

CCA Bulletin

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FINANCIAL INCLUSION: CLOSING THE SERVICE PROVISION GAP

The Competition and Consumer Authority (CCA) in partnership with the Ministry of Finance and Economic Development and financial sector institutions is hosting Financial Inclusion workshops around the country.

The aim of the workshops, which covered Jwaneng, Tsabong, Hukuntsi, Ghanzi, Maun, Kasane and Selebi-Phikwe; is to educate and empower consumers who are excluded about relevant financial facilities. Experts in the financial sector such as the Banking Ombudsman, and financial services providers were engaged in the workshops as resource persons.

Financial Inclusion is one of the recommendations of the Botswana Financial Sector Development Strategy, and implementation of the Financial Inclusion Roadmap started in 2015. Financial inclusion is achieved when consumers across the income spectrum in a country can access and sustainably use financial services that are affordable and appropriate to their needs. It considers Credit, Payments, Savings and Insurance.

According to the World Bank, financial inclusion means that individuals and businesses have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance – delivered in a responsible and sustainable way.

Financial Inclusion contributes to access to credit,



CCA's Ms. Gorata Moloise addressing a Financial Inclusion workshop in Jwaneng on 16th March 2021



Banking Ombudsman Dr. Gabriel Maotwanyane

poverty reduction as well as economic empowerment. It is critical to empower consumers through education and protection so that they can fully benefit from the financial services and products in the market. Lack of financial education contributes to people making wrong financial decisions.

A Finscope survey conducted in 2014 found that despite the coverage by banks and post offices, 30% of the population in Botswana live in settlements that are not served by any of the financial service providers.

The Financial Inclusion Roadmap goal is to reduce the percentage of adults who are excluded from 24%

to 12%. It further aims to increase those with access to more than one formal financial product from 46% to 57% by 2021. The main needs across target groups is the ability to send and receive money at low cost, earn good returns on long term savings, access short term flexible loans and long term housing loans.

Meanwhile, the Banking Ombudsman, Dr. Gabriel Maotwanyane, urged consumers to read laws that affect them such as the Consumer Protection Act 2018 to empower themselves and speak with authority on matters affecting them. Speaking at the Financial Inclusion workshop in Jwaneng he said the Act, which is on the CCA website, has also assisted his office to resolve cases before it.



Participants at the Hukuntsi workshop on 18th March 2021

SETTLEMENT AGREEMENT BETWEEN THE CCA AND GABCON IN RESPECT OF CONTRAVENTION OF SECTION 31 OF THE COMPETITION ACT 2018

The Competition and Consumer Tribunal has made a decision (order) in the matter between the Competition and Consumer Authority (CCA) and Gaborone Container Terminal (Pty) Ltd (GABCON). The two parties have been engaged in an application in which the CCA alleged that GABCON had engaged in abuse of dominance through refusal to deal and excessive pricing behaviour.

The Authority posited that its investigation had turned up evidence that private haulier trucks that collect containers from GABCON facilities were subjected to a number of anti-competitive requirements including paying excessive access fees and other restrictions that effectively pushed the private hauliers out of business.

When this matter was before the Tribunal for adjudication, the two parties decided to enter into a settlement agreement and the Tribunal has since issued an order in terms of the agreement. According to the order signed by the Presiding Officer and Vice President of the Tribunal, Mr. Tendekani Malebeswa; GABCON has admitted to have abused its dominance in the container haulage market through refusal to deal and further acknowledged that this conduct is

anti-competitive.

GABCON has as a result committed to desist from such conduct in future and that it will among other things consult the private hauliers regarding any increase in access fees within a reasonable period before such increments are operational. It will revise its policy on the registration of trucks, trailers and drivers to ensure that the same is compliant with prevailing competition laws; it will cease and desist from imposing the 75/25% restriction and implement a policy which is compliant with prevailing competition laws.

