

*Bill Supplement to the Zanzibar Government Gazette  
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A Bill for An Act to Repeal the Zanzibar Fair Trading and Consumer Protection Act, No. 2 of 1995 and enact the new Fair Competition and Consumer Protection Act, to provide for better provisions and Other Matters Related Thereto

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NOTICE

The Bill following hereunder shall be presented before the House of Representatives for the first reading which will start its session on 6<sup>th</sup> day of December 2017, and is gazetted for the public notice incorporating together with its objects and reasons.

ZANZIBAR  
13 November, 2017

(Dr. ABDULHAMID Y. MZEE)  
Secretary to the Revolutionary  
Council and Chief Secretary

**A BILL  
for  
AN ACT TO REPEAL THE ZANZIBAR FAIR TRADING  
AND CONSUMER PROTECTION ACT, NO. 2 OF 1995 AND  
ENACT THE NEW FAIR COMPETITION AND CONSUMER  
PROTECTION ACT, TO PROVIDE FOR BETTER  
PROVISIONS AND OTHER MATTERS RELATED THERETO**

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**PART ONE  
PRELIMINARY PROVISIONS**

Short  
title and  
Commence-  
ment.

**1.** This Act may be cited as the Fair Competition and Consumer Protection Act, 2017 and shall come into operation upon being assented to by the President and published in the official Gazette.

Interpretation.

**2.** In this Act, unless the context otherwise requires:

"acquisition" in relation to shares or assets means acquisition, either alone or jointly with another person, of any legal or equitable interest in such shares or assets but does not include acquisition by way of charge only;

"affiliated" means associated with each other, formally or informally, by shareholding or otherwise;

"agreement" means any form of agreement, whether or not legally enforceable, between enterprises which is implemented or intended to be implemented in Zanzibar or in a part of Zanzibar, and includes an oral agreement, a decision by an association or enterprises, and any concerted practice;

"aid to trade" means all such services such as banks, insurance, transport, warehousing and advertisement utilized in the facilitation of trade;

"allocation parceling and or sharing of markets or customers" means to expressly or impliedly agree to divide a market between

competitors so as to limit the right of any of the competitors to do business within a defined geographical territory, a defined product category, service or to certain specified customers with result of eliminating or restraining competition between such competitors;

"anti-competitive trade practices" include: activities like price fixing, monopolization, collusion, formation of cartels, group boycott, hoarding, product bundling and tying and the likes.

"assets", in relation to an enterprise, means:

(a) all the tangible assets of the enterprise, including its shares, other financial securities and brands;

(b) all the intangible assets of the enterprise, including its goodwill, intellectual property rights and knowhow;

"association" means a body of persons whether incorporated or not, formed for the purposes of furthering the interests of its members or of persons represented by its members;

"business" includes a professional practice or any other activity which is carried out for gain or reward;

"Chairperson of the Commission" means Chairperson of the Fair Competition Commission appointed under section 7(1)(a);

"Chairperson of the Tribunal" means the Chairperson of the Fair Competition Tribunal appointed as such under section 26(2)(a);

"collective boycott by competitors" means:

(i) to prevent a party to an agreement from supplying goods or services to particular persons, or acquiring goods or services from particular persons, in competition with any other party to the agreement; or

- (ii) to restrict or control the terms and conditions on which, or the circumstances in which, a party to an agreement supplies goods or services to particular persons, or acquires goods or services from particular persons, in competition with any other party to the agreement;

"collusive bidding or tendering" means:

- (i) to fix or control the prices or terms or conditions of any bid or tender by any of the parties to an agreement at an auction or in any tender or other form of bidding, in competition with any other party to the agreement; or
- (ii) to prevent a party to an agreement from making a bid or tender at an auction or in any tender or other form of bidding, in competition with any other party to the agreement.

"Commission" means the Zanzibar Fair Competition Commission established under section 4(1);

"company" means a body corporate incorporated, with or without limited liability, in any part of the world and recognized by the laws of Zanzibar;

"competition" means competition in a market in Zanzibar and refers to the process whereby two or more persons:

- (a) supply or attempt to supply the same or substitutable goods or services to the persons in the same relevant geographical markets; or
- (b) acquire or attempt to acquire the same or substitutable goods or services to the persons in the same relevant geographical markets;

"competitor" means a person who is in competition with another person, or would so be for an agreement to which the two persons are parties, be likely to be in competition with each other;

"concerted practice" means a practice involving contacts or communications between competitors falling short of an actual agreement but which nonetheless restricts competition between them;

"conduct" includes doing or refusing to do any act, refraining otherwise than inadvertently from doing any act, making it known that an act will not be done, making an agreement or giving effect to an agreement;

"consumer" means any direct or indirect user of a product or service supplied by an enterprise in the course of business, and includes:

- (a) another enterprise that uses the product or service thus supplied as an input to its own business;
- (b) a wholesaler, a retailer and a final consumer;
- (c) any person to whom service is rendered;

"consumer contract" means a contract between a supplier and a consumer where the contract is one among:

- (a) of which the proper law is the law of Zanzibar or to which part Seven of this Act applies; and
- (b) in which, where the subject matter of the contract are goods or services, the goods or services are consumer goods or services;

"Court" means a court of competent jurisdiction;

"Counterfeiting" means:

- (a) without the authority of the owner of any intellectual property right subsisting in Zanzibar in respect of protected goods, the manufacturing, producing or making, whether in Zanzibar

or elsewhere, of any goods whereby those protected goods are imitated in such a manner and to such a degree that those other goods are substantially identical copies of the protected goods;

- (b) without the authority of the owner of any intellectual property right subsisting in Zanzibar in respect of protected goods, the manufacturing, producing or making, whether in Zanzibar or elsewhere, the subject matter of that intellectual property right, or a colourable imitation thereof so that the other goods are calculated to be confused with or to be taken as being protected of the said owner or any goods manufactured, produced or made under his license.

