

CARICOM
competition
commission



THE CARICOM COMPETITION COMMISSION (CCC)

A BRIEF INTRODUCTION TO THE COMMISSION
AND ITS ROLE AND FUNCTION IN THE CARICOM
COMMUNITY

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INTRODUCTION TO THE CCC

- CCC is an institution within the CARICOM Community established under the Revised Treaty of Chaguaramas (RTC) – Art. 171
- Inaugurated January 18, 2008
- Headquartered in Paramaribo, Suriname
- 7 Commissioners headed by a Chairman
 - Chairman – Dr. Kusha Haraksingh

FUNCTIONS OF THE COMMISSION

- **The major 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

HOW WE DISCHARGE SOME OF THE FUNCTIONS OF THE COMMISSION

- Technical Support to Member States and National Competition bodies
- Work with Member States to promote consumer welfare
- Education – facilitate information exchange & expertise as well as educate businesses and the general public

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”
- Jurisdiction – Important to note that 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

WHAT IS COMPETITION POLICY?

- **Broad Definition:**

The full range of government policy measures that have an influence on competition between firms in domestic markets (e.g. consumer protection, weights and measures, quality standards, investment policies, sector regulation, industrial policy, public interests, etc)

- **Narrow definition:**

The design, effective implementation and enforcement of competition law

WHY IS NATIONAL COMPETITION POLICY IMPORTANT TO SURINAME?

International companies in external jurisdictions have to conduct their business strategies in a manner consistent with national competition law and policy

Suriname is a signatory to:

- The General Agreement on Tariffs and Trade (GATTs) and the World Trade Organisation (WTO)
- Revised Treaty of Chaguaramas (RTC) establishing the Caribbean Single Market and Economy(2001)
- CARIFORUM-European Union Economic Partnership Agreement (EPA) – (signed between CARICOM, Dominican Republic and EU in Dec 2008)
- CARICOM-CANADA Trade Agreement (Negotiations)

WHAT WE DO NOT REGULATE

- WE DO NOT INVESTIGATE MATTERS OF **TRADE POLICY**: the laws related to the exchange of goods or services involved in international trade including taxes, subsidies, and import/export regulations
- INDUSTRIAL POLICY**: The strategic efforts of a country to encourage the development and growth of key economic sectors of an economy. To achieve this the government takes measures "aimed at improving the competitiveness and capabilities of domestic firms and promoting structural transformation.

WHAT WE PROMOTE AND REGULATE

- ARTICLE 169: OBJECTIVES
 - the promotion and maintenance of competition and enhancement of economic efficiency in production, trade and commerce;
 - prohibition of anti-competitive business conduct which prevents, restricts or distorts competition, or which constitutes the abuse of a dominant position in the market
 - promotion of consumer welfare and the protection of consumer interests

WHAT IS ANTI-COMPETITIVE BUSINESS CONDUCT?

- ARTICLE 177 (1) - A member state shall, within its jurisdiction, prohibit as being anti-competitive:
 - Agreements between enterprises, decisions by associations of enterprises, and concerted practices by enterprises;
 - Actions by which an enterprise abuses its dominant position within the Community; or
 - Any other like conduct by an enterprise

ANTI-COMPETITIVE BUSINESS CONDUCT - AGREEMENTS

EXAMPLES: ANTI-COMPETITIVE BUSINESS AGREEMENTS

- Price fixing
- Tied selling
- Market sharing
- Apply unequal conditions to equivalent transactions
- Bid rigging

PRICE FIXING (INFORMATION SHARING)

- ▣ Businesses reach agreements on prices for the sale or purchase of goods and services usually at above the competitive level; AND
- ▣ These prices only benefit businesses and not consumers

Example :

All Flower sellers in Suriname meet and agree to sell their flowers at the same prices. The effect of the agreement would possibly be to raise prices to consumers. With no price competition amongst the flower sellers, consumers are at risk of paying a higher price for flowers. This only benefits flower sellers.

TIED SELLING

- Business links the sale of one product to the purchase of an unrelated product. This benefits the business and not the consumer. It reduces consumer welfare and raises the earnings of business.

Example :

If you go to a hardware store to purchase some wood. The store owner says you need to buy nails if you want the wood. The store owner is making you the customer spend additional money on an item you do not need. The store owner benefits but the consumer loses. Competition law prohibits this type of conduct.

ANTICOMPETITIVE BUSINESS CONDUCT - ABUSE OF DOMINANCE

- ARTICLE 179 (1) – An enterprise abuses its dominant position in a market if it restricts or distorts competition in the market;

EXAMPLES: ABUSE OF DOMINANCE

- Denial of Access to Essential facilities
- Restricts the entry of any enterprise into a market
- Predatory Pricing
- Price Discrimination
- Exclusive Dealing
- Price Squeezing

RESTRICT OR PREVENT MARKET ENTRY

□ A business with a large market share or monopoly can prevent new businesses from entering their market through abuse of its power in the market by restricting or preventing the entry of a new firm into the market.

■ EXAMPLE:

A dominant bakery (Company X) wants to prevent the entry of a new bakery (Company Y) into the market for bread sold in supermarkets. Company X may tell supermarkets if they sell bread from Company Y then they cannot sell bread from Company X. Supermarkets are prevented from selling both products. This behaviour from Company X would restrict or prevent Company Y entering the market.

PREDATORY PRICING

□ A business with a large market share or monopoly prevents a new business from entering or succeeding in a market by pricing its goods or services below cost.

■ EXAMPLE:

A dominant pizza firm (Company A) wants to push a new firm (Company B) out of the pizza market.

Company A starts selling its pizzas at a price below what it cost to make. The low prices force Company B to either match the prices of Company A which means it loses money or continue to sell at a cost based price where it gets no customers. Company B goes out of business, and Company A raises prices higher than original price to recover losses from its pricing strategy.

BENEFITS OF UNDERSTANDING COMMUNITY COMPETITION POLICY

- Regional competition helps businesses become globally competitive by encouraging innovation and production of quality goods in the marketplace
- Understanding the community competition policy and abiding by the rules of competition will help businesses avoid unnecessary litigation, fines (penalties), and damaged reputations
- If your business is being hampered by ABC of a rival, there is help available through National Competition Agencies or the CCC (dependent on jurisdiction)

STATUS OF IMPLEMENTATION OF COMPETITION POLICY IN CARICOM

- Barbados , Guyana and Jamaica (operational)
- Trinidad and Tobago (law not fully enacted)
- OECS Sub-region (Agreement and draft bill)
- **Suriname (consultation on draft competition bill in 2013)**
- Belize (strategy development for implementation)

END OF PRESENTATION

Thank You!

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

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