



PRESS RELEASE

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CFTC'S DECISION ON ALLEGED ANTI-COMPETITIVE BUSINESS PRACTICES BY NICO LIFE INSURANCE LIMITED AND GOODWILL FUNERAL SERVICES

The Competition and Fair Trading Commission (CFTC) held a special meeting on 20th January, 2022 in Lilongwe. Among others, the Commission made a decision on alleged anti-competitive business practices by NICO Life Insurance Limited and Goodwill Funeral Services.

On 22nd September, 2020, the Commission received a complaint from funeral service providers. The Complainants alleged that Medical Aid Society of Malawi (MASM), Goodwill Funeral Services and NICO Life Insurance Company were engaging in anti-competitive conduct.

In summary, the Complainants alleged that MASM, Nico Life and Goodwill were engaging in anti-competitive conduct as a result of an agreement for group insurance cover that MASM had entered into with Nico Life. The Complainants alleged that following that agreement funeral services were provided for mainly by Goodwill to their detriment, whereas they had been able to provide those services prior to that agreement. They also claimed that prior to that agreement, they had dealt directly with MASM whereas they were now required to deal with Nico Life only through Goodwill who would delay with their payments and would deduct commission from their payments. It was also alleged that

Goodwill was taking advantage of customers by overpricing their products without disclosure to customers about their insurance cover with MASM.

On 20th January, 2022, the Commission deliberated over the evidence gathered in the case as well as submissions made by the Parties during and after the public hearing that was held by the Commission in the matter.

In summary, the Commission did not find any evidence to substantiate the allegation that Goodwill was overpricing its products and was not informing Members of the limits of their cover under MASM so as to take advantage of them. The Commission thus dismissed those allegations.

The Commission also established that the agreement between Nico Life and MASM did not contain anti-competitive clauses and further that following the entry into force of the agreement, MASM ceased to deal directly with funeral service providers who were to deal directly with NICO Life.

The Commission, however, found that although the written agreement between Nico Life and Goodwill did not contain anti-competitive agreements, they had an oral agreement that was anti-competitive and further that they made decisions and engaged in concerted practices that were anti-competitive in violation of Section 32(1) of the CFTA.

The finding was based on the following:

- a. Following the agreement between Nico Life and MASM, Nico Life and Goodwill decided that Goodwill would be the only approved funeral service provider for MASM Members despite that prior to the agreement MASM dealt with several funeral service providers and despite that MASM has Members across the country;
- b. Nico Life and Goodwill reached this agreement without affording other providers the opportunity to also be registered by Nico Life through a competitive process;
- c. Where Members obtained funeral services from other funeral service providers other than Goodwill, Nico Life would only process their payments if the claims were made through Goodwill (their competitor) despite that they had no subcontract with Goodwill;

- d. Nico Life had no valid justification for only dealing with Goodwill's competitors through Goodwill and not directly with them.

The Commission found that the conduct and decisions by Goodwill and Nico Life resulted in the prevention and distortion of the funeral services market across Malawi.

In light of the findings, the Commission issued, among others, the following orders:

- i. That NICO Life should open up to other funeral service providers by entering into agreements with them through competitive bidding processes.
- ii. That NICO Life should pay a fine of Five Hundred Thousand Kwacha (MK500,000) for engaging in anticompetitive conduct;
- iii. That Goodwill should pay a fine amounting to Sixty-Eight Million Seven Hundred and Thirty-Six Thousand Nine Hundred and Forty-One Kwacha (MK68,736,941.00) being financial gain generated from engaging in the anticompetitive conduct.

The Commission also noted with concern that the offence was equally committed by Nico Life and Goodwill, however, the financial gain from the offence could only be established on the part of Goodwill.

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