“Counterfeit goods” mean goods that are the result of counterfeiting, and include any means used for purposes of counterfeiting;

"Director General " means the Director General appointed under section 8(1);

“document” includes information recorded in writing, electronic or any other form, together with access to the technology enabling information in electronic form to be retrieved;

“dominant position in a market” means a situation where by:

- (a) a person is acting alone, and can profitably and materially restrain or reduce competition in that market for a period of time;
- (b) a person’s share of the relevant market exceeds 40 per cent;

“Enterprise” means any person, professional firm, partnership, corporation, company, association or other juridical person, engaged in commercial activities for gain or reward, and includes their branches, subsidiaries, affiliates or other entities directly or indirectly controlled by them;

“False”, misleading or deceptive” advertising means the use of false, misleading or deceptive statements in advertising, and in respect of goods imported into Zanzibar, includes the use of any language other than English or Kiswahili on advertisements and labels on such goods;

"goods" means all kinds of property but is not limited to:

- (a) ships, aircraft or vehicles;
- (b) animals, including fish;
- (c) minerals, trees or crops, whether on, under, or attached to land or not;
- (d) gas or electricity; and
- (e) buildings and other structures;
- (f) domestic or imported manufactured product.

“Government” means the Revolutionary Government of Zanzibar;

“group”, in relation to an enterprise, means a company or any other company that is holding company or subsidiary and any other company that is a subsidiary of the holding company;

“horizontal agreement” means an agreement between enterprises which, for the purpose of that agreement, operate in the same market and are actual or potential competitors in that market;

"license" means a license, permit or authority that allows the licensee to supply or acquire goods or services or to carry on any other activity;

"market" means a market in Zanzibar or a part of Zanzibar and refers to the range of reasonable possibilities for substitution in supply or demand between particular kinds of goods or

services and between suppliers or acquirers, or potential suppliers or acquirers of those goods or services;

"manufacturing" means transforming, on a commercial scale, raw materials into finished or semi-finished products, and includes the assembling of inputs into finished or semi-finished products but does not include mining;

"material" includes any information, document or evidence;

"Members of Tribunal" means the members of the Tribunal specified under section 26(2) of the Act;

"merger" means an acquisition of shares, a business or other assets, whether inside or outside Zanzibar, resulting in the change of control of a business, part of a business or an asset of a business in Zanzibar;

"Minister" means the Minister responsible for the trade;

"output restrictions between competitors" means to prevent, restrict or control the production by a party to an agreement of goods or services to be supplied in competition with any other party to the agreement;

"person" means natural person or legal entity;

"premises" include land, any building, structure, vehicle, vessel, aircraft or container;

"President" means the President of Zanzibar and the Chairman of the Revolutionary Council;

"price fixing between competitors" means to fix, restrict or control the prices, tariffs, surcharges or other charges for, or the terms or conditions upon which, a party to an agreement supplies or acquires, or offers to supply or acquire, goods or services, in competition with any other party to the agreement;

"Product recall" means to return a product to the seller or manufacturer after the discovery of safety issues or product defect that might endanger the consumers or put the maker or seller at risk of legal action;

"publish" includes on-line publication;

"sale" includes an agreement to sell or offer for sale and includes the exposing of goods for sale, the furnishing of a quotation, whether verbally or in writing, and any other act or notification by which willingness to enter into any transaction for sale is expressed;

"Registrar" means a person appointed to be a Registrar of the Tribunal under section 28 (1) of this act;

"Services" includes the acceptance and performance of any obligation, whether professional or not, for gain or reward, other than the supply of goods, but does not include the rendering of any services under a contract of employment;

"supply" in relation to:

(a) goods means the supply or re-supply, by way of sale, exchange, lease, hire or hire-purchase; and

(b) services means the provision by way of sale, grant or conferment of services;

"trade" means the business of buying and selling goods and includes commerce;

"trade association" means a body of persons which is formed for the purpose of furthering the trade interests of its members or of persons represented by its members;

"trade practice" means any practice related to the carrying on of any trade and includes anything done or proposed to be done

by any person to which affects or is likely to affect the method of trading of any trader or class of traders or the production, supply or price in the course of trade of any goods, whether real or personal, or of any service;

"Tribunal" means the Fair Competition Tribunal established under section 26(1);

"Utility" means electricity, water supply and sanitation, petroleum and any other as defined by the Minister;

"ZURA" means the Zanzibar Utility Regulatory Authority;

"ZMA" means the Zanzibar Maritime Authority;

"ZFDA" means the Zanzibar Food and Drugs Agency;

"ZBS" means the Zanzibar Bureau of Standards.

Application. **3.-(1)** This Act shall apply to enterprises, Government bodies and local governments related to fair competition and consumer protection.

(2) For the purposes of this section, without affecting the meaning in other respects, the word "trade" means the sale or acquisition of a business, part of a business or an asset of a business carried on by the Enterprises, a Government body or a local government constitutes engaging in trade;

(3) The following do not constitute engaging in trade:

- (a) the imposition or collection of taxes;
- (b) the grant or revocation of licenses, permits and authorities;
- (c) the collection of fees for licenses, permits and authorities;
- (d) internal transactions within the Government, a government body or a local government.

