37 (Right to Privacy):** This guarantees the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications. While not directly addressing media content warnings, one could argue that unexpected exposure to severely distressing content could, in certain circumstances, infringe upon an individual's right to psychological well-being, which is linked to privacy and dignity.
- b) **Section 39 (Freedom of Expression):** This guarantees the right to freedom of expression, including the freedom to hold opinions and to receive and impart ideas and information without interference. Any mandatory content warning regime would need to be carefully balanced against this right, ensuring it doesn't unduly restrict creative expression or the dissemination of information. Limitations to this right exist for public safety, public order, public morality, or the protection of the rights and freedoms of other persons. Content warnings could be argued as a measure to protect the "rights and freedoms of other persons" by mitigating potential harm (Ortuanya, 2022).
- c) **Section 45(1) (Restriction on and Derogation from Fundamental Human Rights):** Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society (Falana, 2010):
 - i. In the interest of defense, public safety, public order, public morality, or public health, or
 - ii. For the purpose of protecting the rights and freedoms of other persons.

2. The National Film and Video Censors Board (NFVCB) Act:

The NFVCB is empowered to classify films and videos. Their classifications (e.g., "G" for General Exhibition, "PG" for Parental Guidance, "18+" for adults only) inherently act as a form of content advisory, indicating the suitability of content for different audiences and sometimes highlighting the presence of potentially sensitive themes like violence or sexual content (Barker & Petley, 2001). While the NFVCB mandates these classifications, they are primarily geared towards age suitability and moral standards rather than specific trigger warnings for individuals with particular sensitivities (Bellet, Jones & McNally, 2018). However, the *mechanism* of mandatory advisory labeling is already in place.

3. The Nigeria Data Protection Act (NDPA) 2023:

The NDPA focuses on the processing of personal data, especially sensitive personal data. While it doesn't directly regulate media content in general, its emphasis on fair and transparent processing and the need to protect individuals from harm related to their data could indirectly support the principle of providing users with adequate warnings about the nature of content, especially if that content involves or could reveal sensitive personal data.

4. The National Broadcasting Commission (NBC) Code:

The NBC Code sets standards for broadcasting in Nigeria, often addressing issues of harmful, offensive, or unsuitable content. It includes provisions on decency, taste, and the protection of children (Cantor, 1998). While not explicitly mandating content warnings in the way we have discussed, it leans towards responsible content dissemination and the provision of guidance where necessary (Ojukwu, 2015).

Unauthorized Death Notice as a Violation of Viewers' Discretion

Death is a sensitive topic (Luce, 2017). Unexpected or unauthorized notification of someone's death can cause severe emotional distress, grief, and trauma to individuals who knew the deceased, their family, and even general audiences (Meek, 2010). Announcing someone's death without the consent of their family or legal representatives is a profound violation of their privacy and the privacy of their loved ones. The timing and manner of such announcements are usually carefully considered by the family. This is not just a matter that *could* require viewer discretion, but an act that is itself a violation of the respect and privacy that should be afforded in such sensitive situations. Section 242 of the Criminal Code Act addresses "Misconduct with regard to corpses." While this primarily deals with the physical handling of remains, the spirit of respecting the deceased and the process of

death could be argued to extend to the unauthorized and potentially disrespectful announcement of someone's passing. The penalty under this section is imprisonment for two years.

Clarification on Viral Video of Young Men Arriving Lagos in Large Numbers at Ibeju-Lekki

The Lagos State Police Command, in a press release dated May 15, 2025, clarified a viral video depicting a large group of young men arriving in Ibeju-Lekki, stating that they were legitimate labourers recruited for the Dangote Refinery (Livingstone, 2009; Hundeyin, 2025). The incident shows the critical need for viewers' discretion and responsible information consumption, especially in the digital age. The viral video, presented without context or verification, had the potential to create:

1. **Misinformation and Panic:** Viewers might have interpreted the arrival of a large group of young men in various negative ways, leading to fear and anxiety within the community.
2. **Unjust Suspicion and Prejudice:** Without knowing the facts, viewers could have made unfounded assumptions about the intentions and origin of these individuals, potentially leading to prejudice and discrimination.
3. **Unnecessary Strain on Resources:** Had the police not quickly investigated and clarified the situation, the spread of misinformation could have led to unnecessary calls to law enforcement and the mobilization of resources based on unfounded fears.

