

Third Quarter, 2010

Special points of interest:

- Welcome to the third edition of the African Dialogue Newsletter!
- Continued Promotion of African Dialogue Initiatives, and updates to structural framework
- Article on consumer protection legislation in Angola
- All articles written by African Dialogue delegates.
- For more information, or to make a submission for future issues, contact Deon Woods Bell (dwoodsbell@ftc.gov), or Sally Blatz Du Rivage (jdurivage@ftc.gov)

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African Consumer Protection Dialogue Newsletter

African Consumer Protection Dialogue Continues to Grow: New Initiatives Come Out of Arusha Conference



Delegates at the conference give presentations (from left): Alaa El Bially (Egypt), Daniel Asher (CUTS Kenya), Ify Umenyi (Nigeria), Speedy Rice (Washington & Lee University, USA), Brian Lingela (Zambia)

The African Dialogue's July conference proved a resounding success. One of the most significant outcomes of our work at the conference, was a revision of the priority initiatives for the African Consumer Protection Dialogue. The most notable changes to our initiatives were in the following areas:

-The African Dialogue has established a Secretariat. This position will be held for one year, and will rotate between members. Tanzania will occupy the post for the first year.

-The African Dialogue has also established regional liaisons for the northern, southern, eastern and western regions of Africa. These will be the points of contact for regional inquiries or for action items on behalf of the entire region. The current regional contacts are: Mr. Alaa E. Bially in Egypt for northern Africa; Mr. Brian Lingela in Zambia for southern Africa; Mr. Michael Shilla in Tanzania for eastern African; and Ms. Ify Umenyi in Nigeria for western Africa.

-A charter for the African Dialogue is to be drafted by the Secretariat and the four regional liaisons. We can expect to see

this charter soon.

In addition to the structural changes to the African Dialogue, delegates suggested that we begin the process of formalizing the African Dialogue. This is a multistep process that involves forming relationships with outside bodies, such as the African Union, regional economic organizations like ECOWAS, and the World Bank. In addition to this, we are going to launch a website for the African Dialogue, with the help of our friends from Washington & Lee University who have graciously agreed to assist with this project.

The African Dialogue also continues to promote its original initiatives which include:

-establishing a Legal Framework Toolkit for consumer protection in Africa

-promoting information sharing, which including a rapid-alert system for fraud

-working with the World Bank to become involved in their global financial literacy program

-engaging regional financial regulators and bank in the Dialogue

-publishing a quarterly newsletter that updates members of activities in other member states

-developing consumer education programs, with a special initiative for financial literacy education

-producing bi-monthly reports on children's online safety

-reaching out to other African countries and NGOs, especially in the francophone and luciphone parts of Africa

-setting up videoconferencing capabilities to complement our monthly teleconference.

We encourage our members to update us with their progress, and we applaud the efforts that have been made thus far!

Ruminations on the Arusha Conference from Zambia

Zambia ZCC



“I shuddered at the responsibility we have as consumer protection agencies to ensure as many of our citizens as possible are financially literate.”

The second annual African Dialogue on Consumer Protection Conference, held in Arusha, Tanzania, was inspiring. Its timely theme, “*Empowering Consumers Through Education and Access to Finance*,” made for several days of fascinating deliberation on how consumer protection agencies, financial sector regulators, academic institutions, and civil society organizations can ensure that African consumers are financially literate.

During the conference, it was noted for example, that most consumers in Africa are not financially literate enough to understand why they append their signatures to particular financial transactions and what the implications of this are for accessing credit. The lack of financial literacy among African consumers has made it difficult for them to fully realize the benefits of financial services.

Compared with the Founding Conference of the African Dialogue, held in Johannesburg, South Africa, in August 2009, this particular conference was most satisfying in that more stakeholders that play a significant role in the advancement of

financial literacy and empowerment of consumers in Africa were present. Among them were government representatives, NGOs, the World Bank, and academicians like Professor of Law at the Washington and Lee University School, Thomas Speedy Rice. Prof. Rice observed that for consumer protection in Africa to succeed, a broad spectrum of society, including government institutions, civil society, business communities, local communities, the judiciary and educational institutions need to be included.