(4) Any reference in this Act to the supply of :

- (a) goods, shall be construed as the supply of goods in or from Zanzibar;
- (b) services shall be construed as the supply of services in or from Zanzibar.

## PART TWO THE FAIR COMPETITION COMMISSION

**4.-(1)** There is hereby established a Commission to be known as the Fair Competition Commission, to exercise the jurisdiction, powers and authority conferred by law or under this Act.

Establishment  
of the  
Commis-  
sion.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall, in its name, be capable of:

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) entering into contracts; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

**5.-(1)** The function of the Commission shall be:

Establishment  
of the  
Commission.

- (a) to monitor, control and prohibit acts or behavior likely to adversely affect competition and fair trading in Zanzibar;
- (b) to carry out investigation, on its own initiative or at the request of any person, in relation to the conduct of business, in order to determine whether a person or enterprise is carrying on anti-competitive trade practices;

- (c) to monitor pricing of controlled goods and set indicative selling price;
- (d) to conduct surveys and collect data on costing, supply and distribution of both controlled and non controlled goods and make appropriate recommendations;
- (e) to carry out investigations on its own initiative or at the request of any person who may be adversely affected by a proposed merger;
- (f) to take actions or measures as it considers necessary to prevent or redress the creation of a merger or the abuse of a dominant position by any enterprise;
- (g) to provide information to any person engaged in business, regarding their rights and duties under this Act;
- (h) to provide information for the guidance of consumers regarding their rights under this Act;
- (i) to undertake studies and make available to the public, reports regarding the operation of this Act;
- (j) to conduct, as required, any hearings with interested persons or parties on implementation of this Act;
- (k) to determine whether a restrictive business practice is occurring or has occurred;
- (l) to effectively control, manage and perform the functions of the Commission under this Act;
- (m) to promote and enforce compliance with this Act;
- (n) to promote public knowledge, awareness and understanding of obligations, rights and remedies under this Act and the duties, functions and activities of the Commission;

- (o) to make available to consumers information and guidelines relating to obligations of Persons under this Act and the rights and remedies available to consumers under this Act;
  - (p) to carry out enquiries, studies and research into matters relating to competition and the protection of the interests of consumers;
  - (q) to undertake investigations in order to remove impediments to competition, including entry into and exit from markets, in the economy as a whole or in particular sectors and publicize the results.
  - (r) to carry out studies on policies, procedures and programmes of regulatory authorities so as to assess their effects on competition and consumer welfare and publicize the results of such studies;
  - (s) to make consultation with consumer bodies, regulatory authorities, business organizations and other interested persons on matters relating to fair trading and competition;
  - (t) to do all such acts and things as are necessary, incidental or conducive to the better carrying out of its functions under this Act;
- 6.** The Commission shall have the following powers:
- (a) to issue orders and directions in accordance with this Act;
  - (b) to impose financial penalties or remedies on any enterprise which conducts its business in breach of this Act;
  - (c) to require any enterprise to provide information as the Commission may require in the performance of its functions;
  - (d) to hold enquires and investigation in the performance of this Act;

- (e) to enter premises and conducting inspection when dully authorized by the Commission;
- (f) to look into document, copies or abstract of copies and if appropriate retain them;
- (g) to appoint specialist or technical expert to assist and carry out enquires and investigation of any area or matter that fall under its jurisdiction;
- (h) to take sample of product for conducting investigation;
- (i) to impose such charges or fees as may be required under this Act or regulations made under it;
- (j) to seize the counterfeits or defective goods which are not related to standards and dispose in collaboration with relevant authorities.

Members of  
the Commi-  
ssion.

7.-(1) The Commission shall be composed of six Members as follows:

- (a) a Chairperson who shall be appointed by the President and who must hold at least a University Degree in Economics, Business Administration, Finance or Law and with at least ten years of experience;
- (b) Director General as an Ex-officio; and
- (c) Four other members appointed by the Minister.

(2) Other members of the Commission shall qualify to be appointed by the Minister if they have knowledge and Experience in Industry, commerce, economics, law, Public Administration or other related fields.

(3) In appointing the members under sub section (1)(c) the Minister shall consider Private sector participation.

8.-(1) There shall be a Secretariat of the Commission which shall be headed by the Director General who shall be appointed by the President. Secretariat  
of the  
Commi-  
ssion.

(2) A person shall qualify to be a Director General if:

- (a) he is a Zanzibari;
- (b) a holder of at least Degree in Business Administration, Economics, Business Management, Law, Public Administration or equivalent from a recognized University;
- (c) has a working experience at least ten years in the related field mentioned under this section.

9. The Secretariat shall have the following functions:

Functions  
of the  
Secretariat.

- (a) coordinate and follow up the implementation of the commission directives;
- (b) implement day to day activities of the commission and all decisions made by the commission;
- (c) prepare and submit to the commission a comprehensive annual implementation report;
- (d) prepare budget and calendar of performance of the commission;
- (e) design and effectively implement strategic plan, and
- (f) perform any other functions as directed by the commission.

10. The Chairperson and other Four members of the Commission hold office for the following fixed terms and may be reappointed: Tenure  
of the  
Members.

- (a) the Chairperson four years;
- (b) four other members three years.

Allowances. **11.** The Chairperson and other members of the Commission shall be entitled to be paid such allowances and other benefits as the Minister may determine from time to time in accordance with the provisions of the Public Service Act.

Vacancy. **12.** The office of a member of the Commission shall become vacant:

- (a) up on his death;
- (b) if he, without sufficient cause, fails to attend three consecutive meetings of the Commission;
- (c) if he resigns or becomes in any manner disqualified from membership of the Commission; or
- (d) if he becomes incapacitated by reasons of physical or mental health to perform his duties.

