

Competition Commission Guidance Note

On

Trade Association and Cooperatives Amnesty Programme (TACAP)

Issued on 26 May 2026

(Version 1.0)



Table of Contents

I. Introduction	3
A. Purpose of the Competition Commission Guidance Note	3
B. TACAP: What is it?	3
II. The Competition Act 2007: Horizontal Collusive Agreements and Bid Rigging	4
A. What is collusion?.....	4
B. Why are trade associations / professional bodies / cooperatives concerned with collusion?	4
C. What are Horizontal Collusive Agreements?	5
D. What is Bid Rigging?.....	5
E. Why are Horizontal Agreements and Bid Rigging harmful?.....	6
F. What risks attach to businesses involved in horizontal agreements and/or bid rigging under the Competition Act 2007?	7
III. Examples of conduct at trade association/cooperative level which may qualify for TACAP	7
IV. What should a trade association/cooperative do if it believes it was involved in a horizontal agreement or bid rigging conduct?	11
V. Applying for TACAP.....	11
A. Procedural conditions to be fulfilled by TACAP Applicants	12
B. Substantive conditions to be fulfilled by TACAP Applicants.....	13
C. What happens once TACAP expires?.....	13
VI. Assessment of TACAP Applications.....	14
A. Assessment at the level of the Executive Director	14
B. Assessment by the Commission	15
VII. Treatment of Confidential information under TACAP	15
VIII. Additional Information	16

Disclaimer: This Guidance Note is issued as an aid to complement the ‘*Competition Commission (Trade Association and Cooperatives Amnesty Programme) Regulations 2026*’ and to assist trade associations, professional bodies, and cooperatives in understanding the scope, terms and conditions of the Competition Commission (CC)’s Trade Association and Cooperatives Amnesty Programme (TACAP). It is intended for informational purposes only and is not directional in nature. In explaining the TACAP Regulations 2026, generalisations have been made as it is not possible to cover all possible scenarios of problematic conduct falling within TACAP. Any example provided is for illustrative purposes only and the Guidance Note does not limit the CC’s assessment of TACAP applications. This document does not constitute legal advice, and sole reliance on it does not guarantee the successful outcome of any TACAP application. Trade associations, professional bodies, and cooperatives are encouraged to seek independent legal or professional advice when considering applying under TACAP.

I. Introduction

A. Purpose of the Competition Commission Guidance Note

- 1.1. The Competition Commission (Trade Association and Cooperatives Amnesty Programme) Regulations 2026 (hereafter referred to as 'the TACAP Regulations'), made under section 72 of the Competition Act 2007 (the 'Act'), were promulgated on 09 May 2026 (Government Notice No. 53 of 2026) and come into force on 25 May 2026.
- 1.2. The Competition Commission Guidance Note on TACAP (the 'CC Guidance Note') is intended to guide persons wishing to apply for TACAP to better understand the scope, main provisions and associated terms and conditions of the Regulations as well as the procedural aspects thereof. The Guidance Note also explains how the CC will assess amnesty applications received under TACAP.
- 1.3. This Guidance Note is neither published pursuant to any statutory obligation nor should it be read as if it were akin to a statutory enactment. Also, the Guidance Note does not purport to address in advance every conceivable situation which may fall within the scope of TACAP. However, in order to guide trade associations, cooperatives, or professional bodies in identifying whether their conduct possibly qualifies for TACAP, Section III illustrates some examples of prohibited cartel conduct at trade association/cooperative level which may qualify for TACAP.
- 1.4. To ascertain whether a certain type of conduct falls under TACAP, the individual circumstances of each case will need to be reviewed. This Guidance Note is therefore by no means a substitute for a comprehensive self-assessment on the part of trade associations, cooperatives or professional bodies, which are invited to carefully review their respective situation, seek legal advice, if any, and consider the individual circumstances of any suspected conduct before filing an application under TACAP.