Prof. Rice, who quoted the McKinsey Global Institute 2010 economic report, stunned the conference when he observed that Africa is developing economically at a rapid pace, noting that Africa’s collective Gross Domestic Product (GDP) will grow from US\$ 1.6 trillion in 2008 to US\$ 2.6 trillion in 2020. This will in turn, trigger an increase in African consumer spending to the tune of US\$ 1.4 trillion with 128 million African households having discretionary income. This has brought a sense of urgency to ensuring that as many African consumers as

possible are financially educated so that they can make informed decisions on how to use their money. This forecast suggests that African consumer protection agencies, academics, financial sector regulators and civil society must all come together to educate and empower consumers with information about money.

As I boarded my flight at Kilimanjaro International Airport en route to Lusaka, I shuddered at the responsibility we have as consumer protection agencies to ensure that as many of our citizens as possible are financially literate. As I landed at Lusaka Airport, I thanked God for the Federal Trade Commission (FTC) of the United States Government for their untiring efforts in supporting the African Dialogue. Today the African Dialogue is considering how to develop to another level, and become a formalized entity. I vowed that for my part, I would contribute in whatever small way I could to making the work of the Dialogue succeed.

Empowering Vulnerable African Communities Through Consumer Protection and Financial Literacy

The World Bank

How can African communities learn to use financial services but not get trapped into debt or lose their savings to financial scams? What information do consumers need in order to choose the best financial service for their needs? What do they do if there is a problem? Which parts of the community are most vulnerable? As presented at the Africa Dialogues in Arusha, Tanzania in July 2010, the World Bank Group is developing a Global Program on Consumer Protection and Financial Literacy to address these questions and help consumers help themselves. Using a successful program piloted in Europe and Central Asia, the Global Program will be available to developing countries worldwide.

Early studies show the need for improved consumer protection and financial literacy. In Azerbaijan, 91% of dissatisfied financial consumers did nothing when the financial institution made a mistake with their financial accounts. Three-quarters of Russians were interested in financial education—but primarily to protect themselves from financial frauds. In Kazakhstan, financial illiterate consumers signed loan contracts so onerous that suicide seemed to be the only solution

to their problems. In Latvia and Bosnia and Herzegovina and elsewhere, banks unilaterally increased interest rates or recalculated the repayment schedule based on changing foreign exchange rates. In Uganda, some consumers trusted the coffee cans in their backyards more than the banks to hold their savings.



Sue Rutledge of the World Bank presents on financial literacy at the conference in Arusha, Tanzania.

The Global Program focuses on four areas: (1) making financial information easy to understand and comparable so that consumers can shop around for the best deal, (2) improving business practices to ensure that those who sell financial products know what they are selling, abusive and predatory practices are prohibited, and intermediaries are regulated, (3) giving consumers a way to get quick and easy redress when the financial institution

has made a mistake and (4) helping consumers learn what they need to know to confidently use financial services. Conducting household surveys of financial literacy and consumer behavior—both before and after—helps policy-makers see if their efforts are working, and make revisions if it is not. The Global Program brings together both public and private sector agencies—financial supervisory agencies, industry associations and consumer organizations—to find the best solutions for each country. The primary counterparts are government agencies but all the stakeholders need to participate in finding the best way forward.

Following the Africa Dialogues in July, the World Bank has started discussing possible support for a number of the countries represented in the Dialogues. It is hoped that the July workshop will represent just the beginning of an active dialogue on issues related to consumer protection and financial literacy throughout Africa.

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Angola's Legal Framework on Consumer Protection

Angola INADEC

The construction of an Angolan Legal Framework on consumer protection still poses a big challenge to the Angolan Republic.

Origin

In Angola, the creation of INADEC, the Angolan Consumer Protection Institute, by the Decree number 05/97, 25th July, marked the beginning of consumer protection for Angolan consumers.