Meetings of the Commission.. **13.**(1) The Commission shall meet ordinarily once in every three months and may meet at any time when need arises for the discharge of its business.

(2) The Director- General shall convene meetings of the commission as directed by the Chairperson.

(3) Subject to the provisions of sub-sections (1) and (2), of this section the Chairperson may convene meetings of the Commission, after consultation with members, at such times at government recognized place.

(4) The Chairperson shall preside at meetings of the Commission and in the absence of the Chairperson, members may appoint from amongst themselves Vice Chairperson to preside at meetings.

(5) A quorum will be three members including the Chairperson or Vice Chairperson.

(6) All questions shall be decided by majority of votes of the members presented and voting and, in the event of an equality of votes, the presiding member shall have a deliberative and a casting vote.

(7) The Chairperson may decide that particular meetings of the Commission should be held by telephone, closed circuit television or other methods of communication as Chairperson thinks fit.

(8) A minute of resolution signed by all members of the Commission shall constitute a valid resolution of the Commission as if it were duly passed at a validly constituted meeting of the Commission.

**14.** The Commission may delegate a power to the management for proper discharge of its functions subject to provision of this Act. Delegation.

**15.**-(1) The Commission may initiate complaint on its own and undertake a legal action against an alleged prohibited practice. Initiating a complaint.

(2) A person may :

- (a) submit information concerning an alleged prohibited practice to the Commission, in any manner or form; or
- (b) submit a complaint against an alleged prohibited practice to the Commission.

(3) The Commission shall, in determining consumer complaints, provide decision to such complaint.

(4) Where a person or complainant is not satisfied with the decision made under sub section (3) of this section, he may appeal to the Tribunal.

**16.**-(1) Consumers may establish their own Associations to provide a forum through which consumers protection issues could be addressed to the Commission. Consumers Association.

(2) Consumer may consult the Commission in all trade matters related to fair Competition and consumer protection.

Establishment  
of divisions  
of the  
Commission.

**17.**-(1) The Commission shall establish one or more division for better performance of the functions under this Act.

(2) The divisions established under sub section 1 of this section shall include divisions responsible for:

- (a) restrictive trade practices;
- (b) consumer protection and ant- counterfeit;
- (c) corporate affairs;
- (d) any other division where the Commission thinks appropriate.

Staff of the  
Commi-  
ssion.

**18.**-(1) The Commission shall employ such staff as it considers appropriate to enable it to perform the functions of the Commission and exercise its powers on terms and conditions as specify in Public Service Act.

(2) The Commission may engage consultants or expert, as it considers appropriate, to assist it to perform the functions of the Commission and exercise its powers.

Confidentiality

**19.**-(1) A person who gives or discloses any material to the Commission, whether under compulsion of law or otherwise, may claim confidentiality status in respect of the whole or any part of the material.

(2) A claim for confidentiality may be made at any time before the material is disclosed to persons outside the Commission without any breach of the provisions of this section.

(3) In the case of oral evidence, the claim may be made orally

at the time of giving the evidence and in all other cases it shall be in writing, signed by the person making the claim specifying the material and stating the reason for the claim.

(4) If the Commission is satisfied that the material is of a confidential nature and:

- (a) its disclosure could adversely affect the competitive position of any person; or
- (b) is commercially sensitive for some other reason,

the Commission shall grant confidentiality status for the material.

(5) A person who contravenes this section, commits an offence and upon conviction is liable to a fine of not less than One Million Shillings and not exceed Five Million Shillings or to imprisonment for a term not less than three months and not exceeding six months or both such fine and imprisonment.

**20.**-(1) An employee or members of the Commission shall be considered to have a conflict of interest for the purposes of this Act if they acquire any pecuniary, personal relationship or other interest that could conflict with the proper performance of his duties. <sup>Conflict of Interest.</sup>

(2) Where at any time an employee or members of the Commission shall have a conflict of interest in relation to:

- (a) any matter before the Commission for consideration or determination; or
- (b) any matter which the Commission could reasonably expect might come before it for consideration or determination;

disclose the conflict of interest to Commission and refrain from taking part, in the consideration or determination of the matter.

(3) Where the Commission becomes aware that an employee or member has a conflict of interest in relation to any matter before the Commission, the Commission shall direct the employee or members to refrain from taking part, in the consideration or determination of such matter.

Funds of the Commission.

**21.**-(1) Funds of the Commission shall comprise:

- (a) funds allocated to the Commission by the House of Representatives;
- (b) funds allocated to the Commission from the funds of ZURA, ZMA, and such other regulatory authorities for work done by the Commission or as provided in other relevant legislation or as may be agreed between the Commission and those authorities respectively;
- (c) grants, donations, or other contribution made to the Commission;
- (d) fees collected by the Commission; and
- (e) other payment due to the Commission in respect of any matter incidental to its functions.

Application of the funds of the Commission.

**22.** The funds of the Commission shall be used to facilitate the functions of the Commission.

Accounts and financial audit.

**23.**-(1) The Commission shall keep proper book of account not later than three months after the end of each financial year and shall prepare:

- (a) a statement of the assets and liabilities of the Commission on the last day of the financial year, to be submitted and audited by the Controller and Auditor General;
- (b) a statement of income and expenditure during such financial year; and

(c) any other financial report as may be required.

(2) All incomes collected from services rendered by the Commission shall be deposited to the bank account subject to and in accordance with the Public Finance Management Act.

