

MEDIA RELEASE

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**The Competition Commission holds a Law Review Validation
Workshop with proposed amendments to the Competition Act 2007**

The Competition Commission held a validation workshop today at Ravenala Hotel to gather stakeholder feedback on proposed amendments to the Competition Act 2007. The workshop provided a further opportunity to examine the proposals before the draft amendments are finalised for submission through the appropriate government channels and the legislative process. The Competition Act 2007 provides the basis for competition law enforcement in Mauritius, with its substantive provisions in operation since November 2009. Drawing on more than 15 years of enforcement experience, the Commission coordinated a review to strengthen the law and ensure it remains effective in addressing anti-competitive practices. The review involved stakeholder consultations at several stages and technical input from international competition law experts, with support from the European Union and the World Bank Group. The resulting draft amendments reflect international best practice while taking account of Mauritius' market conditions and institutional context.

Modernising the Merger Control Regime

Under the current Competition Act 2007, merger notification is voluntary, meaning that certain transactions may escape the Commission's scrutiny. Moreover, addressing competition concerns after a merger has been completed can be challenging. The proposed reforms therefore seek to introduce mandatory notification, subject to prescribed thresholds, requiring qualifying mergers to obtain prior approval from the Competition Commission, with financial penalties for non-compliance. The aim is to address competition concerns before mergers take place, while allowing transactions that do not raise significant concerns to proceed.

Strengthening the Framework to Tackle Abuse of Dominance

The current law allows the Competition Commission to review abuse of market power but does not expressly prohibit such anti-competitive conduct or impose financial penalties for it. Most competition jurisdictions prohibit such abusive conduct and impose fines. Currently, the Commission can only issue directions to amend or cease the anti-competitive conduct after determining the matter. By the time the Commission intervenes, competition and consumers may already have suffered significant harm. The proposed amendments would align the law with this international practice by prohibiting abuse of a dominant position and allowing fines for infringing enterprises. They aim to strengthen enforcement and deter harmful conduct while distinguishing legitimate commercial success from practices that undermine competition.

Clarifying the Rules on Restrictive Agreements

The current Act allows the Commission to review certain restrictive agreements. The proposed amendments would clarify the rules governing certain agreements between competitors (horizontal agreements) and businesses at different levels of the supply chain (vertical agreements) and provide for their prohibition where the applicable market share and competition tests are met. This would strengthen the framework for addressing agreements that prevent, restrict or distort competition in Mauritius and aligning the framework with international practice.

Strengthening the Rules on Cartels and Bid Rigging

The proposals would extend the cartel's prohibition to cover additional collusive conduct, including agreements that limit production, technical development, or investment. The current exemption for disclosed joint bids is considered too broad. The proposal would, in addition to disclosure, also require evidence that collaboration among bidders creates genuine efficiencies, that substantial benefits reach the procuring entity, and that restrictions are necessary. This is intended to preserve legitimate joint bidding while better protecting competition in Mauritius' public procurement market.

Introducing Individual Exemptions for Certain Agreements

The current Act does not provide an individual exemption process for agreements, which notwithstanding their restrictive character, nevertheless generate clear economic benefits outweighing any harm. The proposal would allow businesses to apply for prior approval where an agreement produces sufficient efficiencies, consumers receive a fair share of the benefits, restrictions are necessary, and competition is not eliminated.

Clarifying institutional governance, enhancing enforcement tools and strengthening cooperation with Regulators

The proposals would establish a Board of the Competition Commission to clarify governance while preserving institutional independence. They would also introduce a settlement process for certain competition investigations and strengthen cooperation with national sector regulators and multinational competition authorities.

Next Steps

The Validation Workshop provided an opportunity for stakeholders to examine the proposed amendments and share their views. Feedback gathered will inform the finalisation of the proposals before they are submitted through the appropriate government channels for consideration as part of the legislative process.

**NOTE: THESE ARE PROPOSED AMENDMENTS. THEY HAVE NOT BEEN
ENACTED YET AND ARE NOT CURRENTLY IN FORCE.**

Statement of the Executive Director

Mr. Vipin Naugah, Executive Director of the Competition Commission, stated:

“The Competition Act 2007 has played an important role in promoting and safeguarding competition in Mauritius for the last 17 years. This is evidenced by a solid enforcement record. However, the context and environment in which we operate has changed significantly, calling for modernizing the law. This has been further supported by our experience in enforcing the law, which has exposed some important legal loopholes.

Therefore, we have come up with proposed amendments to the competition law to ensure that it continues to play its role in ensuring that markets operate competitively for the benefit of consumers, businesses and the economy at large.

The major reforms being proposed namely, the introduction of mandatory merger notification, the express prohibition of abuse of market power, and subjecting abuse of market power to financial penalties, and the strengthening of provisions against cartels and bid rigging have been designed to be robust and effective, while remaining flexible and business friendly. There are rooms for exemptions of certain otherwise anticompetitive conducts, for instance, where they are beneficial to the economy and consumers.

The Validation Workshop marks an important milestone, offering stakeholders an opportunity to contribute to shaping a more robust, balanced, and effective competition law. Ultimately, our objective is to establish a stronger and more effective competition law framework that safeguards competition, protects consumers, and supports investment, innovation and economic growth.”

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Media Contact

Ruby Cadressen | PR & Communication | ruby.cadressen@competitioncommission.mu