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(IGE Consumer)**

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Afternoon Session

**Agenda Item 3 a. Report on national and regional
implementation of the United Nations guidelines for
consumer protection**

Contribution by
Competition Authority of Kenya

*Report on the National Implementation of the United Nations Guidelines for
Consumer Protection*



REPORT ON THE NATIONAL IMPLEMENTATION OF THE UNITED NATIONS GUIDELINES FOR CONSUMER PROTECTION

Introduction

1. In preparation for the Second session of the International Group of Experts (IGE) on Consumer Protection Law and Policy of 3 and 4 July 2017, the Competition Authority of Kenya hereby submits its Report on the national implementation of the United Nations Guidelines for Consumer Protection adopted in December 2015.
2. The Competition Authority of Kenya (the Authority) is established by the Competition Act No. 10 of 2012 to regulate competition and consumer protection issues. The mandate of the Authority regarding consumer protection is articulated in Article 46 of the Constitution of Kenya, which provides that: Consumers have the right-- (a) to goods and services of reasonable quality;(b) to the information necessary for them to gain full benefit from goods and services; (c) to the protection of their health, safety, and economic interests; and(d) to compensation for loss or injury arising from defects in goods or services.
3. Part VI of the Competition Act contains consumer welfare provisions dealing with false or misleading representations, unconscionable conduct, and unconscionable conduct in business transactions, and provisions regarding product safety and information standards for goods. 1 | Page



Consumer Protection Policies

4. To effectively protect consumers, The Authority developed Consumer Protection Guidelines in June 2014 covering the provisions of Part VI of the Competition Act. Following the adoption of the revised version of the United Nations Guidelines for Consumer Protection in December 2015, the Authority in July 2016 embarked on a review of its Consumer Protection Guidelines. The objective of the review was to update them in line with the revised UN Guidelines. The Authority had also proposed various amendments to the Competition Act, including amendments to the consumer welfare provisions to give the Authority more powers to investigate and resolve consumer issues.
5. In December 2016, the Competition Act was amended. The amendments give the Authority an enhanced mandate and powers to resolve consumer complaints including investigating consumer issues *suo moto*.
6. Following the amendments of the Act, the Authority is finalizing the review of its consumer protection guidelines with the aim of embarking of a revision of its consumer protection guidelines.
7. The Authority also set out its priorities for consumer protection, to investigate and resolve consumer complaints especially those involving the vulnerable and disadvantaged members of the Kenyan society, as well as protect consumers from hazards to their health and safety. *Suo moto* investigations on consumable goods is ongoing.

Promotion of the principles for good business practice

8. The Authority is undertaking the following as a way of establishing benchmarks for conducting both online and offline commercial activities:

i. Developing E-Commerce Guidelines to guide businesses undertaking online commercial activities. The guidelines will spell out how business should

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behave to promote fair and equitable treatment and also have due regard to the interests of consumers through avoiding deceptive practices.

- ii. Requiring Digital Financial Services (DFS) providers to disclose all fees and charges applicable when conducting transactions through the mobile phone inflight (during) the transaction. So far, major telecoms involved in person to person transfers and providers of banking services such as mobile banking have implemented the requirements.
- iii. Education and awareness creation through social media, print and electronic media. Awareness campaigns are targeted at areas with the most vulnerable and disadvantaged members of the Kenyan society. Awareness for businesses on the consumer protection provisions is also undertaken.
- iv. Undertaking a diagnostic study to determine the competition and consumer protection issues regarding data protection and privacy. The study will allow the Authority to effectively undertake its advisory role to the government.
- v. To enhance the efficiency and effectiveness to which consumer complaints are resolved, the Authority

constantly engages the business community with a particular emphasis on ensuring that they set up complaints resolution mechanisms that will provide for speedy remedy of consumer issues.

National policies for consumer protection

9. The Consumer Protection Guidelines (currently undergoing a revision) will guide businesses to:

- i. provide clear and timely information for ease of communication and contact by consumers and the Authority;
- ii. provide clear and timely information regarding the goods or services offered by businesses and the terms and conditions of the relevant transaction;
- iii. adopt an equitable and efficient returns policy

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- iv. formulate effective resolution of complaints mechanisms
- v. enhance consumer awareness and education

10. The Authority has ensured that there is adequate human and financial resources for effective compliance to the guidelines.

Physical Safety

11. To ensure safety of products for use or intended use, the Authority undertakes market screenings and mystery shopping. These are aimed at ensuring that suppliers of products have adequately labelled the products to convey information such as expiry dates, product ingredients and safety information

including proper use of the goods. The Authority works with other regulators such as Kenya Bureau of Standards (KEBS), Department of Weights and Measures and the Anti-Counterfeit Authority (ACA) to ensure that products are safe and meet the quality standards set in Kenya.

Promotion and protection of the economic interests of consumers

12. Section 9 (e) of the Competition Act mandates the Authority 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”. Premised on this, the Authority undertakes capacity building initiatives for consumer bodies and joint awareness activities to enable effective monitoring of adverse practices such as misleading claims in advertising.

Dispute resolution and redress

13. The Authority’s consumer protection guidelines emphasize on fair, effective and transparent mechanisms to address consumer complaints. The guidelines are cognizant of the needs of vulnerable and disadvantaged consumers, and ensure that the remedies do not impose a cost, delay or undue burden on the economic value of the consumers. The guidelines also ensure that undue burden is not imposed on the businesses.

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iv.



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Education and information programmes

14. The Authority participates in the annual World Consumer Rights Day (WCRD) and uses this opportunity to educate consumers on their rights according to the theme set for the year. The Authority also regularly conducts the Consumer Blitz

Campaigns (CBCs). These are intensive campaigns aimed at sensitizing consumers on topical consumer rights issues especially revolving around fast moving consumer goods, their right to complain and the redress mechanisms available to them. The CBCs are mostly held in malls which are located in areas with lower income consumers and those with low literacy levels. The Authority also conducts awareness campaigns on both the print and electronic media. Social media tools such as facebook is also used widely.

International cooperation

15. The Authority values the exchange of information and collaboration with other countries in the protection of consumers. To this effect, the Authority actively participates in the African Dialogue and the International Consumer Protection and Enforcement Network (ICPEN). The networks are important for sharing of best practice in the investigation and enforcement of consumer related issues. The Authority has also utilized the contacts to investigate and resolve consumer complaints with a cross border dimension.

16. The Authority has made effort to utilize the links it has developed to collect, collate and analyze information regarding products which have been banned, recalled or subject to investigations in other countries.