**24.** The secretariat shall, within three months after the end of each financial year and subject to the approval of the Commission, submit to the Minister an annual report in respect of that year <sup>Annual report.</sup> containing:

- (a) a copy of the audited accounts of the Commission, together with the auditor's report on those accounts;
- (b) a report on performance against key targets and any other related information;
- (c) report on the operations of the Commission during the financial year; and
- (d) such other information on the activities of the Commission as the Minister may require.

**25.** Before the end of each financial year, the Commission shall <sup>Budget.</sup> prepare or cause to be prepared a budget for the following financial year and shall submit the budget to the Minister.

### **PART THREE FAIR COMPETITION TRIBUNAL**

**26.**-(1) There is established a Tribunal to be known as the Fair <sup>Fair Competition Tribunal.</sup> Competition Tribunal to exercise the functions conferred upon it by this Act.

(2) The Tribunal shall be composed of :

- (a) the Chairperson who shall be appointed by the President after consultation with Chief Justice;

(b) four other members who shall be appointed by the Minister.

(3) The Chairperson specified under sub section 2(a) of this section shall be a High Court Judge.

(4) In the appointment of members under sub section (2) (b) of this section, the Minister shall appoint persons with adequate knowledge and experience in law, Economics, Business, Finance, and other related fields from private and public sector.

(5) Members of the Tribunal shall hold the office for the period of three years and may be eligible for re-appointment.

(6) The quorum for a meeting of the Tribunal shall be the Chairperson of the Tribunal and two other members.

Co-opt  
member.

**27.** The Tribunal may invite to a meeting any person to participate in the deliberation of the Tribunal.

Registrar of  
the Tribunal.

**28.**-(1) The Minister shall appoint a Lawyer to be the Registrar of the Tribunal.

(2) The Registrar shall perform all administrative functions of the Tribunal as provided for under this Act and its regulations.

(3) The Registrar shall, after consultation with the Chairperson of the Tribunal, convene Meetings to discuss matters or issues submitted to the Tribunal.

Code of  
Conduct.

**29.**-(1) The Tribunal shall adopt code of conduct prescribing standards of behavior to be observed by the members and employees of the Tribunal in the performance of their duties.

(2) The code of conduct adopted or prescribed under this section shall be binding on the Tribunal, its members and employees.

Seal of the  
Tribunal.

**30.**-(1) The Tribunal shall have a Seal to be kept under the custody of the Registrar.

(2) The affixing of the Seal of the Tribunal on any document shall be authenticated by the signature of the Chairperson of the Tribunal or Registrar.

**31.** The Minister may remove a member from office at any time if that member: Removal  
from Office.

(a) misconducts himself;

(b) is incapable of carrying out his duties because of ill health, or physical or mental impairment;

(c) has committed a material breach of the provisions of this Act or a Code of Conduct to which the Tribunal is subject;

(d) fails to attend at least three consecutive sessions of the Tribunal without notice;

(e) acquires financial or other interest as is likely to affect prejudicially his functions;

(f) abuses his position as to render his continuance in office prejudicial to the public interest; or

(g) If he resigns from his membership;

(2) The Minister shall remove such member from the office of the Tribunal after conducting investigation.

**32.**-(1) The Tribunal shall have functions to:

Functions  
of the  
Tribunal.

(a) hear and determine appeals emanating from orders and decision from Fair Competition Commission and other regulatory authorities;

(b) issue warrants;

(c) provide decision of the hearing;

(d) keep the records of all appeal and decisions of the Tribunal to the Register;

(e) exercise such other functions and powers as conferred upon it by this Act.

(2) The Tribunal shall, in the exercise of its functions under this Act, be guided by the rules of natural justice.

Power  
of the  
Tribunal.

**33.**-(1) The Tribunal shall, in the discharge of its functions, have the following powers:

(a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;

(b) compelling the production of documents; and

(c) the issue of a Commission or request to examine witnesses even who are abroad.

(2) The Tribunal shall be duly constituted at any time if the Chairperson of the Tribunal and two other members are present.

(3) Any decision shall be deemed to be a decision of the Tribunal if it is supported by a majority of the members.

(4) A witness before the Tribunal shall have the immunities and privileges as if he were a witness before the High Court.

Judgment  
and Orders  
of the  
Tribunal.

**34.**-(1) Judgment and orders of the Tribunal shall be executed and enforced in the same manner as judgments and orders of the High Court.

(2) A judgment or order of the Tribunal on any matter before it shall, subject to sub-section (1) of this section, may be appealed to the Court of Appeal by aggrieved party.

**35.** The members of the Tribunal and the Registrar, shall be paid remunerations and allowances as the Minister shall determine after time to time subject to the provisions of Public Service Act. Remun-  
erations and  
Allowances.

**36.**-(1) A person who:

Obstruction  
of the  
Tribunal.

(a) when summoned, fails or refuses to attend without reasonable excuse;

(b) having attended as a witness, refuses or fails to take an oath or make an affirmation as required by the Tribunal;

(c) makes any statement before the Tribunal which he knows to be false or which he has no reason to believe to be true;

(d) omits or suppresses any information required by the Tribunal in the discharge of its functions or relevant to the discharge of those functions; or

(e) in any manner, misleads, obstructs, insults or disturbs the Tribunal,

commits an offence and is liable to a fine of not less than five hundred Thousands shillings and not exceed One Million shillings or imprisonment for a term not less than three months or both such fine and imprisonment.

**37.** Subject to the provisions of this Act and upon approval of the Minister, the Tribunal shall make rules: Rules of  
Tribunal.

