

African Dialogue on Consumer Protection

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Consumer Legislation in Tanzania

Consumer Protection in Tanzania
Consumer protection is derived from Articles 11, 14 and 18 of the 1977 Constitution of the United Republic of Tanzania, all of which recognize consumer rights and seek to protect them. There are several other legislations that deal in consumer protection, such as: The Fair Competition Act, 2003, The Merchandise Marks Act, 1963, The Standards Act, 1975, and The Weights and Measures Act, 1982, among others.

Tanzania doesn't have an independent consumer protection policy. However it has the Fair Competition Act (No 8 of 2003) (FCA), as well as the National Trade Policy for a Competitive Economy and Export-Led Growth of 2003, both of which guide the competition and consumer protection framework in the country. The Fair Competition Act is the parent consumer protection legislation in Tanzania and has the following consumer protection provisions:

- Protection against price fixing, output restrictions and collective boycotts between competitors (under section 9).
- Protection against suppliers who use their position of market dominance to prevent, restrict or distort competition (under section 10).
- Protection against suppliers who misrepresent the standard, quality, grade, composition, style or model of any good or misrepresent the history or previous use of the good (under sections 15 and 16)
- Protection against implied breach of contractual obligations by the supplier through misleading conducts (under

sections 26- 36).

- Compensation on the part of the supplier for injury and loss. The supplier or manufacturer has to make sure that the goods or services supplied or rendered to the consumer are fit for consumption. (under section 38).

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- Protection against misrepresentation of goods supplied. Suppliers are required to describe and provide full and true information of goods and services. The description or sample given to consumer before purchase must match with the goods received thereafter (under section. 39).

- Protection against the supplier who fails to ensure that facilities or parts of the kind specified

The entire act can be downloaded from the Fair Competition Commission's website at the address www.competition.or.tz Despite this progress, there is a need to improve the Fair Competition Act. It is necessary to develop an independent consumer protection policy in order to meet current and potential consumer protection challenges. We are looking forward to learning from other economies both in Africa and elsewhere that have a similar legal framework, set of challenges or economic history.



WELCOME
to the
Second
Annual
Conference
of the
African
Dialogue on
Consumer
Protection!!!

For more information on the newsletter or to submit articles for future issues, please contact Deon Woods Bell (dwoodsbell@ftc.gov), or Sally Blatz Du Rivage (jdurivage@ftc.gov).



Left: Ify Umenyi, DG of the Nigerian Consumer Protection Council giving an interview on the theme of WCRD: "our money, our rights"

Below: A grassroots campaign organized by the South East Zone office to raise awareness about consumer rights in the financial sector



World Consumer Rights Day in Nigeria: "Our Money, Our Rights"

In light of the extremely large number of complaints the Nigerian CPC had received regarding Automated Teller Machines (ATMs), as well as the large amount of money being lost by Nigerian consumers to ATM fraud, the Council deemed it necessary to organize a one day interactive forum for all parties concerned with ATM services in Nigeria.

This was just one activity the Nigerian CPC organized to commemorate the 2010 World Consumer Rights Day. Other activities included the development and distribution of questionnaires on banking services, a televised discussion between a team of experts-led by the CPC's DG, Mrs Ify Umenyi- to inform consumers of their rights in financial services, a live radio phone-in program focusing on the on the WCRD theme "Our Money, Our Rights", and a road show awareness campaign for the general public on "The Use Of ATM and Its Challenges."

The CPC coordinated their efforts with several NGOs, including Enhancing Financial Innovation and Access (EFINA) and the United Nations International Development Organization (UNIDO). Together with these organizations, the CPC provided a forum for banking service providers and consumers to interact and

deliberate on the theme of the event - 'our money our rights.' Lectures were also delivered by representatives of major financial sector institutions, such as the Nigeria Deposit Insurance Commission (NDIC), Inter Switch Nigeria, the Consumer Advocacy Forum (an NGO working in the area of consumer issues), and the Chartered Institute of Bankers Nigeria, just to mention a few.

A key note address was given by the Central Bank of Nigeria, while Goodwill messages were delivered by Ms Lola Fadayomi, a Service Member from the West and Central African Region of Consumers International (CI) and several others.

Major topics of discussion included:

- Consumer Protection & Financial Inclusion
- Regulating the Banking Sector
- International Consumer Protection Standards
- Financial Services: Consumers Concerns
- Deposit Insurance & Consumers protection
- ATM Fraud-Causes and Solutions

The forum included participants from the public and private sector, all of whom were willing to stand up for consumer rights and say, 'no' to consumer rights abuses in the financial sector, especially in banking services.