B. TACAP: What is it?

- 1.5. The Act prohibits any form of collusive arrangement among competitors, including in a procurement/tender setting, and severely sanctions enterprises that are found to infringe the said prohibitions, including through the imposition of financial penalties.
- 1.6. Effective as from 25th May 2026, the CC will be administering the TACAP Regulations, which has put in place a temporary amnesty programme referred to as Trade Associations and Cooperatives Amnesty Programme (TACAP). TACAP is **valid only until 25th November 2026** and open to participation by trade associations, professional bodies and cooperatives (and their members).
- 1.7. TACAP is a window of opportunity being provided to **any trade association, cooperative or professional body** which may be or have been involved in or may have facilitated the occurrence of cartel (collusive) conduct to come forward and disclose such conduct(s) **during the limited amnesty period** in exchange for **complete immunity from financial penalties**.
- 1.8. It should be noted that TACAP does not apply to associations of a general character. It applies only to trade associations (including professional bodies) and cooperatives which are platforms that bring together businesses selling or acquiring goods or services of the same nature.
- 1.9. Notwithstanding the fact that a trade association, cooperative or professional body involves multiple members, the CC will grant **immunity to all members** involved in the reported conduct,

so long as said members consent to participating in its trade association's/cooperative's application for amnesty and fulfil the requisite conditions prescribed in the TACAP Regulations.

- 1.10. It is important to highlight that a trade association, cooperative or professional body will qualify for amnesty only if it is involved in conduct that qualifies as horizontal agreement (section 41) and/or bid rigging (section 42), as defined under the Act. As such, a trade association, cooperative or professional body believing that it may be party to/may have facilitated, for instance, a resale price maintenance (RPM) arrangement may not avail themselves of TACAP. They may, however, apply for the CC Leniency Programme¹.

II. The Competition Act 2007: Horizontal Collusive Agreements and Bid Rigging

A. What is collusion?

- 2.1. Collusion (commonly referred to as 'cartel') occurs when businesses, often rival ones, decide together on how to conduct business on the market instead of making such decisions independently. Often such decisions involve agreeing on or exchanging information on competitive parameters of the business such as price, production, customers, bidding intentions, among others. Collusive agreements are prohibited under the Act since they are by large considered to be most harmful to the process of competition on markets and as such, the most serious form of anti-competitive conduct. The following three forms of collusion are prohibited under the Act -

- Horizontal agreements between rival firms to fix selling price, to share the market or to restrict output (section 41)
- Bid rigging (section 42)
- Agreements between supplier and reseller on the resale price (section 43)

- 2.2. It is important to note that TACAP is valid only for collusive agreements that fall under **section 41** and **section 42** of the Act.

B. Why are trade associations / professional bodies / cooperatives concerned with collusion?

- 2.3. Trade associations, professional bodies and cooperatives are legitimate platforms that generally regroup, as their members, businesses of the same trade/operating in the same industry. Members of such platforms are often competitors to one another and engage, within the setting of their trade association/professional body/cooperative, in discussions on matters affecting their industry, common challenges, regulatory developments, standards, training, advocacy, and other matters of mutual interest.

- 2.4. While these interactions are legitimate and often beneficial, they may also create opportunities for competitors to exchange commercially sensitive information or coordinate their market

¹ Please refer to [CC 3 Guidelines on Collusive Agreements](#), Chapter 5.

behaviour instead of competing independently. Discussions may stray into anti-competitive territory and facilitate collusion, such as horizontal collusive agreements or bid rigging.