(a) prescribing the manner in which an appeal shall be made to the Tribunal and the fees to be paid in respect of an appeal;

(b) prescribing the procedures to be adopted by the Tribunal in hearing an appeal and the records to be kept by the Tribunal;

- (c) prescribing the manner in which the Tribunal shall be convened and places where and the time at which the sittings shall be held;
- (d) generally for the better carrying out of the provisions of this Act relating to the Tribunal and appeals thereto.

Funds of the Tribunal.

**38.**-(1) Funds of the Tribunal shall comprise:

- (a) funds allocated to the Tribunal by the House of Representatives;
- (b) funds allocated to the Tribunal from the funds of the Zanzibar Utility Regulatory Authority (ZURA), the Zanzibar Maritime Authority (ZMA), and such other regulatory authorities for work done by the Tribunal or as provided in other relevant legislation or as may be agreed between the Tribunal and those authorities respectively;
- (c) grants, donations, or other contribution made to the Tribunal;
- (d) fees collected by the Tribunal; and
- (e) other payment due to Tribunal in respect of any matter incidental to its functions.

Application of the funds of the Tribunal.

**39.** The funds of the Tribunal shall be used to facilitate the functions of the Tribunal.

Accounts and financial audit.

**40.** The Tribunal shall keep proper book of account not later than three months after the end of each financial year and shall prepare:

- (a) a statement of the assets and liabilities of the Tribunal on the last day of the financial year, to be submitted and audited by the Controller and Auditor General;
- (b) a statement of income and expenditure during such financial year; and

(c) any other financial report as may be required.

(2) All incomes collected from services rendered by the Tribunal shall be deposited to the bank account subject to and in accordance with the Public Finance Management Act.

**41.** The Registrar shall, subject to the approval of the Tribunal within six months after the end of each financial year, submit to the Minister an annual report in respect of that year <sup>Annual Report.</sup> containing:

- (a) a copy of the audited accounts of the Tribunal, together with the auditor's report on those accounts;
- (b) a report on performance against key targets and any other related information;
- (c) report on the operations of the Tribunal during the financial year; and
- (d) such other information on the activities of the Tribunal as the Minister may require.

**42.** Before the end of each financial year, the Tribunal shall prepare <sup>Budget.</sup> or cause to be prepared a budget for the following financial year and shall submit the budget to the Minister.

#### **PART FOUR RESTRICTIVE BUSINESS PRACTICES**

**43.**-(1) Any agreement, decisions or practices which have an object of prevention, restriction or distortion of competition are declared as anti-competitive trade practices and are hereby prohibited. <sup>Anti-competitive trade practices.</sup>

(2) Subject to the provisions of subsection (1) of this section, enterprises shall refrain from the following acts or behavior which abuse or create dominant position of market power:

- (a) the use of cost pricing to eliminate competitors;

- (b) price discrimination in the supply or purchase of goods, or services;
- (c) imposing restriction and conditions on the manufacture, distribution, or purchase of goods or services;
- (d) mergers, takeovers, joint ventures or other acquisitions of control of market; or
- (e) colluding of two or more manufacturers, wholesalers, retailers, contractors or suppliers of services, in setting a uniform price in order to eliminate competition.

(3) A person who contravenes this section commits an offence.

Anti-competitive Trade agreements.

**44.-(1)** A person shall not make or give effect to an agreement if the object is to prevent, restrict or distort competition.

(2) An agreement in contravention of sub section (1) of this section is unenforceable under this Act.

(3) This section does not apply to an agreement to the extent it provides for a merger which is free from monopoly.

(4) A person who contravenes this section, commits an offence and upon conviction is liable to a fine of not less than One Million and not exceeding Five Million or to imprisonment for a term not less than three months and not exceeding six months or both such fine and imprisonment.

(5) A person who has suffered loss as a result of any anti-competitive agreement or trade practice may apply to the Commission for compensation and the Director General may, on behalf of the Commission if satisfied that the circumstances of the case so warrant, order the parties whose agreement or trade practice is anti-competitive to pay to the person such compensation as the Commission shall determine.

**45.-(1)** A person shall not make or give effect to an agreement if the agreement is: Prohibition of certain agreements irrespective of their effect on competition.

- (a) price fixing between competitors;
- (b) a collective boycott by competitors;
- (c) output restrictions between competitors;
- (d) collusive bidding or tendering; or
- (e) allocation, parceling and or sharing of markets or customers for any non-competition purpose.

(2) An agreement in contravention of this section is unenforceable under this Act.

(3) A person who contravenes this section, commits an offence.

**46.** It shall be unlawful for any person whether personally, through agents or other enterprise or in conjunction with others or through any arrangement or agreement: Hoarding and restrictive of supply of goods.

- (a) to make hoarding of goods as to create scarce availability of the goods whether for the purpose of bringing about price increase or not;
- (b) to make such hoarding of goods for the purpose of bringing about price increase;
- (c) to destroy the goods or render them unserviceable or destroy the means of production and distribution whether directly or indirectly for the purpose of bringing shortage of the goods or price increase for the same.

**47.-(1)** Subject to provision of this Act the following trade agreement are prohibited: Trade agreements.

- (a) fixing prices between persons engaged in the business of selling goods or services,
- (b) limiting or restricting the terms and conditions of sale or supply or purchase or purchased goods or services;
- (c) collusive tendering for the restrictive competition;
- (d) collective action to enforce agreement that affect competition;
- (e) refusals to supply goods and services to potential purchasers or customers; or
- (f) collective denials of access to an arrangement or association which is crucial to competition.

(2) A person who contravenes this section, commits an offence.