Furthermore, it will develop, implement, and monitor a competition law compliance programme incorporating corporate governance designed to ensure that its employees and agents do not engage in future contraventions of the Act, and it will submit a copy of a compliance programme to the Authority within 30 days of the date of confirmation of the Settlement Agreement as an order by the Tribunal.

Furthermore, the order permits the Authority to avail its staff members to facilitate training on competition matters to GABCON management, at a date to be suggested by GABCON no later than 60 days

post the confirmation of the Settlement Agreement by the Tribunal.

Concerning costs, the tribunal ordered that each party will pay its costs.

The settlement agreement, and the Tribunal Order, follows a complaint that was launched by the private hauliers who alleged that GABCON had imposed restrictions which prevented them from efficiently serving their customers.

Specifically, the substance of the complaint was that rail imports come in containers which are hired from Shipping Lines such as Mediterranean Shipping Company and Maersk Shipping Lines, and this would arrive at GABCON bonded facilities in Gaborone, Palapye and Francistown before being cleared for customs and then collected by trucks (including private hauliers and GABCON trucks) to importers.

In March 2017, GABCON Management altered the transport and delivery policies and demanded that all transporters accessing the GABCON bonded facility were required to apply for a permit and they were further required to pay an entry fee of P2800 in addition to submitting their business profiles.



WORLD CONSUMER RIGHTS DAY 2021

TACKLING PLASTIC POLLUTION

Every year on March 15th consumer rights organisations around the world commemorate World Consumer Rights Day (WCRD) under a selected theme. This year the Competition and Consumer Authority (CCA) in collaboration with the Department of Waste Management and Pollution Control (DWMPC) commemorated Consumer Rights Day held under the theme “Tackling Plastic Pollution.”

Consumers have become closely associated with plastics, particularly the use of the plastic shopping bags. Every time plastics are mentioned, the picture that comes to our minds is that of a consumer with outstretched arms carrying bulging plastic bags after a shopping trip. Over the years, the plastic industry has grown and plastic bags of different sizes, quality and shapes are produced. The huge demand for plastics is made easy by the fact that plastics are easy to shape, cost less to make and they are generally endowed with mechanical resistance to the elements. As a consequence, plastics are found everywhere, the CCA and DWMPC said in a joint statement.

Although convenient, plastics could also be very harmful. The chemical additives in the production of plastics are not only harmful to the environment but are harmful to wildlife and human life. Environmentalists estimate that by the year 2050, there will be more plastic in the oceans than fish. An estimated eight million tons of plastic enters the oceans every year. Studies further suggest that plastics can cause cancers, birthing defects and impaired immunity and problems. In Agriculture, plastics could potentially affect the growth of crops and even disrupt the process of photosynthesis in agricultural fields. Animals die from choking or bloating when they eat plastic bags.

Plastic is not biodegradable hence once deposited in the soil it stays in the environment for a long period. In some instances, it is only broken down by processes such as solar radiation, abrasion by wind and water waves into much smaller particles (micro plastics) becoming more attractive to birds and fish species. Due to their impervious and persistence nature, plastics hold water and thus creating a conducive environment for mosquitoes which cause malaria. Plastics reduce the aesthetic value of the environment as they hang on trees and other structures hence affecting the tourism industry.

The reason plastics are causing such an environmental mayhem is primarily due to human negligence; plastics end up clogging up rivers, seas and oceans because of the on-going indiscriminate disposal of plastics into landfills and some are carried along by wind and rivers until they end up affecting all of us including marine life. It is the single-use plastic bags that seem to be causing more harm to the environment. Botswana is a relatively small country with six (6) main plastic manufacturers that produce well over 30.5 million plastics annually for export, and 204.5 million annually for local use. In addition, the country also imports about 1 512 528 million plastics annually.

The effects of plastic pollution have been with



us for time immemorial and it is an indictment on our commitment as humanity. It is important that we resolutely deal with this problem before it suffocates us. There are a number of interventions that we could bring to bear and all these would require a collaborative approach.