C. What are Horizontal Collusive Agreements?

- 2.5. **Section 41 of the Act** prohibits any form of collusion among competitors (actual and potential).
- 2.6. A horizontal agreement is an agreement between enterprises which operate at the same level of the supply chain and in the same market, and which are competitors to one another. The term *agreement* is defined widely under the Act. It can take any form, whether written, oral, or through direct or indirect communication whether or not legally enforceable. The agreement must however be meant to be implemented in Mauritius or in a part of Mauritius.
- 2.7. A collusive agreement therefore neither needs to be in writing nor to have been enforced in order to be caught by the prohibition under section 41 of the Act. Additionally, an agreement among competitors may be found to exist even when they did not take definitive decisions on how to act on the market but merely exchanged sensitive information regarding their business such as future price increases, discounting practices, stock/ production reduction, bidding intentions, etc.
- 2.8. A horizontal agreement is collusive and prohibited where the enterprises participating in the agreement agree to fix the price of the good or service, share markets, or restrict output.
- 2.9. Within the setting of a trade association / cooperative, competition concerns may arise, for example, where members discuss or agree on:
- prices, fees, discounts, commissions, or other pricing terms;
 - future pricing intentions or business strategies;
 - allocation of customers, territories, or markets;
 - production levels, supply, or capacity;
 - coordinated action against certain competitors, suppliers, or customers.
- 2.10. Trade associations, professional bodies and cooperatives may also facilitate anti-competitive conduct through their rules, constitutions, codes of conduct, resolutions, or recommendations where these influence how members compete in the market. Even informal understandings, recommendations, or voluntary guidelines may raise concerns if they reduce independent decision-making among competing members.

D. What is Bid Rigging?

- 2.11. Bid rigging occurs when competitors coordinate their conduct in relation to a tender or procurement exercise instead of preparing bids independently. Such conduct undermines competition, inflates prices, reduces quality and innovation, and may cause significant financial harm to procuring entities and consumers.
- 2.12. **Section 42 of the Act** prohibits any form of bid rigging that is not disclosed in advance to the procuring entity. Bid rigging exists when bidders agree in advance on the terms or conditions of their bid submissions as well as who participates (or not) in the said bid. The prohibition

extends to any form of procurement, whether private or public. Bid rigging can take many forms, such as bid suppression, complementary bidding, bid rotation or subcontracting.

2.13. *Bid suppression* is an agreement whereby one or more competitors who otherwise would be expected to bid or who has/have bid agree/s to refrain from bidding or withdraw/s a previously submitted bid so that the designated winning competitor's bid will be accepted.

2.14. *Complementary (cover) bidding* occurs when some bidders agree to submit bids that either are too high to be accepted or contain special terms that will not be acceptable to the buyer.

2.15. *Bid rotation* is an agreement whereby bidders take turns to be the designated winning bidder.

2.16. *Subcontracting* occurs when bidders agree not to bid or to submit deliberately a losing bid and subsequently receive subcontracts or supply contracts in exchange from the successful low bidder as a form of compensation for their non-participation in the tender.

2.17. Trade associations, professional bodies, and cooperatives may face heightened competition law risks in relation to public and private procurement processes where member businesses compete for the same contracts or tenders. Trade associations and cooperatives may facilitate bid rigging where they provide opportunities, structures, or communication channels through which competitors can coordinate tender-related behaviour.

2.18. Competition concerns may arise where members, during trade association or cooperative activities, -

- discuss upcoming tenders, procurement opportunities, or bidding intentions;
- disclose pricing methodologies, bid calculations, margins, or commercial strategies;
- share confidential information relating to planned bids;
- indicate whether they intend to bid or abstain from bidding;
- coordinate responses to tenders through committees or working groups;
- use meetings, social gatherings, or messaging platforms to exchange tender-sensitive information; or
- collectively influence how members participate in procurement exercises.

2.19. Even where no explicit agreement exists, repeated exchanges of commercially sensitive tender information may reduce uncertainty between competitors and facilitate illegal coordinated conduct.

E. Why are Horizontal Agreements and Bid Rigging harmful?

2.20. Competition is important to ensure that markets operate to the benefit of consumers and the economy at large, through competitive prices, greater choice, quality and innovation.

2.21. When competitors at the same level of the market enter into horizontal agreements—such as price-fixing, market sharing, or output restriction—they replace competition with coordination, leading to artificially high prices, reduced consumer choice, and reduced innovation.

2.22. Similarly, bid rigging distorts competition in procurement processes by allowing firms to secretly agree on who will win a tender and at what price. This results in higher costs for procuring entities, misallocation of resources and reduced quality of goods or services.

