

CARICOM
competition
commission



THE CARICOM COMPETITION COMMISSION (CCC)

THE ROLE OF THE COMMISSION AND ITS RULES OF PROCEDURE

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INTRODUCTION TO THE CCC

- CCC established under Article 171 of the RTC
- Inaugurated January 18, 2008
- Headquartered in Paramaribo, Suriname
- 7 Commissioners headed by a Chairman
 - Chairman – Dr. Kusha Haraksingh

BACKGROUND ON THE CCC

- **The Revised Treaty of Chaguaramas – Chapter 8 – Competition Policy and Consumer Protection**
- **Article 171 of the RTC**
 - Established the CCC to implement the competition policies of CARICOM.
- **Article 173 of the RTC**
 - Functions of the CCC
 - Apply rules of competition in the Community
 - Promote and protect competition in the Community
- **Article 174 of the RTC**
 - Powers of the Commission – Art. 174 (7) - the power to establish its own rules of procedures.

POWERS OF THE CCC

□ ARTICLE 174 of the RTC

- Monitor...
- Investigate...
- Detect...
- Make determinations...
- Take action to inhibit and penalize enterprises...

“whose business conduct prejudices trade or prevents, restricts or distorts competition within the CARICOM single market economy”

Note:

Transactions must have a cross border effect before the Commission can exercise its powers.

POWERS OF THE CCC (Cont'd)


- The CCC possesses the power to:
 - Subpoena witnesses
 - Order discovery or production of documents
 - Make determinations on business conduct
 - Order the termination or nullification of agreements, conduct, activities or decisions
 - Make cease and desist orders
 - Order payment of compensation
 - Impose fines

FUNCTIONS OF THE COMMISSION

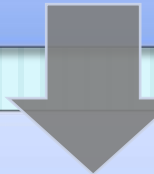
- **The functions of the Commission under the RTC are to:**
 - Apply the rules of competition
 - Promote and protect competition in the Community
 - Coordinate the implementation of the Community Competition Policy

BRIEF PROCEDURAL OVERVIEW

Complaint - Complaint brought by Member State/COTED/ CCC Proprio Motu. CCC consults with all interested parties and decides whether to go forward with the case



Investigation – Investigating Panel (IP) conducts an investigation and prepares a report as to whether or not an offence has been committed



Enquiry and Determination – Where the IP has found an offence, the Adjudicating Panel (AP) holds a hearing into the matter (either oral or written) and all sides are allowed to present their arguments. At the end, the AP issues a written decision

CCC – RULES OF PROCEDURE – PART I

Preliminary

- Rules 1-3
 - Rule 1 – Refers to relevant portion of the RTC that the rules cover (Chapter 8)
 - Rule 2 – Definition section
 - Rule 3 – Objectives of the Rules

CCC – RULES OF PROCEDURE – PART II

Investigations

- Rules 4-9
 - Rule 4 – Outlines the Commission’s powers to investigate matters and where within the RTC that power is derived
 - Rule 4.2 – Power of Chairman to appoint an Investigating Panel (IP) from the Commission’s members
 - Rule 5 – Notice by IP to Respondent
 - Rule 6 – Power to enter premises under warrant
 - Rule 7 – Savings for profession legal advisers
 - Rule 8 – Investigating Panel Report
 - Rule 9 – Action following the IP Report

CCC – RULES OF PROCEDURE – PART III

Enquiry before an Adjudicating Panel

- Rules 10-16
 - ▣ Rule 10 – Commencement of the Enquiry
 - ▣ Rule 11 – Notice by the Executive Director (ED)
 - ▣ Rule 12 – Action of the Registrar upon filing of a Notice
 - ▣ Rule 13 - Response
 - ▣ Rule 14 – Failure to Comply
 - ▣ Rule 15 – Dismissal of Notice for failure to act
 - ▣ Rule 16 – Withdrawal of Notice

