



*competition***commission**
south africa

**MANUAL IN TERMS OF THE PROMOTION
OF
ACCESS TO INFORMATION ACT 2 OF 2000 AND
PROTECTION OF PERSONAL INFORMATION ACT 4
OF 2013**

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FOREWORD

In order to present a balanced and understandable assessment of its position, the Competition Commission is repeatedly striving to ensure that its reporting and disclosure procedures to stakeholders are relevant, clear and effective. The Promotion of Access to Information Act (PAIA) No.2 of 2000 and the Protection of Personal Information Acts 4 of 2013 have been formulated to give effect to the right of access to information as enshrined in the South African Constitution. The Competition Commission views this as not merely an issue of legal compliance, but rather an opportunity to deal with information management in a holistic and integrated manner.

The Competition Commission places great emphasis on fostering a culture of transparency and accountability and continues to subscribe to the principles of openness, integrity, accountability and responsibility to stakeholders. The Competition Commission is committed to comply with Protection of Personal Information Act which requires that personal information collected is used for the purpose it was collected for and the owners of personal information consent before access is granted unless required by law. In the latter case the Competition Commission will inform the owner of the personal information. All employees will be required to sign employment contracts containing consent clauses for the use and storage of employee information or any other action so required in terms of POPIA.

The Competition Commission will not allow any personal information in its custody to be processed further in a way that is incompatible with the purpose it was collected initially. Information integrity will be maintained at all times as received and will be updated where applicable. Technical and organisation measures to secure the integrity of information and guard against the risks of loss, damage or destruction. Only authorised employees of the Competition Commission will use personal information for the legal purpose it was received for with the consent of the owner. The owners are entitled to know particulars of their information held by the Competition Commission as well as correct any information shared with the organisation.

The Competition Commission recognises that corporate governance is a dynamic area and, as such, its systems of corporate governance are evaluated on an ongoing basis to ensure that they remain at world-class standards and continue to be relevant to Competition Commission's business as it evolves. The organisation therefore complies with the Protocol of Corporate Governance in the Public Sector (1997), the Public Finance Management Act of 1999 ("the PFMA") and the King III Report on Corporate Governance (2008). The Competition Commission is also obligated to the enforcement of the Competition Act, No. 89 of 1998: Chapter 5, Section 45 which deals with Confidential Information.

This is the Competition Commission's revised manual in compliance with the Promotion of Access to Information Act No. 2 of 2000 (Section 14) and the Protection of Personal Information Act 4 of 2013 and we trust that this will assist you in requesting information from the Competition Commission and ensure that the rights of the owners of personal information are protected.

1. INTRODUCTION

[The Competition Act, No. 89 of 1998](#) (hereafter referred to as the Act) provides a mandate that positions the Competition Commission with the responsibilities of investigation, control and evaluation of restrictive practices, abuse of dominant position and mergers. It further provides for the establishment of a Competition Tribunal that is responsible to adjudicate on such matters as well as the Competition Appeal Court and other related matters.

It is notably important to highlight that the Act gives clear guidelines on matters relating to the management and access of confidential information. In cases where confidential information is requested, the Act together with PAIA will be enforced to ensure that access is protected and provided in accordance with the provisions of each of these Act of parliament.

This manual will assist requesters to identify records held by the Competition Commission and the manner of accessing them. It is also intended to give guidance on how PAIA can be used to gain access to these records in compliance with POPIA.

2. PARTICULARS IN TERMS OF SECTION 14

2.1 FUNCTIONS OF THE COMPETITION COMMISSION

According to section 21(1) of the Competition Act 89 of 1998, as amended amended, the Competition Commission is responsible to: -

- Implement measures to increase market transparency.
- Implement measures to develop public awareness of the provisions of this Act.
- Investigate and evaluate alleged contraventions of Chapter 2.
- Grant or refuse applications for exemption in terms of Chapter 2.
- Authorise, with or without conditions, prohibit or refer mergers of which it receives notice in terms of Chapter 3.
- Negotiate and conclude consent orders in terms of section 49 D.
- Refer matters to the Competition Tribunal, and appear before the Tribunal, as required by this Act.