F. What risks attach to businesses involved in horizontal agreements and/or bid rigging under the Competition Act 2007?

2.23. The Act treats a collusive agreement and bid rigging practices as a 'hard-core restrictions' of competition without having regard to any claimed 'public benefit' or 'economic efficiency' which may result from the horizontal or bid rigging agreement.

2.24. An enterprise found to be a party to a collusive agreement is liable to a financial penalty of **maximum of 10% of its turnover in Mauritius** during the period of the breach up to a **maximum period of 5 years**. Fines imposed under the Act can be very significant for infringing enterprises. For example, if an enterprise with an average annual turnover of Rs 50 million engages in a horizontal agreement or a bid rigging for 5 years it may be liable to fines of up to Rs 25 million.

2.25. In the case of a trade association, all the members of the trade association, professional body or cooperative society, qualifying as enterprises, are liable for breach and to payment of financial penalties. In addition to fines, enterprises involved may be directed to implement certain measures to ensure that they cease to be a party to the agreement.

2.26. Horizontal agreements and bid rigging which pre-date the coming into force of the Act but which nevertheless continued to exist after the Act came into force, would still amount to a breach. In the same vein, even if businesses may have ceased a cartel conduct, they may still be found liable under the Act for their past involvement and be fined in respect thereof.

III. Examples of conduct at trade association/cooperative level which may qualify for TACAP

3.1 This section provides general guidance on how to identify, under competition law, horizontal agreements and bid rigging. The case examples that are used to illustrate occurrences of horizontal agreements and bid rigging have been simplified for presentation purposes and are marked in italics. In view of the diversity of cartels, it is not possible to provide a definite categorisation and assessment of all forms of collusion that may arise within the context of a trade association/cooperative.

Example 1

Illegal Price Fixing through competitively sensitive discussions

During a meeting of a trade association, 'declining profit margins' are earmarked as a meeting agenda item and members exchange views regarding minimum price to be charged for business sustainability going forward. While no written agreement is signed, the discussions lead members to adopt similar minimum pricing levels shortly after the meeting.

In this example, the trade association is formally bringing pricing issues to the discussion table and members, having received the agenda and participating in that meeting, cannot not foresee the implications of engaging in such discussions. The trade association is the main facilitator for collusion and responsible for engaging its members in discussing prices and a common (future) pricing strategy to be adopted in the face of declining market prices. Even without agreement, members have removed market uncertainty by discussing in future commercial (pricing) strategy on the market. Irrespective of the prevailing market (crisis) situation, members are liable for breach under the Act for involvement in an illegal collusive agreement to increase future prices by charging a minimum.

Example 2

Illegal Price Fixing through recommendations

The Executive Committee of a trade association/cooperative circulate monthly bulletins containing 'recommended price schedules' to all members. While presented as a non-binding guidance, it is found that members follow these recommendations. The trade association/cooperative maintains detailed records of members' price evolution and sales record, which are subsequently compiled and communicated to members.

In this case, the trade association/cooperative is facilitating a price-fixing cartel by making known to members what prices they should charge on the market. Even if portrayed as a 'pricing recommendation', such conduct increases market transparency on prices and tampers with independent pricing decisions of the members. The collection, compilation and distribution of pricing and sales information from members could signal the existence of a monitoring mechanism at trade association/cooperative level to ensure that the 'recommended pricing schedules' are effectively adhered to by members. Deviations by members could even be sanctioned by the Executive Committee. This conduct amounts to a clear-cut breach of the price-fixing prohibition under the Act engaging the liability of the Executive Committee as well as other members adhering to the pricing recommendations.

Example 3

Illegal Price fixing involving fixing a price component

Members of a professional association hold a meeting to discuss rising operational costs. During the meeting, the members agree that they will apply a uniform "fuel surcharge" of MUR 150 on every delivery, regardless of the actual fuel costs incurred by each company. Following the meeting, the members begin applying the same surcharge in their invoices to customers.