II. Law number 15/03 on Consumer Protection

In 2003, the government decided to create the basis for our legal framework for consumer issues with Law # 15/03 on Consumer Protection. This law is composed of nine separate chapters which are outlined as follows:

Chapter one establishes the general principles of consumers policies of the Angolan Government and requires legislative intervention as well as a normalisation of all the areas affected by consumers issues.

Chapter one also defines who the consumer is and who the seller is, as well as distinguishes between goods and services as far as Angolan law is concerned.

Chapter two is dedicated to consumers rights, including the right to quality goods and

services, to have one's life and health protected, and protection against all risks caused by a seller's dangerous or bad practices. Sellers are required to provide information on the good or service they sell. Also, according to chapter two, freedom of choice and equality of treatment in all contracts are to be applied to consumer – seller relation.

Angolan consumers also have the right to education and training about consumer issues.

It is the responsibility of the state to provide Angolan citizens with the means to learn about their rights as consumers and to ensure that when violations of Law number 15/03 occur, those in violation are punished.

Chapter Three is about the prevention and compensation of damages. The main feature of this part is that sellers (*including producers, constructors, and importers regardless of their nationality*) are liable for damages regardless of their actual fault. This chapter also covers seller liability for faulty and improper goods and sets a period during which consumers can present their complaints. Chapter three also

deals with "disconsideration of companies legal personality", if a judge finds that company's shareholders are trying to escape from their liability by hiding behind the "company's body".

Chapter four regulates contractual protection, which includes the protection of economic interests, and grants as void all abusive clauses.

Chapter five looks to Commercial practices such as advertising, product representation or offers, abusive practices, and budget.

Chapter six deals with administrative penalties as set by Angolan Government for those who choose not to comply by the law. These penalties range from simple fines to partial or total interdiction of commercial activity.

Chapter seven deals with those who have authority to intervene in courts on behalf of consumers. In Angola, consumers themselves are allowed to go to court and argue for their rights. Additionally, consumer associations, the Public Prosecutor, and INADEC have active authority to represent consumer. As a show of the Angolan state's good will and commitment to consumer

"Angolan consumers also have the right to education and training about consumer issues."



Angola's Legal Framework on Consumer Protection (continued)

Angola INADEC



“The Angolan legal framework on consumer protection gained new momentum in February.”

rights, consumers are not required to pay legal fees to these groups, unless bad faith is proven.

Chapter eight defines those entities who are entitled to promote and defend consumer rights. They include: consumer associations, Public Prosecutor, INADEC and the National Consumer Council.

Chapter nine reserved for final dispositions of cases.

The Angolan legal framework on consumer protection gained new momentum in February, when, for the first time since our independence, an article of our Constitution was expressly dedicated to consumer protection. Article 78 constitutes a victory for INADEC, since we proposed the inclusion of the article to our parliament.

Alongside with Law 15/03 and the Angolan Constitution, several other Laws and Decrees contain sections that concern the protection of the Angolan consumer. The **Economic Infractions Law number 6/99** seeks to ensure that the consumer is protected by forcing sellers to choose activities accordingly or sanctions will be applied. The law also compels sellers to use the right weight and measurements, to tag and properly

store products, to give a receipt to the consumer, to clearly mark the price, and to only sell when correctly licensed.

Another important feature of this law, is that if any agent whose job it is to ensure consumer rights accepts money or any other favour, they will be prosecuted and severe punishment will be applied.

Another consumer law our government has approved is **Decree number 14/96**, which establishes a system of supervision and control of prices, allowing operators to have a more responsible role in the observance of market mechanisms. This law also allows the government to take measures to correct any abnormalities that occur in the evolution of prices.

Consumption of cigarettes, and exposure to cigarette smoke are the second biggest cause of mortality, morbidity and disability in the world. The Angolan is particularly interested in this area of law, and has created **Decree number 43/09**, which prohibits the consumption of any form of cigarettes, cigars and similar products in public places.

Law number 5/87 approves the regulation of health in Angola with the aim to review

the measures of animal health activities and integrate them into general public health system. This in turn will help promote the health of population, again supporting the already existing network of consumer protection.