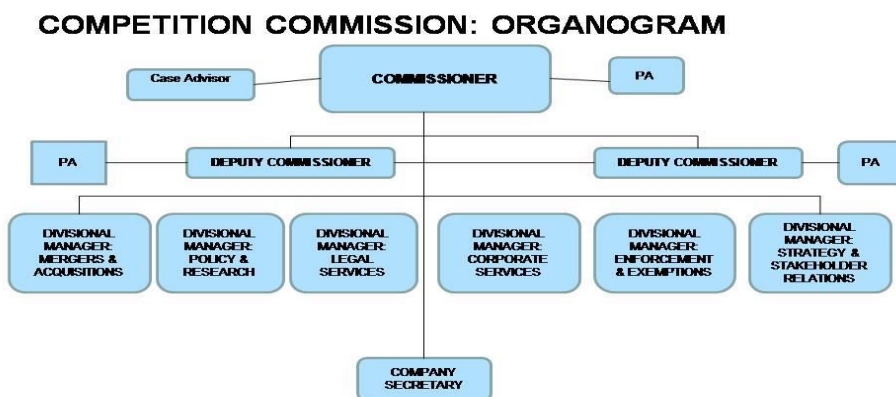
- Negotiate agreements with any regulatory authority to co-ordinate and harmonise the exercise of jurisdiction over competition matters within the relevant industry or sector, and to ensure the consistent application of the principles of this Act.
- Participate in the proceedings of any regulatory authority.
- Advise, and receive advice from, any regulatory authority.
- Over time, review legislation and public regulations, and report to the Minister concerning any provision that permits uncompetitive behaviour, and
- Deal with any other matter referred to it by the Tribunal.

The Competition Commission may also: -

- Report to the Minister of Trade and Industry (the Minister) on any matter relating to the application of this Act.
- Enquire into and report to the Minister on any matter concerning the purposes of this Act, and
- Perform any other function assigned to it in terms of this or any other Act.

2.2 STRUCTURE OF THE COMPETITION COMMISSION

To fulfil its objectives, the Commission has structured itself as follows: -



3. CONTACT DETAILS

INFORMATION OFFICER

Name	Position	Tel No.	Fax No.	E-mail
Mr. Tembinkosi Bonakele	Commissioner	+27 12 394 3200	+27 12 394 0166	ccsa@compcom.co.za

DEPUTY INFORMATION OFFICER

Name	Position	Tel No.	Fax No.	E-mail
Mr. Mduduzi Msibi	Company Secretary	+27 12 394 3200	+27 12 394 0166	ccsa@compcom.co.za

Physical Address	Block C, the DTI Campus 77 Meintjies Street Sunnyside Pretoria, TSHWANE
Postal Address	Private Bag X 23 Lynnwood Ridge 0040

4. ACCESS TO RECORDS HELD BY THE COMPETITION COMMISSION

4.1 AUTOMATIC DISCLOSURE – SECTION 14(1)(E)

All information available from the website www.compcom.co.za is voluntarily disclosed. Other information that is automatically disclosed includes:

TYPE	DESCRIPTION
Reports	<ul style="list-style-type: none"> • Annual Reports • Notice of referrals • Annual Financial Statements
Policies	<ul style="list-style-type: none"> • Corporate Leniency Policy
Information to stakeholders	<ul style="list-style-type: none"> • Procedures • Service Standards
Publications	<ul style="list-style-type: none"> • Newsletters • Brochures • Notices • Updates • Posters • Booklets • Pamphlets
Agreements	<ul style="list-style-type: none"> • MOUs with sector regulators • MOUs with other agencies

4.2 DISCLOSURES ON REQUEST 14(1)(D)

TYPE	DESCRIPTION
Case Related	<ul style="list-style-type: none"> • Merger Reports (Non- confidential) • Enforcement Reports (Non-confidential) • Exemption applications • Advisory Opinions • Notices of complaints (Forms CC1) (but not the attached description of conduct)
Research Papers	<ul style="list-style-type: none"> • Sector studies • Economic briefs • Market inquiry reports
Training and Workshops	<ul style="list-style-type: none"> • Conference papers/speeches
Financial Management	<ul style="list-style-type: none"> • Budgets • Financial Policies • Auditor General Reports • Audit Committee Minutes
Human Resources	<ul style="list-style-type: none"> • Equity Reports • Training Reports • HR policies
Procurement	<ul style="list-style-type: none"> • Asset Register • Tenders • Tender Committee Meeting minutes

4.3 RESTRICTED DISCLOSURE IN TERMS COMPETITION ACT 89 OF 1998

In terms of Section 45 of the Competition Act, a person who seeks access to information that is subject to a claim of confidentiality may apply to the Competition Tribunal, which will then determine whether or not the information is confidential and if it finds that the information is confidential, make an appropriate order concerning access. The Competition Tribunal's contact details are:

Physical Address:	Block C, 3rd Floor the dti campus 77 Meintjies Street Sunnyside Pretoria, TSHWANE
Postal Address	Private Bag X 23 Lynnwood Ridge 0040
Telephone	+27 12 394 3300
Fax Number	+27 12 394 0169
Website Address	www.comptrib.co.za
Email Address	ctsa@comptrib.co.za

5. PROCESSES AND PROCEDURES FOR REQUESTING RESTRICTED DISCLOSURE INFORMATION OR RECORDS

A requester will be given access to a record of the Commission if:

- The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and in terms of a Competition Tribunal order.
- Access to that record is not refused on any ground of refusal mentioned in the PAIA and POPIA
- The record is not classified as “confidential information” in terms of the Competition Act, or
- The Competition Tribunal has ordered access to the confidential record.