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Consumer Rights in Kenya: Building Foundations through Law

Consumer protection is not fully realized in Kenya as consumer laws remain scattered fractions of parliamentary Acts and their enforcement has generally been weak. However a number of internal statutes have been instrumental in governing the conduct of businesses in the market place, as have certain institutions that have been established to promote competition and consumer protection. There are several institutions within the government that work on consumer protection issues. The Pharmacy and Poisons Board, which was established under the Pharmacy and Poisons Act, (Chapter 244 of the Laws of Kenya) regulates the pharmacy practices and the manufacture and trade in drugs and poisons. The Kenya Bureau of Standards is a Statutory Organization of the Government, which was established by an act of parliament in 1974 (Chapter 496) seeks to protect Kenyan consumers against substandard goods. Additionally, the Weights and Measures Department in the Ministry of Trade, which was established under two separate acts of parliament (Weights and Measures Act, Cap.513 and the Trade Description Act, Cap.505) protects consumers by controlling weights and measuring equipment used in trade and also by establishing standard units of measurement. Finally, the Energy Regulatory Commission created under the Energy Act 2006, regulates and promotes competition within the energy sector thus enabling consumers' access to affordable, reliable and quality energy.

There are also several noteworthy competition and consumer protection laws in Kenya. The principle competition law in Kenya is the Restrictive Trade Practices, Monopolies and Price Control Act of 1988- (Cap 504), which came into force on February 1, 1989. The purpose of this law is to encourage competition in the economy by prohibiting the restrictive concentration of economic power in the marketplace. However, a new 2009 competition bill which builds on the weaknesses of the 1988 law, with substantial provisions for protection of consumer welfare in Kenya, is still pending a second reading in parliament and has yet to be adopted. The Consumer Protection Bill of 2007, a manifesto for comprehensive consumer protection in Kenya, was introduced in parliament on July 27, 2007, for the purpose of establishing a law that would contribute to the improvement of consumer welfare. It has yet to be enacted after adoption by parliament on the 30th of April 2008. Despite these efforts, the proliferation of counterfeits, sub-standard quality products, fraudulent advertising and labeling of goods and other market malpractices remain common in Kenya. The Anti-Counterfeit Act of 2008 which works against these forces was adopted on 24 December 2008, though remains ineffective due to conflicting interests.

The existing consumer laws in Kenya are deficient in many aspects and inclined to defining general guiding principles rather than providing for any specific redress mechanism. This is generally referred to as the "toothless" condition of laws and regulations, since they are not able to provide an effective framework to protect consumer rights and interests. Possibly the aforementioned consumer protection institutions are lacking in human and capital resources and political will, though they also suffer from a lack of industry influence, corruption as well as a lack of clear focus on consumer protection issues. Moreover, the consumer movement in Kenya is very weak, due to a lack of capacity and resources, which further aggravates the situation.



Consumer Law in Zambia: The Confluence of Competition Law and Consumer Protection Law

There is no single legislation focusing on consumer protection in Zambia. However, there is a dual legislative framework encompassing both competition and consumer protection called the Competition and Fair Trading Act, CAP 417 of the Laws of Zambia. There are also several sectoral laws that deal with consumer protection. These include:

*The Energy Regulation Act, Cap 436 of the Laws of Zambia, which establishes the Energy Regulation Board

*The Communications Act, Cap 169 of the Laws, which establishes the Communications Authority of Zambia

*The Water Supply and Sanitation Act, Cap 28 of the Laws of Zambia, which establishes the National Water Supply and Sanitation Council of Zambia;

*The Weights and Measures Act, Cap 403 of the Laws of Zambia, which establishes the Zambia Weights and Measures Agency,

*The Standards Act, Cap 416 of the Laws of Zambia, which establishes the Zambia Bureau of Standard

*Other laws that exist in Zambia and protect consumers include the Public Health Act, Cap 295 of the Laws of Zambia, which establishes the Public Health Department of local authorities.

In Zambia, consumer and competition laws are regarded as mutually reinforcing and therefore complementary at improving consumer welfare. Thus it has become increasingly difficult to separate from one another.

The Competition and Fair Trading Act was enacted in 1994. Section 4 of this Act establishes the Zambia Competition Commission (ZCC), a principal statutory body operating under the Ministry of Commerce, Trade and Industry (MCTI) and regulates both competition and fair trading from a multi-sectoral perspective.

Currently, Zambia, through the Ministry of Commerce, Trade and Industry and the Zambia Competition Commission has formulated a National Competition and Consumer Policy which is in its final stages and provides for a comprehensive framework for consumer protection. The policy highlights the rights of consumers as well as the offences that may be committed against them and provides for redress mechanisms. Further, the policy identifies relevant institutions in addition to the ZCC that may be collaborated with to protect the rights of consumers.

In addition, the Competition and Fair Trading Act is being repealed to provide for a more expedient and effective way of resolving consumer complaints. The proposed Competition and Consumer Protection Act gives ZCC administrative powers to issue penalties and also provides for the establishment of a tribunal which would handle competition and consumer matters more expeditiously. This new legislation is receiving attention by the Ministry of Justice and it is likely to be presented to Parliament along with the policy before the December 2009 sitting ends. With these developments, consumer protection in Zambia is likely to improve.



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