Even though the members of the professional association did not fix the overall price of their goods and services, they agreed on a component of the final price charged to customers. By coordinating the “fuel surcharge” fee through the professional body, the competitors decided on their pricing strategy collectively instead of independently and in so doing, they restricted competition between them. An agreement might also fix prices by indirectly affecting the prices to be charged. It may cover the discounts or allowances to be granted, transport charges, payment for additional services. The agreement might relate to specific charges or allowances or to the ranges within which they fall or to the formulae by which prices or ancillary terms are to be calculated.

Example 4

Illegal discussions involving allocation of customers/regions

A professional body implemented a coordination scheme supposedly to ensure efficient service coverage. Under this scheme, the professional body divided the geographical area into exclusive zones, allocating specific clients/customers to individual members of the professional body.

This constitutes a clear example of illegal market sharing through geographic/customer allocation and is a restriction that eliminates competition among members for specific customers. Whereas each member could have competed on its service offerings to different customers to increase chances of securing maximum clients, it is now enjoying an ‘exclusive monopoly’ over customer(s) allocated to it without fear of competitors competing for its clients. In the same vein, customers are being denied the ability to choose their service providers because a non-designated provider will not service customers allocated to its competitors.

Example 5

Illegal restriction of production even if at times of market crisis and serving legitimate objectives

A cooperative society established a production quota for its members, apparently with the objectives of stabilising the market during a period of industry crisis and for quality assurance purposes. The cooperative’s board allocated specific production volumes to each member based on historical output levels. Members agreed to limit production to their assigned quotas.

This arrangement restricts the overall production for the market through quota allocation which will likely serve to maintain or increase market prices and conditions instead of allowing producers to independently decide how much they can and are willing to produce through investment/innovation. The production quota will constitute an illegal horizontal agreement to restrict supply notwithstanding the market crisis or legitimate quality assurance objectives.

Example 6

Bid rotation scheme

A trade association organised regular meetings where members discuss public tenders launched by different bodies. During these meetings, members agree on which company would submit the winning bid for each project, rotating opportunities among participants.

The trade association provides a regular forum for competitors to meet and coordinate their conduct in relation to bid submissions for upcoming tenders. The members of the trade association manipulated the process of competition expected out of a tender exercise by coordinating bidders conduct, eliminating opportunities for the public procuring entities to benefit from process of genuine competition in terms of value for money.

Example 7

Cover Bidding or Complementary Bidding scheme

A trade association convenes a meeting to agree on which member will win a tender launched by a specific body, and at what profit-maximising price. It is decided that the remaining members will also bid but at bid prices that have been agreed upon at association level.

The bids were not independently prepared but were coordinated to predetermine the outcome of the tender as well as the winning bid price, which likely is an inflated price to maximise illegal gains. By submitting pre-agreed upon bid prices ("cover" bids) to favour the designated winner, the other bidders created only the appearance of competition for the procuring body, while in reality eliminating genuine competition in the tender.

Example 8

Bid suppression with subcontracting concerns

Members of a cooperative society become aware that a public body is inviting bids (in two lots) to supply a specific product. During a meeting of the cooperative, the members agree that only two of their members will bid for the contract, one for each lot, while others will refrain from participating. In exchange, the awardees agree to share part of the supply arrangement with the other members for their respective lots once the contract is awarded.

When the public body will receive fewer bids than expected, this will create the false impression that there was limited market interest, when in fact, competition had been deliberately suppressed. This arrangement constitutes bid suppression since competitors coordinated their conduct by agreeing not to compete in the tender. There is also a subcontracting arrangement, which was not disclosed to the public body, further demonstrating that the non-participating bidders will be compensated for agreeing to take part in the bid rigging scheme. Such conduct undermines competition, limits the purchaser's ability to obtain value for money and distorts the integrity of the procurement exercise.

IV. What should a trade association/cooperative do if it believes it was involved in a horizontal agreement or bid rigging conduct?