5.1 POPIA INFORMATION SAMPLE

TYPE	DESCRIPTION
Case Related	<ul style="list-style-type: none"> • Merger Agreements • Merger Reports • Enforcement Reports • Exemption applications • Advisory Opinions • Notices of complaints (Forms CC1) (but not the attached description of conduct)
Financial	<ul style="list-style-type: none"> • Employee Tax • Employee Salaries/remuneration • Service Level Agreements • Tender Committee Minutes • Auditor General Reports
Human Resources	<ul style="list-style-type: none"> • Full Names, Physical address, postal and contact details, ID number • Disciplinary records • Credit Information • Employment Contracts • Training Reports • Loans and salary advances

6. PROCESSES AND PROCEDURES FOR REQUESTING INFORMATION OR RECORDS – SECTION 14 (1)(D) OF PAIA AND SECTION 23 OF POPIA

6.1 FORM OF THE REQUEST

- The request must be submitted in the appropriate form, Annexure A hereto, at the Commission's address, by facsimile or by email.
- The requester must indicate if the request is for a copy of the record or if the requester would like to inspect the record at the offices of the Competition Commission.
- The requester must indicate if, in addition to a written reply to his request for the record, he would like to be informed about the decision in any other way e.g. telephone.
- If the requester is asking for the information on behalf of someone else, the capacity in which the request is being made should be indicated
- If the requester is unable to read or write, or has a disability, then he can make the request for the record orally. The information officer or his duly authorized representative will fill in the form on behalf of the requester and give him a copy thereof [s 18 (3)].
- The requester must pay the relevant fees.
- The requester having provided adequate proof of identity has the right to request a responsible party to confirm possession of personal information free of charge.
- Request for details of description of the personal information including information about the identity of the third parties, or categories of third parties, who have, or have had access to the information-
 - (i) Within a reasonable time
 - (ii) At a prescribed fee
 - (iii) In a reasonable manner and format: and
 - (iv) In a form that is generally understandable.

6.2 RIGHTS OF THE REQUESTER

- If the requester asks for access to the record in a particular form then the requester is entitled to access in the manner that has been asked for unless doing so would interfere unreasonably with the running of the Competition 1 Printed in the Government Gazette (Govt. Notice R187 – 15 February 2002) (Form A)
- Commission, or damage the record, or infringe a copyright not owned by the State or the Competition Commission.
- If the record is not a document, it can, to the extent possible, be viewed or heard at the Commission's offices.
- If for practical reasons access cannot be given in the required form but in an alternate manner, then the fee charged will not exceed that which would the requester would have paid had access been provided in the manner requested.

6.3 FEES PAYABLE

There are two types of fees required to be paid in terms of the Act, namely the request fee and the access fee [s 22:]

A requester who seeks access to a record containing personal information about himself is not required to pay the request fee. Every other requester must pay the required request fee:

- The information officer will notify the requester (other than a personal requester) to pay the prescribed fee (if any) before further processing the request.
- The request fee payable is R35. The requester may lodge an application to a court against the tender or payment of the request fee.
- After the information officer has made a decision on the request, the requester will be notified of the decision in the manner in which the requester requested to be notified.
- If the request is granted the access fee must be paid for the search, preparation, reproduction and for any time reasonably required to be spent, including time spent in excess of the prescribed hours to search and prepare the record for disclosure.

6.4 PRESCRIBED FEES

- The fee for a copy of this manual is R1, 00 for every photocopy of an A4-size page or part thereof.
- The fees for reproduction of records are as follows:

TYPE OF REPRODUCTION	FEE
a) For every photocopy of an A4-size page or part thereof	R1.00
b) For every printed copy of an A4-size page or part thereof held on a computer or electronic or machine-readable form.	R1.00
For a copy in a computer-readable form on-	
i. stiffy disc	R40,00
ii. compact disc	R40,00
c) (i) For a transcription of visual images for an A4-size page or part thereof	R22,00
(ii) For a copy of visual images	R60,00
d) (i) For a transcription of an audio record, for an A4-size page or part thereof	R12,00
(ii) For a copy of an audio record	R17,00

- The request fee payable by every requester, other than a personal requester, is R35,00.
- The access fees payable by a requester referred to in regulation 7 (3) are as follows:

TYPE OF REPRODUCTION	FEE
a) For every photocopy of an A4-size page or part thereof	R1,00
b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R1,00
c) For a copy in a computer-readable form on –	
(i) stiffy disc	R40,00
(ii) compact disc	R40,00
d) (i) For a transcription of visual images, for an A4-size page or part	R22,00
(ii) For a copy of visual images	R60,00
e) (i) For a transcription of an audio record, for an A4-size page or part thereof	R12,00
f) To search for and prepare the record for disclosure, R15,00 for each hour or part of an hour excluding the first hour, reasonably required for such search and preparation.	