Business, particularly manufacturers and governments, have a critical role to play in addressing this menace. The plastic industry should be responsive to the environmental hazards that their products have on our localities and surroundings. Governments around the world would have to come up with effective legislations that protect environment while at the same guarding responsible production of commodities that conserve the surroundings.

Undoubtedly, the long-term solution to this long drawn-out plastic problem can never materialise without the input of the users of the harmful plastic products, i.e, consumers. Industry or business is generally motivated by profit and with very little regard for the environment; consumers on the other hand have an obligation to support conservation efforts as their communities are daily subjected to the anger of Mother Nature such as flooding, receding of the oceans and excessive droughts. Consumers have a moral duty to tackle plastic pollution to protect children, families, communities and nations who bear the brunt of pollution.

Consumers can make a number of telling choices which commence with reducing the use of plastic products. Reduction in plastic use, particularly the single-use plastics, could lead to a huge environmental relief. The other shift in consumer pattern could be re-use of plastic bags and other products, this will automatically cut on the volume of plastic products that are strewn all over our surroundings.

Perhaps the strategy that is sensitive to the growth of business while simultaneously promoting environmental conservation is using only plastics that can be re-cycled. Plastic pollution can still be stymied but the major battle would only be won when consumers are empowered to know that they can make important demands on industry and that their (deliberate) choices can make the environment safer.

The CCA and the DWMPC urge consumers to do something about plastic pollution. The three Rs are paramount; Re-use, Reduce, Recycle anchored on education can take us far.

“In Botswana, we are particularly heartened that the government of Botswana upon realising the persistent problem of plastic pollution took a resolute decision to address the problem. In 2006, the government, in partnership with industry, civil society and academia, developed a mandatory plastic Carrier and Flat Bag Standard which prohibited production, distribution, importation and use of plastic carrier bags and flat bags with thickness of less than 24 microns. The main objective was to introduce plastic with thicker thickness, which could be reused and therefore reduce its proliferation in the environment. Quite evidently, this measure did not achieve the desired objectives as plastics continued to be a nuisance in the environment,” the statement said.

In 2020, through a Cabinet Presidential Directive dated 17th December, 2020, the Government of Botswana approved the Introduction of a Plastic Levy which will be effected on the 1st April, 2021. We believe this action will go a long way in the management of plastic pollution as funds acquired from this exercise could be used to promote recycling of plastic waste.

KNOW YOUR COMPETITION ACT – PART VIII

Investigation of Horizontal and Vertical Agreements

36. (1) The Authority may, either on its own initiative or upon receipt of information or a complaint from any person, before commencing any investigation, conduct a preliminary inquiry into any practice where the Authority has reasonable grounds to suspect that —
- (a) the practice in question —
 - (i) may constitute an infringement of sections 25 and 27 (1), and
 - (ii) is prohibited after an investigation in terms of sections 28 (1) and 31 (1); and
 - (b) the thresholds referred to under section 29 or 32 are or may be satisfied.
- (2) Where the Authority decides to conduct an investigation it shall as soon as is practicable give written notice of the proposed investigation to every enterprise which is suspected to be a party to the practice to be investigated and shall in the notice —
- (a) indicate the subject matter and the purpose of the investigation; and
 - (b) invite the enterprise concerned to

- submit to the Authority, any representation which the enterprise may wish to make to the Authority in connection with the practice to be investigated, within such period as the Authority shall specify in the notice.
- (3) Where the Authority considers that to give notice under subsection (2) would materially prejudice the exercise of its powers to enter and search any premises in terms of section 37, it may defer giving the notice until after those powers have been exercised.
- (4) For purposes of an investigation under this section, the Authority may, by notice in writing served on any person considered by the Authority to be relevant to the investigation, require that person —
- (a) to provide the Authority with any information pertaining to any matter specified in the notice which the Authority considers relevant to the investigation, in a statement signed by —
 - (i) that person, or

