

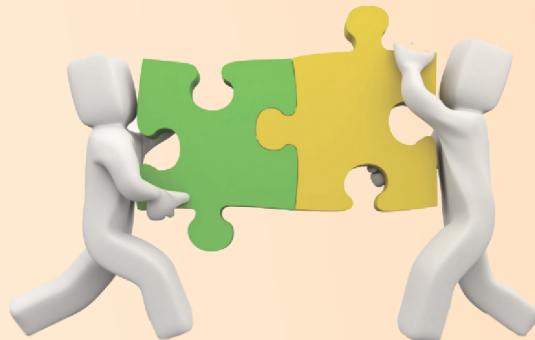


## COMPETITION AND FAIR TRADING COMMISSION

# Just Competition, Fair Trading

The Competition and Fair Trading Commission (CFTC) is established under the Competition and Fair Trading Act of the Laws of Malawi. It is dedicated to improving the efficiency of Malawi's economy for the benefit of its consumers and all people. The function of the Commission is to regulate, monitor, control and prevent acts or behaviour which are likely to adversely affect competition and fair trading in Malawi. The main objectives of the Act are to encourage competition; promote efficiency; and to protect consumers in the economy.

### Regulation of Mergers and Acquisitions



Mergers often impact on competition and the economic well-being of consumers. They may result in reduction of competition, or fluctuation of prices. Enterprises must seek authority from the Commission to effect a merger or takeover. Without such authorization, the merger has no legal effect.

### What are Anti-competitive Trade Practices?

The Act prohibits agreements, decisions and concerted practices which are likely to result in the prevention, restriction or distortion of competition to an appreciable content in Malawi or in any substantial part of it. Examples of anticompetitive trade practices include the following:

- Discrimination
- Unfair contractual terms and conditions
- Conditional selling
- Exclusive distribution/dealership,
- Resale price maintenance
- Price fixing amongst competitors
- Collusive tendering or bid-rigging
- Market or customer allocation agreements
- Collective action to enforce arrangements
- Allocation by quota as to sales and production
- Concerted refusals to supply goods or service to potential purchasers
- Collective denials of access to an arrangement or association which is crucial to competition
- Abuse or misuse of dominant position of market power



## Unfair Trading Practices to the Consumer



Unfair trade practices are practices that create trading conditions where the consumer is worse off than she/he was before engaging in trade. The following are examples of unfair trade practices prohibited under the Act:

- Withholding or destroying producer or consumer goods, with the aim of bringing about a price increase;
- Excluding liability for defective goods or displaying of disclaimers;
- Misrepresentation of goods and services;
- Engaging in misleading conduct;
- Supplying uncertified or harmful or expired goods;
- Engaging in unconscionable conduct or creating unfair contract terms
- Engaging in pyramid selling of goods and services;
- Engaging in bait selling;
- Offering gifts or prizes with no intention of supplying them; and
- Misleading or deceptive advertising

## What should I do when am a victim of anticompetitive or unfair trade practices?

- Any trader or consumer is free to complain to the Commission of the alleged malpractice.
- The Commission will register and review the complaint to establish whether the alleged malpractice is a possible violation of the Act.
- Upon review, the Commission will launch full investigations or dismiss the complaint or refer to other relevant agencies
- The Commission will assist consumers get a refund or exchange

### Penalties

A fine of K500,000 or of an amount equivalent to the financial gain generated by the offence, if such amount be greater, and to imprisonment for five years.



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