- 4.1. A trade association, professional body or cooperative that has been involved in or that facilitated a horizontal agreement or bid rigging conduct under section 41 or 42 of the Act stands to gain much by reporting its participation and applying for amnesty while TACAP is valid. As explained above, a trade association/cooperative and members which apply for TACAP and fulfil the conditions of the said programme will not have to incur any financial penalty for cartel conduct(s) they have reported.
- 4.2. The financial implications of infringing the horizontal agreement and bid rigging prohibition coupled with the damage caused to one's corporate image and reputation as a result of being found to infringe the Act by far outweigh any concerns that one may have about disclosing its participation. In fact, TACAP does not even require an applicant-association/cooperative or any of its consenting members to admit guilt or liability when applying for TACAP.
- 4.3. The mere fact that a trade association, professional body or cooperative has terminated a collusive agreement on its own does not absolve the members' liability nor precludes the need to apply for amnesty. Even though members of a trade association, professional body or cooperative might think that they are no longer party to a collusive agreement or that the agreement has been terminated, they can still be found to be in breach of the Act if the Competition Commission uncovers the existence of their past involvement in such conduct. In such case, the members of the trade association, professional body or cooperative society could still be heavily fined.
- 4.4. Members of trade associations, professional bodies and cooperative societies which are party to a collusive agreement under section 41 and 42 of the Act can now take advantage of TACAP. TACAP is broader and more lenient than the existing CC Leniency programme. Members that would not have benefitted from immunity under the Leniency programme (e.g. cartel initiators or businesses that are not first to apply for leniency) now stand to benefit from immunity if they come forward, apply for TACAP and fulfil the necessary conditions under the Regulations.
- 4.5. TACAP is therefore a one-off opportunity for **any** trade association, professional body or cooperative society involved in collusive agreement(s) under section 41 and 42 of the Act to come forward and report conduct and cooperate fully with CC, per TACAP Regulations, in sanitising the said trade association/cooperative from such conduct.

V. Applying for TACAP

- 5.1. A trade association, professional body or cooperative and its members wishing to take advantage of TACAP must file their request for amnesty via the [Commission-approved TACAP Application Form](#) and submit the duly filled and signed application form alongside all supporting information via email to TACAP@competitioncommission.mu.
- 5.2. Applicants must ensure that they submit their application on the **latest** version of the application form, as issued by the Competition Commission, and that all relevant sections of their form are correctly filled in.

- 5.3. Under TACAP Regulations, the trade association, professional body or cooperative can apply for amnesty either:
- i. through an authorised representative of the trade association, professional body or cooperative; or
 - ii. through a legal representative.
- 5.4. It is to be noted that the TACAP Regulations set out the procedural and substantive conditions which need to be cumulatively fulfilled for an applicant-trade association, professional body or cooperative to maximise chances of a successful application and thus, benefiting from immunity. These conditions are explained below:

A. Procedural conditions to be fulfilled by TACAP Applicants

- 5.5. For an application to be considered valid, the trade association, professional body or cooperative should mandatorily satisfy the following procedural conditions –
- a. the application should be made by filing the *Template TACAP Application Form* available of the website of the CC and accompanied by all supporting information;
 - b. the application should be signed by 2 authorised representatives of the applicant;
 - c. the application should include the expressed and unconditional consent of each of the applicant’s current and past members intending to benefit from amnesty under TACAP (‘consenting members’) with regards to adherence to the conditions of TACAP, the contents of the application submitted, and all information submitted in support of the application;
 - d. the applicant shall satisfactorily demonstrate to the Commission that it has taken all reasonable steps to give sufficient advance notice to all members, including past members, of its intention and decision to apply for amnesty under TACAP prior to submitting its application; and
 - e. the application should be submitted to, and received by, the Executive Director during TACAP’s validity period, that is **no later than 25 November 2026**.
- 5.6. With regards to condition d) above, it must be highlighted that an interested trade association/cooperative that has duly fulfilled this condition may find that not all of its members (current or past) consent to applying for TACAP and/or fulfilling all the requisite conditions under the programme. Notwithstanding, the trade association/cooperative can still apply for TACAP alongside those members that are willing and consent to applying for TACAP, making the necessary declarations in the application form and agreeing to be bound by all TACAP conditions. Such members are referred to as consenting members and in the above scenario, only the applicant and its consenting members would be granted immunity if their application is successful. As for the non-consenting members, that is those that do not consent to apply for TACAP, who are not identified in the application form and do not make the necessary declarations in the application form, they will not be eligible to qualify for TACAP. Non-