- (ii) in the case of a body corporate, a director, member or other competent officer, employee or agent of the body corporate, within the time and in the manner specified in the notice;
- (b) to produce to the Authority or to a person specified in the notice to act on the Authority's behalf, any document or article as specified in the notice, which relates to any matter which the Authority considers relevant to the investigation; or
 - (c) to appear before the Authority or before a person specified in the notice to act on the Authority's behalf, at a time and place specified in the notice, for an interview or to produce any document or article specified in the notice.
- (5) If the Authority decides not to commence an investigation, having received a complaint or a request to investigate a practice in terms of subsection (1), the Authority shall, in writing, inform that complainant of the reasons for its decision.

KNOW YOUR CONSUMER PROTECTION ACT – PART V

Safety and quality of goods and services

Consumer's Right to Demand Quality Service

14. (1) Where a supplier undertakes to perform any services for or on behalf of a consumer, the consumer has a right to —
- (a) the timely performance and completion of those services, and timely notice of any unavoidable delay in the performance of the services;
 - (b) the performance of the services in a manner and quality that consumers are reasonably entitled to expect; and

- (c) the use, delivery or installation of goods that are free of defects and are of a quality that consumers are reasonably entitled to expect, if any such goods are required for performance of the services, having regard to the circumstances of the supply, and any specific criteria or conditions agreed between the supplier and the consumer before or during the performance of the services.

- (2) Where a supplier fails to perform a service to the standards contemplated in subsection (1), the Authority may require the supplier to —
- (a) remedy any defect in the quality of the services performed or goods supplied; or
 - (b) refund the consumer a reasonable portion of the price paid for the services performed and goods supplied, having regard to the extent of the failure.

Consumer's Right to Demand Quality Service

15. (1) A consumer has the right to receive goods which are of good quality, in good working order and free of defects, unless the opposite is clearly disclosed.
- (2) In determining whether any particular goods satisfy the requirements of subsection (1), the circumstances of the supply of those goods shall be considered, including —
- (a) the purpose for which the goods were marketed, the use of any trade description, instructions for use, warnings with respect to the use of the goods;
 - (b) the range of activities that might be reasonably anticipated to be done in relation to the use of the goods; and
 - (c) the time when the goods were produced and supplied.
- (3) The provisions of subsection (2) shall not apply to a transaction where a consumer was informed that particular goods are offered in a specific condition and the consumer consented to taking the goods in such condition.
- (4) A supplier shall not supply or offer to supply goods which do not conform to the mandatory safety standards for the class of goods set by the Botswana Bureau of Standards or other internationally bodies recognised by the Botswana Bureau of Standards.
- (5) Where the Authority discovers that a supplier is supplying unsafe goods or goods which do not conform to the mandatory safety standards referred to in subsection (4), the Authority may —
- (a) re-call such goods;
 - (b) halt the production, supply, advertisement or importation of such goods;
 - (c) disclose to the public any information relating to the characteristics of the goods which render such goods unsafe; or
 - (d) direct the supplier to replace the goods, refund any consumer who bought the unsafe goods or compensate the consumer for any damage suffered by the consumer in using the unsafe goods at an amount determined by the Authority.

CCA bulletin

Editorial Team

GIDEON NKALA: gideon.nkala@competitionauthority.co.bw

GLADYS RAMADI: gladys.ramadi@competitionauthority.co.bw

KELEBOGILE NGWENYA: kelebogile.ngwenya@competitionauthority.co.bw

MODIMOOSI MATEBESU: modimoosi.matebesu@competitionauthority.co.bw

BABOLOKI MEEKWANE: baboloki.meekwane@competitionauthority.co.bw

CONTACT US

Plot 28, Matsitama Road, Main Mall, Gaborone, Botswana

Phone: +267 3934278

Fax: +267 3121013

Postal: Private Bag 00101, Gaborone

Facebook: Competition Authority Botswana

Twitter: @CompetitionBots