Misuse of  
market  
power.

**48.**-(1) A person with a dominant position in a market shall not use his position of dominance to prevent, restrict or distort competition in market.

(2) For the purposes of sub-section (1) of this section, a person holding a dominant position in the relevant market shall not:

- (a) directly or indirectly impose unfairly high or low selling or purchasing prices or other unfair trading conditions;
- (b) limit production or technical development and innovation to the prejudice of consumers;
- (c) discriminate between consumers or suppliers or:
- (d) conduct any such other related actions that misuse market power.

(3) A person holding a dominant position in the market shall

not engage in any conduct that excludes, or is intended to exclude its competitors from the market by means of:

- (a) predatory pricing;
- (b) price squeezing;
- (c) cross subsidization;
- (d) market sharing; or
- (e) any such other related conduct.

(4) A person holding a dominant position in the relevant market shall not engage in any conduct that harms the competitive position of competitors by:

- (a) a refusal to deal;
- (b) a refusal of access to an essential facility;
- (c) tying arrangements;
- (d) discriminating among customers or suppliers; or
- (e) any such other related conduct.

(5) A person holding a dominant position in the market shall not engage in any conduct whereby:

- (a) the resale prices or conditions are directly or indirectly fixed;
- (b) customers or competitors are foreclosed from access to sources of supply or from access to outlets;
- (c) movement of goods or services between different geographical areas are restricted;

(d) an intellectual property right is used in any way that goes beyond the limits of its legal protection; or

(e) any other such related conducts.

(6) A person who contravenes this section, commits an offence.

Mergers  
and  
acquisitions.

**49.**-(1) Any merger or acquisition that creates or strengthens a position of dominance in a market which distort competition is prohibited.

(2) Where a merger creates or strengthen a position of dominance under sub section 1 of this section, the Commission shall assess the strength of competition in the relevant market by taking into account the following factors:

- (a) the actual potential level of import competition in the market;
- (b) the ease of entry and exit into the market, including tariff and regulatory barriers;
- (c) the level of concentration in the market;
- (d) the degree of countervailing power in the market;
- (e) the merger would result in the increase prices or profit margins;
- (f) the extent to which substitutes are available in the market;
- (g) Efficiencies in the market, including growth, innovation and product differentiation;
- (h) whether the merger will result in the removal of effective competitor;

(i) the nature and extent of vertical integration in the market” and

(j) the merger results or is likely to result in benefits to the public in one or more of the following ways:

- (i) by contributing to greater efficiency in production or distribution;
- (ii) by promoting technical or economic progress;
- (iii) by contributing to greater efficiency in the allocation of resources;
- (iv) by protecting the environment and the merger;
- (v) prevents, restrains or distorts competition no more than is reasonably necessary to attain those benefits;
- (vi) the benefits to the public resulting from the merger outweigh the detriments caused by preventing, restraining or distorting competition;

(3) After having examined the merger, the Commission shall allow the merger to proceed its implementation or prohibit implementation If it is affect competition in the market.

(4) The Minister may review the decision of the Commission on merger If he is satisfied that:

- (a) the decision was based on incorrect information;
- (b) the approval was obtained by deceit;
- (c) the firm concerned has breached an obligation or condition attached to the decision;

(5) A person who contravenes this section, commits an offence.

Notification,  
Investigation,  
Prohibition  
of merger  
and market  
dominant.

**50.** Mergers, takeovers, joint ventures or other acquisitions of control, including interlocking Directorships, whether of a horizontal, vertical, or conglomerate nature, should be notified to the Commission when:

- (a) at least one of the enterprises is established within the country; and
- (b) the resultant market share in the country, or any substantial part of it, relating to any product or service, is likely to create market power, especially in industries where there is a high degree of market concentration, where there are barriers to entry and where there is a lack of substitutes for a product supplied by firms whose conduct is under scrutiny.

#### **PART FIVE PROVISIONS RELATING TO MISLEADING AND DECEPTIVE CONDUCT**

Misleading  
or deceptive  
conduct.

**51.** Any trader or seller or retailer shall not be allowed to engage in a conduct that is misleading or deceptive or is likely to mislead or deceive consumers.

False or  
misleading  
Representations.

**52.**-(1) A person shall not be allowed to act the following misconduct in the supply of goods or services:

- (a) falsely represent that the goods are of a particular standard, quality, grade, composition, style or model, origin or have had a particular history or particular previous use;
- (b) falsely represent that the services are of a particular standard quality or grade;
- (c) falsely represent that the goods are new or of a specified age;

- (d) falsely represent that a particular person has agreed to acquire goods or services;
- (e) falsely represent that the goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have;
- (f) falsely represent that he has a sponsorship, approval or affiliation he does not have;
- (g) make a false or misleading representation with respect to the price of goods or services;
- (h) make a false or misleading representation concerning the availability of facilities for the repair of goods or of spare parts for goods;
- (i) make a false or misleading representation concerning the place of origin of goods;
- (j) make a false or misleading representation concerning the need for any goods; or
- (k) make a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy.

(2) A person who contravenes this section, commits an offence.

#### **PART SIX UNFAIR BUSINESS PRACTICES**

**53.**-(1) A person shall not advertise the supply or sell of goods or services at a specified price that he will not be able to offer to a customer or consumers. <sup>Bait Advertising.</sup>

(2) A person who advertised the price for the supply of goods or services shall offer such price for period that is reasonable having

regard to the nature of the market in which he carries on business and the nature of the advertisement.