CCC – RULES OF PROCEDURE – PART IV

Pre-hearing Procedures and Conferences

- Rules 17-21
 - Rule 17 – Interrogatories
 - Rule 18 – Response to Interrogatories
 - CCC’s version of discovery
 - Rule focuses on a party’s inability to respond fully or completely – party must explain this failure
 - Rule 19 – Technical Conferences
 - Rule 20 – Issues Conferences
 - Rule 21 – Procedural Conferences
 - NOTE: All conferences may be dealt with in writing or via a conference with the parties and members of the AP

CCC – RULES OF PROCEDURE – PART V

Evidence

- Rules 22-35
- Evidence can be presented to the Commission in the form of
 - An affidavit
 - A witness statement
 - Documentary
 - Oral evidence (under oath or affirmation)
 - Ordinary witness
 - Expert testimony
 - Witness panel

CCC – RULES OF PROCEDURE – PART V

Evidence (Cont'd)

- The Adjudicating Panel in the course of its adjudication can allow hearsay evidence and it is for the Adjudicating Panel to determine what weight it will attach to such evidence.
- For such evidence to be admissible it must be relevant to the enquiry.

CCC – RULES OF PROCEDURE – PART VI

Hearings

- Rules 36-50
- AP may hold all or part of a hearing by written procedure
- Persons attending oral hearings are expected to conduct themselves as if before the High Court of the jurisdiction
- Parties will present opening statements, present evidence, and closing arguments
- Hearings may be conducted in the absence of the public if a party makes a motion and the AP approves

CCC – RULES OF PROCEDURE – PART VII

Deliberation and Determination

- Rules 51-52
- At the conclusion of the enquiry, the Adjudicating Panel will make its determination
- Determination must:
 - Be provided in writing to all parties
 - Give reasons for the findings
 - take the appropriate action in accordance with Article 174.4 of the RTC if the need arises
 - Makes orders as per costs
- The issuing of the determination represents the conclusion of the application.

CCC – RULES OF PROCEDURE – PART VIII

Review or Variation

- Covers Rules 53-54
- The Rules also make provisions for the Adjudicating Panel to:-
 - ▣ correct a typographical error, error of calculation, misstatement, ambiguity etc
 - ▣ rescind or vary any determination
 - ▣ extend the time for the compliance with an order issued by the Commission

CCC – RULES OF PROCEDURE – PART IX

Interim and Interlocutory Applications

- Covers Rules 55-56
- Interim measures – If the ED establishes a prima facie case that an offense has been committed, s/he may apply on motion to the AP to give an order to prevent serious or irreparable damage or to protect the public interest
- Interlocutory Applications – Must be made in writing to the AP and the AP must allow time for the other party to respond. May decide the motion can be disposed of by written procedure or schedule oral hearings.

CCC – RULES OF PROCEDURE – PART X

Language, Translation and Interpretation

- Covers Rules 57-61
- Official language of the CCC is English
- CCC will provide translation services if a party comes from a Member State where English is not the official language
- Costs borne by the CCC
- Sufficient notice must be given to Registrar of the need for this service

CCC – RULES OF PROCEDURE – PART XI

Documents, Filing and Service

- This Part sets out the form and content of the documents that are to be filed with the Commission.
- Explains procedure to file and serve documents
 - ▣ hand delivery, courier service, ordinary or registered mail, Email, facsimile or any other means directed by the Commission
 - ▣ 7 original copies of each document
- Documents filed in respect to an enquiry to be placed on the public record
- Contains procedure for filing of confidential documents

CCC – RULES OF PROCEDURE – PART XII

Miscellaneous Provisions

- Combined and joint hearings
- Questions or issues of law
- Computation of Time
- Extending or shortening of time
- Media Coverage
- Procedural Directions



END OF PRESENTATION

Thank You!

**FOR MORE INFORMATION AS WELL AS AN ONLINE VERSION
OF THE CCC'S RULES OF PROCEDURE AND OTHER HELPFUL
LINKS PLEASE REFER TO OUR WEBSITE:**

WWW.CARICOMCOMPETITIONCOMMISSION.COM