The incident demonstrates the power of social media to quickly disseminate information, both accurate and inaccurate (Buckingham, 2003). It also highlights the responsibility of viewers to exercise critical thinking and seek verified information before drawing conclusions or sharing potentially inflammatory content. The prompt and transparent response of the Nigerian Police was crucial in preventing the escalation of unfounded fears and maintaining public order.

Categories of Warning Rules

Warning rules can be categorized in various ways depending on the context. Here are some common types based on their purpose and how they function:

1. Based on the Severity/Immediacy

Cautionary Warnings: These advise users to be careful and aware of potential minor issues or risks.

Example: "Caution: Wet Floor."

"Warning: High Voltage."

These indicate a more significant potential hazard that could lead to injury or damage.

Danger: These signal an immediate and serious threat to safety or life.

Example: "Danger: Do Not Enter."

2. Based on the System/Domain

Safety Warnings: Related to preventing physical harm.

Examples: Warnings on machinery, chemical labels, traffic signs.

Software Warnings: Alert users to potential data loss, errors, or unexpected behavior in software applications.

Examples: "Unsaved changes will be lost," "This action cannot be undone."

Financial Warnings: Inform individuals about potential financial risks.

Examples: Disclaimers on investment products, warnings about scams.

Environmental Warnings: Highlight potential harm to the environment.

Examples: Warnings about pollution, fire hazards in forests.

3. Based on how they are presented

Visual Warnings: Use symbols, colors, and text to convey the message.

Examples: Traffic lights, hazard symbols, warning labels with pictograms.

Auditory Warnings: Use sounds to alert individuals.

Examples: Sirens, alarms, beeps.

Textual Warnings: Rely primarily on written language.

Examples: Warning messages in software, safety instructions.

4. Based on the Stage of a Process

Preventive Warnings: This aims to stop an undesirable event from occurring.

Example: "Do not operate without safety guards."

Reactive Warnings: Alert users when something has gone wrong or is about to.

Example: A low battery warning

“Battery Low. Plug in your Charger”

While there is no single, specific sensitive content, viewers’ discretion, and content warning rule in Nigeria with a defined set of legal implications for going against it, several regulatory bodies and laws address the broader issues of harmful, inappropriate, or offensive content (Osinbajo & Fogam, 1991). Violating these can lead to legal consequences.

To preemptively shield viewers with content warnings, or to empower them with the discretion to engage?

The debate around content warnings boils down to a fundamental tension: protection versus autonomy. Should creators and platforms shield audiences from potentially sensitive material, or should the onus be on the individual to exercise their own discretion?

To preemptively warn risks, infantilizing the viewer suggests an inability to navigate challenging content. It can also lead to a slippery slope of censorship, where subjective sensitivities dictate what can and cannot be shown. In the same vein, solely relying on viewer discretion, especially in a world saturated with diverse and often unfiltered content, can leave individuals vulnerable to unexpected distress.

Perhaps the answer lies not in an either/or, but in a subtle balance. Clear and consistent labeling can empower viewers to make informed choices without stifling creative expression. Ultimately, the "duty" might be shared: creators to be mindful, and viewers to be responsible consumers.

CONCLUSION

The Legal Framework, shaped by the regulations of bodies like the NBC and NFVCB, alongside broader legislation concerning cybercrime, defamation, and data protection, underscores the legal significance of handling potentially sensitive material responsibly. The expectation to provide warnings like “viewers’ discretion advised” is often implicit within the guidelines aimed at preventing harm, offense, and the violation of societal norms. Failure to adequately address sensitive content, even with disclaimers, can lead to legal repercussions ranging from regulatory sanctions to criminal or civil liabilities, depending on the nature and impact of the content. Therefore, content creators, broadcasters, and distributors in Nigeria must navigate this complex terrain with diligence, understanding that while content warnings can offer a degree of mitigation, they do not absolve them from the

overarching responsibility to comply with existing legal and regulatory frameworks designed to protect the public and uphold societal values. Further clarity and harmonization of specific guidelines regarding sensitive content would undoubtedly benefit both content producers and consumers in Nigeria.

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