

# Investigations and the investigative process

## What is an investigation by the Competition Commission?

An investigation is the formal process under which the Executive Director reviews and assesses the existence of possible anti-competitive conducts. An investigation is initiated only if there are reasonable grounds to believe that an enterprise is involved in anti-competitive practices.



### Implications if you are being investigated

- You may be ordered to submit documents and information or be interviewed.
- An unannounced search and seizure can be carried at your business premises.

## Stages of an investigation

- **Power of investigation** – The Executive Director is empowered under sections 51 and 30 of the Competition Act 2007 to carry out investigations either on his own initiative or upon a complaint.
- **Procedural meetings** – Once a party has been informed of an investigation, the Executive Director will carry out a procedural meeting with the enterprises concerned to set out the procedures to be followed during the investigation.
- **Information gathering** – Information gathering is an essential aspect of investigation, carried out to ascertain whether an anti-competitive conduct has occurred or is occurring.
- **Statement of Issues** – One of the initial steps of an investigation is the issue of a document to the enterprises concerned setting out the competition concerns in light of the relevant law and information in possession of the Competition Commission.
- **Preliminary Report containing the provisional findings** - The Executive Director will upon having completed his assessment of the matter produce a Preliminary Report of investigation setting out his findings. In case of finding of breach the report will also contain the Executive Director’s recommendations on directions and/or fines to be imposed.
- **Final report of Investigation** – After having received the submissions of the enterprise concerned on the Preliminary Report, the Executive Director may carry out further information gathering and assessment before making a final Report of Investigation taking into consideration the views of the enterprises.
- **Submission of the Report to the Commissioners for determination of the Case** - The Executive Director will upon completion of the investigation make a report containing his findings and recommendations and submit same to the Commissioners and parties.

### Fairness and Natural Justice

An enterprise is granted the opportunity to make submissions at every stage of the investigation, the more so at the Provisional findings stage before the submission of a Final Report of Investigation to the Commission.

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