- For purposes of determining whether or not a deposit is payable by the requester prior to preparation of the record for disclosure, the following applies:
 - Six hours is a reasonable time to be spent in preparation of the record without payment of a deposit;
 - If the time required to prepare the record exceeds six hours, a deposit is payable; and
 - This deposit is equivalent to one third of the access fee payable
- The actual postage is payable when a copy of the record must be posted to the requester.

7. HOW TO GAIN ACCESS TO INFORMATION

To gain access to the services at the Competition Commission, requests must be made to the Commissioner or designated persons of the Commission.

Head of the Commission's Registry Department	HOD - Registry
Physical Address:	Block C, the dti campus 77 Meintjies Street Sunnyside Pretoria, TSHWANE
Postal Address	Private Bag X23 Lynnwood Ridge 0040
Telephone	+27 12
Fax Number	+27 12 394 0166
Website Address	www.compcom.co.za
Email Address	ccsa@compcom.co.za

8. REMEDIES AVAILABLE IF THE PROVISIONS OF PAIA AND POPIA THAT ARE NOT COMPLIED WITH BY THE COMPETITION COMMISSION

The Competition Commission does not have an internal appeal procedure in place to facilitate appeals against decisions of the Information Officer and Deputy Information Officers.

An aggrieved party may seek appropriate relief by way of application to the Magistrate's Court in terms of the Gazette Notice No. 585 of 14 May 2004. On hearing such application the court may grant any order that is just and equitable.

9. SECTION 10 GUIDE – [SECTION 14 (1) (C)]

A Guide on how to use the Promotion of Access to information Act was compiled by the South African Human Rights Commission in 2003 and is available on their website: www.sahrc.org.za. Any queries relating to the Guide should be directed to the SAHRC at the following address:

Private Bag X2700
Houghton
2041
Tel: (011) 484 8300
Fax: (011) 484 7146

10. UPDATING OF THE MANUAL

The manual will be made available at the offices of the South African Human Rights Commission, at the offices of the Competition Commission, and on the Competition Commission website.

11. ANNEXURE



competitioncommission
south africa

FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18 (1) of the Promotion of Access to Information Act, 2000 (Act No.2 of 2000) [Regulation 2]

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank, name and surname of information officer/deputy information officer) on (date) at (place).

Request fee (if any): R Deposit (if any) R Access fee: R

.....

SIGNATURE OF HEAD OF REGISTRY:

A. Particulars of public body

The Information Officer/Deputy Information Officer:

.....
.....
.....

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be recorded below.
- (b) Furnish an address and/or fax number in the Republic to which information must be sent.

© Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: Identity number:
..... Postal address:
..... Fax number:
..... Telephone number:
..... E-mail address:
.....

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed only if a request for information is made on behalf of another person.

Full names and surname: Identity number:
.....

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:
2. Reference number, if available:
3. Any further particulars of record:

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason therefore.

Reason for exemption from payment of fees:

.....
.....
.....

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:

Form in which record is required:

Mark the appropriate box with an "X".

NOTES:

- (a) Your indication as to the required form of access depends on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form -				
	Copy of record*		Inspection of record	
2. If record consists of visual images -				
(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.) _____				
	View the images		Copy of the images*	Transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound -				
	Listen to the soundtrack (audio cassette)		Transcription of sound track* (written or printed document)	
4. If record is held on computer or in an electronic or machine-readable form -				
	Printed copy of record*		Printed copy of information derived from the record*	Copy in computer readable form* (stiffy or compact disk)
* If you requested a copy or transcription of a record (above), you wish the copy or transcription to be posted to you? A postal fee is payable			YES	NO
Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.				
In which language would you prefer the record? (Please tick the relevant box)			<input type="checkbox"/>	<input type="checkbox"/>
<u>Zulu</u>				
<u>N. Sotho</u>			<input type="checkbox"/>	
<u>English</u>				

D. Notice of decision regarding request for access

You will be notified whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at thisday of20....