



Functions and Responsibilities of the Competition and Consumer Commission

1. INTRODUCTION

In recognizing the best practice recommendation that competition agencies should be independent of government, the Government of Samoa, through the Ministry of Commerce, Industry and Labour (**MCIL**) has enacted the Competition and Consumer Act 2016 (**Act**) which establishes an independent Competition and Consumer Commission (**Commission**).

2. FUNCTIONS OF THE COMMISSION

The Commission is responsible for administering and enforcing the Act, including the competition rules and consumer protection rules under the Act. Certain powers are vested in the Commission, which it may exercise for the purposes of the Act.

The specific functions of the Competition and Consumer Commission under section 7 of the Act are:

- a) to advise the Minister on competition, consumer protection and prices in Samoa;
- b) to conduct research into matters affecting competition, consumer protection and prices in Samoa;
- c) to promote the use of internal controls and risk management measures by persons carrying on business in Samoa to ensure compliance with this Act;
- d) to promote research into and the development of skills in relation to the legal, economic and policy aspects of competition, consumer protection and prices oversight in Samoa;
- e) to promote public understanding of the value of competition and consumer protections; and
- f) to carry out any other functions conferred by this Act or any other written law.

3. ROLE

The Competition and Consumer Commission is the independent authority established to administer the Act, recognising that the objects of the Act pursuant to section 3 are:

- a) to promote competition in markets in Samoa; and

- b) to establish standards of conduct for those engaged in trade in Samoa; and
- c) to contribute to a trading environment in which the safety and interests of consumers are protected and consumers and businesses participate confidently.

4. MEMBERSHIP OF THE COMMISSION

The following requirements apply to the membership of the Competition and Consumer Commission (under section 10 of the Act):

- a) The Commission must have at least three and no more than seven members.
- b) Each Regulator is a member of the Commission. (The *Broadcasting Act 2010*, the *Electricity Act 2010*, the *Postal Services Act 2010* and the *Telecommunications Act 2005* each provide for appointment of a Regulator. At present, there is one Regulator appointed under these four Acts.)
- c) The other members:
 - (i) are to be appointed by the Head of State acting on the advice of Cabinet; and
 - (ii) may be appointed on a full-time or part-time basis.
- d) A person must not be appointed as a member unless the Minister of Commerce, Industry and Labour (**Minister**) is satisfied that the person has appropriate skills and expertise in industry, commerce, economics, law, accountancy, public administration or consumer affairs.
- e) The Minister must appoint a member (not a Regulator) to be Chairperson, and another member (not a Regulator) to be Deputy Chairperson, of the Commission.

Under section 11 of the Act, each member holds office for up to three years from their date of appointment and members are eligible to be re-appointed after the expiry of their term.

5. MEETINGS OF THE COMMISSION

Under section 15 of the Act, the Commission must hold any meetings convened by the Chairperson, as are necessary to carry out its functions. The Chairperson must convene a meeting on request by at least two members. Quorum is a majority of the members and any question arising at a meeting is to be determined by a majority of the votes of the members present. The Chairperson is the presiding member and they have a deliberative vote, and if necessary, a casting vote.

The Commission:

- a) must keep written minutes of all its meetings, and of all meetings of committees of the Commission; and
- b) subject to this Act, may regulate its proceedings at meetings as it considers appropriate.

6. RESPONSIBILITIES OF THE COMMISSION

The responsibilities of the Commission are outlined below:

- a) Issue guidelines on competition, consumer protection or pricing, and the administration of competition or consumer laws (section 9 of the Act).
- b) Assist overseas agencies by conducting investigations upon request within prescribed legal procedures in the Act (section 25 of the Act).
- c) Manage the Commission Office (section 17 of the Act).
- d) Provide annual reports to the Minister, including a statement of:
 - (i) the steps that have been taken in the implementation of competition and consumer laws during the period to which the report relates; and
 - (ii) the outcomes that have been achieved as a result of those steps (section 21 of the Act).
- e) Upon request by the Minister, provide a report to the Minister about the effects on competition in markets in Samoa of any proposal being considered by the Minister or the Government (subsection 29(1) of the Act).
- f) On its own initiative, provide a report to the Minister about the effects on competition in markets in Samoa of any proposal being considered by the Minister or the Government (subsection 29(2) of the Act).
- g) After the commencement of the Act, the Commission and the Regulator must develop and enter into a memorandum of understanding to facilitate cooperation and collaboration with the Regulator and assist them in carrying out their functions (sections 22 and 23 of the Act).
- h) Take reasonable steps to ensure that members of the Commission's staff, persons otherwise engaged by the Commission and other persons performing or exercising functions or powers of the Commission make proper and adequate disclosure of their interests (subsection 13(9) of the Act).

7. OFFICE OF THE COMMISSION

An Office of the Commission is established under section 17 of the Act. The Office consists of members of the Commission, staff of the Commission and any other persons seconded under this section. The Commission is responsible for the management of the Office and both the Commission and Office are required to function in accordance with the laws governing the public service and the finances of the Government of Samoa.