Finally, brigades managed by the government are responsible for quality control of products. The brigades check daily for quality, expiration dates, maintenance, storage and handling of goods. When confronted with products of dubious quality, the product will be apprehended and destroyed in collaboration with Elisal and Ricolix (*trash collection companies*). The Angolan government has also compiled and published a list naming the worst companies with respect to violations of the quality control of goods.

Growing financial complexity calls for improved structures

Kenya

Every year the global economy gains an estimated 150 million new financial services consumers, and most of them are in developing countries. This poses an interesting challenge since in many developing countries, consumer protection and financial literacy are still in their infancy.

The opening of markets for transnational corporations has increased competition among financial institutions like commercial banks, insurance companies, SACCOs or mutual funds. This, combined with improvements in technology and infrastructure has resulted in highly complex financial products sold to the public. Countries transitioning from central planning to market economies, like Kenya, are especially noteworthy, and protecting the interests of consumers in these places has become a prerequisite for sound and competitive financial markets.

Kenya, like many other emerging economies, lacks a history of superior financial products. The growth of financial literacy, thus, significantly lags the growth of available investment resources (or credit options), widening the gulf between the complexity of financial products and consumers' ability to understand what they are buying. Technology is also changing the types of protection needed by financial consumers.

Kenya's new Constitution recognizes consumer rights as human rights, whereas the consumer protection bill of 2007, which was rejected in parliament, has yet to be re-introduced. Nevertheless, Kenya's legal provisions are lacking in terms of financial consumer protection. Some of the closest provisions in these laws are only related to the rights of depositors and borrowers. Financial consumers are therefore confronted with unexplained information in regards to transaction charges, interest

rates, and insurance costs, all of which are mainly expressed as percentages.

Banks continue to hide charges from their customers, using complex fee structures which even experts cannot easily comprehend. This makes it difficult for consumers to compare prices and switch their accounts to alternative banks.

Presently in Kenya, issues related to consumers of financial services are still simple and primarily related to issues such as ATM cards, bank fees and insurance premiums, and interest rates whose complexity has yet to hit its peak. Recent developments in financial markets highlight the importance of consumer protection and financial literacy for the long-term health of the financial sector. The ebbing global financial crisis had its origin from the US in relation to a not-too-alien issue such as house mortgages.

In recent years the US mortgage markets have been heavily criticized, because complex financial products, (such as hybrid adjustable-rate mortgages) were sold to borrowers, including those with weak credit histories, who had difficulty in understanding the risks and obligations that they assumed.

In an effort to reform, the Obama administration has been pushing for the adoption of a Consumer Financial Protection Agency Act (CFPA Act), which is expected to protect US consumers in all types of financial dealings. This agency would protect US consumers and inform/educate them about increasingly complex financial products, which are beyond the understanding of the average consumer.

According to a World Bank report on good practices for consumer protection and financial literacy, a sound financial sector should provide consumers with transparency,

choice, redress and privacy, by providing full, plain, adequate and comparable information about the prices, terms, conditions, and inherent risks of financial products and services.

Reasonable practices include choice by ensuing fair, non-coercive and reasonable practices in financial services; redress by providing inexpensive and speedy mechanisms to address complaints and resolve disputes; and privacy by ensuing control over access to personal financial information.

Nevertheless, we cannot downplay possibility of more complex problems in Kenya since our financial sector is developing very rapidly. Therefore, as a focused nation, it is necessary that we have more research in this area, and have our legal framework completed soon.

Though progress has already been made, we recommend the following actions to promote financial literacy:

- We need to step up the degree of regulation under the proportionality principle. Financial institutions should develop their own codes of conduct, which would supplement State management in this area.

- All financial products, services and marketing should be regulated by an independent national consumer protection body not under the influence of the banking sector.

- The management board of this regulator should comprise members who are independent of the industry and include a balance of members with experience of consumer issues and those with industry expertise.

- The board should have the right to develop appropriate regulations, conduct investigations, require changes in policies and practice and require appropriate redress.

It is in this type of system that we believe it will be safe for consumers to purchase financial services.



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