



MEMORANDUM OF UNDERSTANDING ON BILATERAL COOPERATION BETWEEN THE FEDERAL COMPETITION AND CONSUMER PROTECTION COMMISSION AND THE COMPETITION COMMISSION OF SOUTH AFRICA

The Federal Competition and Consumer Protection Commission (FCCPC) and the Competition Commission of South Africa (CCSA) (hereinafter referred to individually as Party, or collectively as the Parties), having regard to the importance of cooperation on the effective, transparent, and non-discriminatory enforcement of competition laws in Nigeria and South Africa, the Parties have reached the following understanding:

I. PURPOSE

1. The purpose of this Memorandum of Understanding (Memorandum) is to establish a general framework for bilateral engagement in order to further strengthen cooperation between the Parties in the area of competition law enforcement.
2. The present Memorandum is based on the understanding of mutual benefit.

II. COOPERATION

3. Cooperation between the Parties under this Memorandum will be subject to their respective laws and in particular, the protection of confidential information and business secrets as provided under the relevant competition laws of the Parties; and in accordance with their shared interests/priorities.
4. The Parties acknowledge that it will be in their mutual interest to exchange non-confidential information, experiences, and views with regard to:
 - a. Collaborating in respect of issues of mutual interest, including but not limited to, specialized studies, experiences, enforcements and recent key developments in competition policy;

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- b. Promoting awareness of competition law across the continent by raising the awareness of companies and the wider public about competition legislation and enforcement, as well as engaging in regional and continental fora;
 - c. Providing technical assistance for the purpose of enhancing each Party's competition policy and enforcement capacity, for instance, through organising capacity building activities such as seminars, webinars, and training workshops;
 - d. Coordination and cooperation in enforcement, if possible, in respect of the same or related cases, subject to reasonably available resources, so long as such efforts are compatible with applicable legislation and interests of the Parties.
 - e. Cooperation in responding to discussions on competition policy and enforcement where possible.
5. Within the framework of cooperation in the field of competition policy the Parties will aim at ensuring:
- Organization of study visits and experts' trainings, webinars, calls, group calls
 - Participation in conferences, symposia, seminars and other events organized by the Parties
 - Organization of meetings (visits) of the Parties, senior leadership for discussing the perspectives and directions in which the bilateral cooperation will continue annually
 - Mutual development, collaboration, advancement and execution of strategies in joint investigations and coordinated enforcements where applicable
 - Exchange of documents, studies and publications of the Parties.
6. The Parties will develop a work plan of cooperative activities, which may be revised by mutual consent.
7. The Parties may establish joint Working Groups in order to conduct research on competition issues in markets of interest and priority to the Priorities.



III. Assistance to be provided between the Parties


8. If one Party believes that anti-competitive conduct which is being carried out in the territory of the other Party, is adversely affecting competition on the territory of the first Party, it may request that the other Party initiates appropriate enforcement activities in line with their applicable competition law.
9. The requested Party will consider the possibility of initiating enforcement activities or expanding ongoing enforcement activities with respect to the anti-competitive conduct and will inform the other Party about the result or outcome of such consideration.
10. Nothing in this Memorandum will limit the discretion of the requested Party to decide whether to undertake enforcement activities with respect to the anti-competitive conduct identified in the request, nor will anything in this Memorandum preclude the requesting Party from withdrawing its request.

IV. RESOURCES

11. All commitments made in this Memorandum are subject to the availability of funds and each Party's budget priorities. This Memorandum is not intended to obligate funds.
12. Unless the Parties have agreed otherwise in advance in writing, each Party shall be responsible for bearing its own costs and expenses in carrying out any cooperation activities under this Memorandum.

V. MEETINGS

13. The Parties will endeavour to conduct meetings to:
 - a. Discuss current issues, experiences, best practices, and new developments of mutual interest with respect to competition policy development, legislation, and enforcement or the operation of the present Memorandum;

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- b. Exchange non-confidential information on the competition environment in economic sectors of common interest, in particular, the digital economy;

VI. EXISTING LEGISLATION AND CONFIDENTIALITY OF INFORMATION

14. Nothing in the present Memorandum will require either Party to take any actions or to refrain from acting in a manner that is inconsistent with the existing legislation of the Party in question or will require any change to that legislation.
15. Neither Party will be required to communicate information to the other Party if such communication is prohibited by the legislation of the Party possessing the information or if it would be incompatible with the interests of that Party in its application of competition law.
16. Where information is communicated between the Parties, the recipient should, to the extent consistent with its laws, maintain the confidentiality of any such information communicated to it and may not disclose it to any third party without the prior written consent of the other Party.
17. The parties are mutually obliged to promptly advise each other in writing of any unauthorized misappropriation, disclosure, or use by any person of the confidential information and shall take all steps reasonably requested to limit and stop such disclosure.

VII. COMMUNICATION UNDER THE PRESENT MEMORANDUM OF UNDERSTANDING

18. Each Party will designate a contact point to which the information necessary for the effective execution of the present Memorandum will be communicated. The Parties will notify each other promptly of all changes in their authorities with regard to competition law and competition enforcement.

Federal Competition and Consumer Protection Commission

Contact point: Regulatory and International Affairs Department

Address: 23 Jimmy Carter Street, Asokoro, Abuja

Tel: +234 085 600 3030

Email: contact@fccpc.gov.ng

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Competition Commission of South Africa

Contact point: Competition Commission South Africa

Address: 77 Meintjies street, Sunnyside, Pretoria

Tel: +27 12 394 3200

Email: ccsa@compcom.co.za

VIII. AMENDMENT OR REVISION

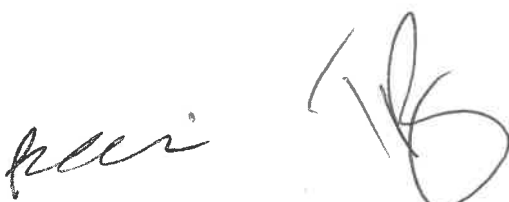
19. The present Memorandum can be revised in writing by the Parties after prior consultation and by agreement.

IX. RESOLUTION OF DISPUTES

20. The disputes resulting from the interpretation and implementation of the Memorandum will be resolved by the Parties harmoniously through consultation.


X. FINAL PROVISIONS

21. The Parties shall periodically evaluate the effectiveness of this Memorandum and the activities conducted under it.
22. The present Memorandum does not establish or purport to establish any legal rights or obligations.
23. The present Memorandum comes into effect from the date of its signature. Cooperation under this Memorandum is intended to continue until either Party wishes to discontinue cooperation, in which case, either Party should endeavour to provide three months' notice of its intention to discontinue cooperation to the other Party.
24. Termination of the present Memorandum is not intended to affect the implementation of projects that are already in process under the present Memorandum.



IN WITNESS WHEREOF, the undersigned being duly authorised have signed this Memorandum of Understanding in _____, on _____, 2022, in duplicate in the English language, both texts being equally authentic.

FOR THE FEDERAL COMPETITION AND
CONSUMER PROTECTION COMMISSION



Babatunde Irukera
Executive Vice-Chairman

THE COMPETITION COMMISSION
OF SOUTH AFRICA



Tembinkosi Bonakele
Commissioner