



GUIDELINES ON ENGAGING CONSUMER BODIES

THE COMPETITION AUTHORITY OF KENYA

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Introduction

1. The Competition Authority of Kenya (the Authority) is a State Corporation established by Section 7 of the Competition Act No. 12 of 2010 (the Act). The Authority's Mandate is to enforce the Act with the objective of enhancing the welfare of the people of Kenya by promoting and protecting effective competition in markets and protecting consumers from unfair and misleading market conduct.
2. It is noted that for consumers to be protected effectively from unfair business practices, regulators with a consumer protection mandate need to collaborate with other stakeholders especially consumer bodies. Premised on this, it is therefore necessary that these regulators chart a working relationship and engagement framework.
3. The formulation of these guidelines has been necessitated pursuant to Section 9(d) of the Competition Act No. 12 of 2010 ("the Act") inter alia, *"one of the functions of the Competition Authority of Kenya ("the Authority") shall be to promote the creation of consumer bodies and the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare"*. Section 9(e) provides that, *"One of the functions of the Authority shall be to recognize consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority"*.
4. Further, Section 69(1) on Notification by Consumer Bodies ("CB") provides that, *Recognized consumer bodies shall be entitled to notify the Authority of any alleged infringement of the provisions of this Part"*. Section 69(3) goes on to provide that, *"A consumer body which gives notification to the Authority shall be required to cooperate with the Authority in its investigation of the alleged infraction of the provisions of this Part"*.
5. This guidelines may be amended periodically as it may be deemed appropriate.

Objectives of the Guidelines

6. The main objective of these Guidelines is to promote the creation and recognition of consumer bodies by removing the obstacles faced by consumer bodies in representing their constituencies on consumer protection issues.

7. This will be achieved through:
- i. Recognizing consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority;
 - ii. Promoting the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare;
 - iii. Promoting the creation and registration of consumer bodies;
 - iv. Enabling consumer bodies to be effective through training and practical support on consumer welfare related issues;
 - v. Improving the mechanisms by which individual consumers and consumer bodies can seek redress for loss resulting from breach of consumer provisions as provided for in the Act, any Rules or Guidelines made thereunder;
 - vi. Supporting programs to improve individual consumers' awareness and understanding of consumer protection issues and their avenues for redress where there is breach of consumer protection provisions;
 - vii. promoting the rights and responsibilities of consumers through liaison with consumer bodies;
 - viii. providing an avenue for development of relationship and partnership with other stakeholders with a view of achieving the best possible outcome for consumers; and
 - ix. To carry out research into consumer welfare issues in liaison with consumer bodies.

Functions of the Authority under Section 9 of the Competition Act

8. The CAK shall;
- i. Receive and investigate complaints from legal or natural persons and consumer bodies;
 - ii. Promote the creation of consumer bodies and the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare; and
 - iii. Recognize consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority.

Guiding principles for effective engagement

9. The engagement between the Authority and consumer bodies will be guided by the following principles:
- i. **Fair treatment:** The Parties shall deal with each other in a fair and, honest manner at all stages of the engagement.
 - ii. **Commercial behavior:** The Parties' primary responsibility should be the protection of consumers by preventing consumers from illegal, unethical, discriminatory or deceptive practices, such as abusive marketing tactics, or other improper behavior that may pose risks or harm to consumers.
 - iii. **Education and awareness-creation:** The Parties shall come up with programmes and mechanisms aimed at awareness creation to assist consumers develop the knowledge and skills necessary for decision making.
 - iv. **Protection of privacy:** The Parties shall ensure that consumers' privacy is protected through a combination of appropriate control, security, transparency and consent mechanisms relating to the collection and use of their personal data.
 - v. **Consumer complaints and disputes:** The Parties shall develop appropriate complaints-handling mechanisms that provide consumers with effective dispute resolution without unnecessary cost or burden.
 - vi. **Independence:** The Parties shall retain control over their own governance, policies, practices, view and decision making.
 - vii. **Integrity:** The relationship between the Parties will be based on sound moral principles, trust, and honesty the partnership is able to withstand public and professional scrutiny.
 - viii. **Accountability:** The consumer bodies shall be accountable to the Authority for the receipt and use of any support provided. This support, as agreed upon in the consultative meeting with consumer bodies will include, but not be limited to: joint awareness campaigns, collaborative research, publications, joint stakeholder forums, joint sport events, media campaigns, lobbying amongst legislators and decision makers and collaborations with the private sector and universities.
 - ix. **Building sustainability:** The partnership shall build the long term capacity and strength of all Parties.
 - x. **Confidentiality:** Sharing of information shall be governed by the confidentiality provisions of the Act.

Responsibilities of each party

10. The responsibilities of the Authority to consumer bodies:

- i. Assisting in capacity building in consumer protection issues;
- ii. Developing mechanisms of sharing information and sensitization regarding consumer protection issues and best practices; and
- iii. Collaborating in awareness creation in consumer protection issues.

11. The responsibilities of Consumer Bodies to CAK:

- i. Sharing of market data and information relating to consumer issues;
- ii. Receive and resolve complaints and escalate the ones that they are unable to resolve to the Authority including representing the consumers;
- iii. Create awareness of consumer protection matters using their available networks;
- iv. Protection of consumer privacy and the global free flow of information;
- v. Collecting, receiving and disseminating information concerning consumer welfare
- vi. Receiving, examining complaints and giving advice to consumers.;
- vii. To remain independent, impartial and apolitical;
- viii. To represent consumers before the Authority in accordance with Section 9 of the Competition Act;
- ix. Notify the Authority of any alleged infringement of the Consumer provisions of the Act (Part VI) and cooperate with the Authority in the investigation;
- x. In regard to complaints, taking such actions as is necessary such as dispute resolution mechanisms;
To represent consumers in policy making forums
- xi. Build and sustain consumer wide membership;
- xii. To provide general resource information and advocacy for consumers

Promoting creation of consumer bodies

12. The Authority shall, in accordance to section 9 (d) of the Act, promote the creation of consumer bodies through, but not limited to,:

- a) Providing technical support to consumers who are willing to form a consumer body
- b) Carrying out capacity building of newly established consumer bodies' staff in relation to the Act and Rules;
- c) Organizing consumer events and encouraging participation of consumer bodies;
- d) Carrying out awareness on consumer protection and their right of association at county level; and

- e) Carry out a market survey to identify and sensitize organizations involved in consumer protection in relation to the Act and Rules.

13. The Authority shall profile consumer bodies for recognition

Monitoring and Evaluation

14. CAK will on a periodic basis assess its relationship with consumer bodies and also assess the active involvement of the consumer bodies in protection of consumer rights. This will include monitoring how complaints and cases which were received and resolved by the consumer bodies and may take the form of carrying out consumer interviews and surveys.