consenting members will be excluded from the benefits of TACAP, if the Commission favourably considers their association or cooperative's application and grants immunity to the applicant-trade association or cooperative. It should be noted that the Competition Commission will not be precluded from initiating enforcement action against non-consenting members of the trade association or cooperative, where there are reasonable grounds to believe that they were involved in the reported conduct(s) concerned.

- 5.7. In the event that no member is willing to apply for TACAP despite the applicant's best efforts in fulfilling condition d) above, the applicant should, at a minimum, garner the support of its existing committee of office bearers in post at the time of application to apply for TACAP.

B. Substantive conditions to be fulfilled by TACAP Applicants

- 5.8. In addition to the afore-mentioned procedural conditions attached to the form, process and modalities of submitting a TACAP application, an applicant (and its consenting members) must also comply with the hereunder substantive conditions, cumulatively, to qualify for amnesty under TACAP –

- a. the applicant should make full and frank disclosure regarding conduct(s) identified in its application as problematic under sections 41 and/or 42 of the Act and provide the Commission with all information, documents and evidence available to it regarding the reported conduct;
- b. the applicant and its consenting members should maintain continuous and complete cooperation from the time of submission of their application until the conclusion of any action by the Commission in relation to the matter;
- c. the application should contain a clear and an unequivocal statement on the part of the applicant and its consenting members confirming their involvement in the reported conduct(s), notwithstanding that such involvement may have been negligent on their part. However, neither the applicant nor any of its consenting members is required to admit liability/guilty regarding the disclosed conduct(s);
- d. the applicant should propose undertakings, in the form and manner of the [Template Undertakings for Applicants](#), as provided for by CC, in accordance with section 63 of the Act to ensure that the applicant and its consenting members cease participation in the reported conduct(s) and to ensure compliance with the Act going forward; and
- e. the applicant and its consenting members should, upon application made to the Commission, refrain from further participation in the reported conduct(s).

- 5.9. The Commission may refuse amnesty where any of the conditions mentioned above are breached.

C. What happens once TACAP expires?

- 5.10. Trade associations and cooperatives should bear in mind that TACAP is a **one-off and time-bound** amnesty programme that is **valid only until 25th November 2026**. After this date and

unless extended, TACAP will no longer exist, and trade associations/cooperatives and their members will not be able to apply for or benefit from such programme.

- 5.11. **Once TACAP expires, CC will not be able to entertain any TACAP application. In the same vein, subsequent enforcement against cartel conduct at trade association/cooperative levels will be more stringent because those trade associations/cooperatives had the opportunity to apply for and benefit from TACAP but chose not to and continued to hide their collusive involvement notwithstanding that such cartel conduct may have ceased.**

