In terms of these rules any interested person may:

- Lodge a complaint with the Commission concerning an alleged prohibited practice;
- Be allowed to make written representations opposing an application for an exemption, within 20 business days after notice has been published in the Government Gazette;
- Voluntarily file any document, affidavit, statement or other relevant information in respect of a merger;
- Participate in hearings.

Consumers may also informally report contraventions of the Act if they do not wish to lodge a formal complaint. They may also alert the Commission of any acquisitions taking place that affect consumers, but have not been notified to the Commission.

6. HOW DO YOU COMPLAIN?

A complaint can be lodged by completing a CC1 form and sending it to the Commission. A detailed statement outlining the complaint and any supporting documents, such as witness statements or letters proving the existence of an anti-competitive conduct must accompany the form. The Commission also allows for meetings with complainants who are then able to follow up on the case from time to time.

7. WHO CAN COMPLAIN?

Any person may initiate a complaint and does not have to be directly affected by anti-competitive conduct. The Commission can also independently initiate a complaint against a firm that is alleged to have contravened the Act.

If you are in doubt whether or not a matter you want to complain about falls within the ambit of the Act, you can contact our information officer to assist you.

Telephone:
+27 (012) 394 3200 / 3328

WhatsApp / SMS Line:
+27 (0) 84 743 0000

Email Address:
ccsa@compcom.co.za

Website:
www.compcom.co.za

Physical address:
The DTI Campus, Mulayo (Block C),
77 Meintjies Street, Sunnyside, Pretoria

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Lynwood Ridge,0040

competition commission
south africa

a growing, deconcentrated and inclusive economy

THE COMPETITON ACT

A guide for consumers

competition commission
south africa

1. ABOUT THIS GUIDE

This guide aims to provide all consumers with a better understanding of the Competition Act ("the Act") No 89 of 1998. It outlines the need for the Act, how it is implemented and how consumers benefit from its implementation.

2. WHAT IS THE ACT ABOUT?

The Competition Commission ("the Commission") was established by the Act as one of the three competition agencies to investigate, control and evaluate restrictive practices, abuse of a dominant position and mergers, with the overall objective of promoting and maintaining competition in the market. The ultimate goal is to achieve a competitive environment that will, among other things, provide consumers with competitive prices and product choices.

Competition encourages firms to become more efficient and innovative as they attempt to outsmart one another. A firm with more innovative quality products and lower prices is likely to have more customers. The Commission's role is therefore to level the playing field so that firms, big and small, can compete fairly. History has shown that if competition is not regulated, firms will engage in anti-competitive behaviour, such as agreeing on prices, allocating customers and abusing their dominance through excessive or discriminatory pricing.

3. WHAT IS THE EFFECT OF ANTI-COMPETITIVE PRACTICES?

Anti-competitive conduct by firms include competing firms agreeing on what price to charge customers and when. This is collusion as competitors simply agree not to compete with each other. A firm that dominates a particular market may charge customers excessively for a product they have no alternative sources to or substitutes for. Being dominant is not the problem, but abuse of a dominant position is. A firm is dominant if it has a market share of 45% or has market power, i.e. the ability to control prices, exclude competition or act independently from competitors, customers or suppliers. Consumers should however note that a 'high price' is not necessarily an 'excessive price'. A firm may also embark on an acquisition spree by taking control of other competing firms so as to remain the only firm providing a particular product. The acquired firm may have been prone to acquisition due to it failing or not being profitable. This may have been the result of anti-competitive conduct by a dominant firm pricing below costs, resulting in the "kicking out" of other competitors from the market. It is like setting a trap for someone and then rushing to their rescue. Charging a 'lower price' in itself does not mean that a firm is charging below its costs.

If unregulated and not monitored effectively, acquisitions and anti competitive conduct will eliminate competition and create monopolies. Anti-competitive conduct and mergers will result in:

- The right of a consumer to choose whom to buy from being limited, if not completely eliminated;
- Price competition between firms becoming a thing of the past, thus forcing consumers to pay high prices;
- No incentive for firms to be efficient or more innovative in offering better quality products;
- New entrants being discouraged from entering the market due to unnecessary barriers created or the prevalence of anti competitive conduct in particular markets;
- Firms having little worry about losing customers since the customer has no other choice but to buy.

Customer service will be the last thing on any firm's agenda. If we only had one retail store, the kind of product choice and price difference that currently exists would not be there.

4. HOW DOES THE ACT PROMOTE CONSUMER WELFARE?

The Act enhances consumer welfare by deterring firms from monopolising industries or colluding to raise prices. It does this by setting out the provisions governing anti-competitive practices and mergers seeking to remove competitors, so as to sustain and improve effective competition to the benefit of consumers.

The Commission has the power to investigate and refer anti-competitive conduct to the Tribunal for prosecution. If found guilty, a fine of up to 10% of a firm's annual turnover may be imposed. Although some mergers may benefit consumers in allowing firms to operate more efficiently, others may reduce competition and cost consumers thousands in the form of excessive prices and reduced product quality, consumer choice and innovation.

Mergers between competitors may eliminate competition by limiting the number of players. Mergers between a producer and a retailer may harm competition by making it difficult for competitors to gain access to an important product. The Commission has the mandate to prohibit a merger that has undesirable consequences for competition. The Commission also conducts information sessions and campaigns to educate consumers and consumer groups about the Act and how it benefits them. Informed consumers will help in detection and reporting of anti-competitive conduct which the Commission is not aware of.

5. WHAT CAN YOU AS A CONSUMER OR CONSUMER GROUP DO?

Because anti-competitive practices are harmful to consumers, it is important that consumers, whether organised or individually, assist the Commission in eradicating them. However, consumers are encouraged to be well organised in order to maximize the impact of their involvement in these issues.

Consumers are often undermined because they don't complain or are afraid to make their views heard on matters that affect them. There are few organised consumer groups and this impacts on the extent to which they are able to pursue matters. Consumers, individually or in groups, can participate in the proceedings of the Commission and the Tribunal. The rules for proceedings within the Commission grant interested parties the right to participate in proceedings