VI. Assessment of TACAP Applications

A. Assessment at the level of the Executive Director

- 6.1. Upon receipt of a TACAP application, the Executive Director will acknowledge, in writing, receipt of same within 5 working days.
- 6.2. The office of the Executive Director will then screen the application to verify its completeness. This process will generally entail a comprehensive review of the application form and supporting information adduced by the applicant to ensure that *inter alia* the application satisfies the relevant procedural conditions per TACAP Regulations, all relevant fields in the application form are correctly filled out and all relevant supporting documents have been provided.
- 6.3. **In the event the TACAP application is complete and valid**, the Executive Director will open an investigation to assess whether the reported conduct(s) falls within the TACAP and whether the undertakings proposed by the applicant satisfactorily address all the concerns identified from the reported conduct(s). Where the Executive Director decides to open an investigation into a TACAP application, the applicant will be accordingly informed, in writing.
- 6.4. **In the event the TACAP application is incomplete**, the office of the Executive Director will liaise with the applicant's designated contact person/point to grant the applicant the opportunity to complete and perfect its application during TACAP validity period and to guide the applicant in this respect. The applicant bears the responsibility of ensuring that it complies with the guidance received in this respect and it promptly perfects and completes its application within TACAP's validity period.
- 6.5. Upon completion of his investigation, the Executive Director will produce a preliminary TACAP report containing his provisional findings and recommendations on the application, including on the undertakings proposed by the applicant. This PF Report will be submitted to the applicant who will have 21 working days to submit its comments, in writing, thereon to the Executive Director.
- 6.6. On receipt of the comments, the Executive Director will finalise his reporting and produce a Final TACAP Report which will be submitted to the Commission for determination.

B. Assessment by the Commission

- 6.7. Upon receipt of the Final TACAP Report, the Commission will decide on the outcome of the application including an assessment of –
- i. whether the application falls within the ambit of TACAP;
 - ii. whether to grant amnesty to the applicant and its consenting members;
 - iii. whether the undertakings proposed by the applicant satisfy the TACAP Regulations.
- 6.8. In deciding on the outcome of an application, the Commission can –
- a) grant amnesty and impose as directions the undertakings proposed by the applicant;
 - b) grant amnesty and impose directions in addition to or other than the undertakings proposed by an applicant; or
 - c) refuse to grant amnesty together with the reasons for such decision.
- 6.9. It is noted that the Commission can impose directions in addition to the undertakings proposed by the applicant and/or can impose additional or alternative directions. In such a case, the Commission will notify the applicant of same, in writing, and the applicant will have 14 working days to propose revised undertakings.
- 6.10. Further to the receipt of the revised undertakings, the Commission will then issue its final decision on the outcome of the applicant’s TACAP application and impose directions on the application and its consenting members in accordance with the Act.
- 6.11. If an applicant is not satisfied with a direction imposed by the Commission, it may appeal to the Supreme Court against such directions in accordance with section 67 of the Act.

VII. Treatment of Confidential information under TACAP

- 7.1. Regulation 10 of the TACAP Regulations provides for the manner in which information submitted pursuant to TACAP may benefit from confidential treatment as well as disclosures permitted under TACAP.
- 7.2. If an applicant considers that the Competition Commission should treat any item of information submitted under an application form as confidential, the applicant must state so in its application, and it must further file two (2) versions of its application form:
- i. an integral version of its form alongside all supporting information that includes all confidential information (‘Confidential version’), and
 - ii. an excised version of the form with the corresponding item(s) of confidential information excised therefrom (‘Non-Confidential version’).
- 7.3. The Non-Confidential version of the form should be legibly and clearly marked “Non-Confidential Version” and should be accompanied by an index identifying each item of information which has been excised or otherwise, removed from that version and providing a written explanation as to why each item of excised information should be treated as confidential.

- 7.4. The same treatment should also be extended to supporting documents accompanying the application form in the event that relevant parts thereof are claimed to be confidential.
- 7.5. The granting of a confidentiality claim in respect of information submitted in the Application rests with the Competition Commission.

VIII. Additional Information

- 8.1. Any trade association (including professional bodies), cooperative or business having additional questions regarding the understanding of the features of TACAP or the nature of undertakings to be provided for as part of a TACAP application, is invited to consult the [FAQ Sheet on TACAP](#), as published on the Competition Commission's [website](#).
- 8.2. Trade associations (including professional bodies), cooperatives or businesses wishing to obtain further information on TACAP may visit the Competition Commission's website, or contact the Competition Commission team via phone, WhatsApp, or email (as mentioned below), or may visit our offices (on appointment):
- Telephone: **211 2005**,
 - WhatsApp: **52 52 4005**,
 - Email: info@competitioncommission.mu (with email subject-line clearly indicating "TACAP").

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