(3) If a person stipulated under sub section (2) of this section fails to offer goods or services at the price advertised, he may:

- (a) procure another person to supply goods or services of the kind advertised to the customer within a reasonable time, in a reasonable quantity and at the advertised price; or
- (b) offer to supply immediately, or to procure another person to supply within a reasonable time, equivalent goods or services to the customer in a reasonable quantity and at the price of goods or services that were advertised.

Accepting payment without intending or being able to supply as ordered.

**54.** A person shall not be required to accept payment or other consideration of goods or services where, at the time of the acceptance he is aware that:

- (a) he is not able to supply the goods or services; or
- (b) he will supply materially different from the goods or services in respect to which the payment or other consideration is accepted; or
- (c) there are reasonable grounds of which he is aware might reasonably be aware, for believing that he will not be able to supply the goods or services within the period specified by him, if no period is specified, within a reasonable time.

Unfair trading.

**55.-(1)** A person shall not conduct unfair trade practice consisting of using various deceptive, fraudulent, or unethical methods to obtain or engage in business.

(2) Subject to sub section (1) of this section unfair trading include misrepresentation, false advertising, tied selling, and other acts that are declared unlawful by this Act.

**56.** A person shall not supply any product which:

Safety standard.

- (a) is likely to cause injury to health or physical harm to consumers, when properly used; or
- (b) which does not comply with the consumer safety standard which has been prescribed under any law.

**57.** A person shall not use physical force or undue harassment or coercion in connection with the supply or possible supply of goods or services to a consumer or the payment for goods or services by a consumer.

Harassment and coercion.

## PART SEVEN PROVISIONS RELATING TO CONSUMER PROTECTION

**58.** A person is allowed to supply or sell only the goods which are certified according to the required standard or declared to be fit for human consumption under any written laws.

Sales of goods

**59.-(1)** A seller, or traders, or retailer shall be required to display the price of goods or service to be sold to the consumers.

Price Display.

(2) A person who contravenes this section, commits an offence and upon conviction is liable to a fine of not less than Five Hundred Thousands Shillings and not exceeding Three Million Shillings or to imprisonment for a term not less than three months and not exceeding six months or both such fine and imprisonment.

**60.-(1).** A seller of electronic, electrical or hardware is required to issue a guarantee certificate to consumers at the time of sale.

Product guarantee

(2) The seller specified under sub section 1 of this section is required to replace, repair or refund the price of the goods sold in case of any defect detected within the specified time of the guarantee.

(3) A seller of cosmetics, drugs, soap and detergent, electronic and electrical equipment shall provide the direction of usage of such product.

(4) A service provider is required to assure to the consumer that he shall provide extended services in case of any damage or loss arising out of his services and he shall refund the price said or compensate within a specified time.

(5) The term of guarantee or services extended by a seller or services provider to a consumer shall be clearly set out at the time of sale.

Price structure.

**61.**-(1) The Minister shall prepare and publish in the Gazette the price structure of controlled goods specified under the Zanzibar Trading Act and its regulations.

(2) The price structure shall be prepared after taking into consideration:

- (a) the fluctuation of domestic price;
- (b) international market price;
- (c) variation in exchange rate ; and
- (d) any other factors associated with price fluctuations in the market.

(3) A seller or supplier may, at any time when market price of such controlled goods changes, apply to the Minister for the review of the Price structure.

(4) The seller or supplier shall sell such goods at price not exceed the price as prescribed in the price structure.

(5) Without prejudice to the policy of free market economy and trade liberalization, Minister may regulate the price of any product whenever there is high fluctuation of price in market and such high price affect consumers.

(6)The procedures for the preparation of price structure of controlled goods, and regulation of high price of other goods, shall be determined in the regulations.

**62.**-(1).The Manufacturers or Agents shall be obliged to consider the following while supplying goods to another person:

Manufactu-  
rer's  
or Agent's  
obligations.

- (a) the description of the product related to the order;
- (b) the product corresponds to the sample;
- (c) the characteristics of the goods are proper;
- (d) the goods are suitable to meet the requirement of the suppliers or consumers;
- (e) the goods of merchantable quality

(2) A manufacturer or agent who fails to comply with sub section (1) of this section commits an offence and upon conviction shall be liable to compensate the supplier or consumer for the loss or damage that occur during the time of supplying.

**63.**-(1)Where the product or goods are found to be defective, cause injury, endanger to the consumers, do not comply with standard or has dangerous characteristics, shall be declared to be unfit for human consumption.

Product  
recall.

(2)The Minister shall order the supplier or manufacturer to recall the product from the market at the expense of supplier or manufacturer.

(3)Any goods or products recalled from the market shall be disposed according to procedure specified under the regulations.

Prohibition  
of unsafe  
goods..

**64.** -(1) A person shall not be allowed to supply or sell any goods to a consumer if :

- (a) the goods do not comply with the required standards;
- (b) the goods are unfit for human consumption;
- (c) the importation or supply of such goods are banned in Zanzibar; or
- (d) the date of such goods is expired.

(2) For better implementation of sub section (1) of this section, laws governing the standards and safety of the product, shall apply accordingly.

Prohibition  
of  
Counterfeit  
goods.

**65.**-(1) It is prohibited to any person to engage in the importation, supplying, or selling counterfeit goods in the market place.

(2) A person shall be purported to engage in counterfeit action if he:

- (a) forges any trademark;
- (b) falsely applies to goods to any trade mark or any mark so nearly resembling a trademark as to be likely to deceive;
- (c) makes any die, block, machines, or other instrument for the purpose of forging, or of being used for forging a trademark;
- (d) applies any false trade description to goods; or
- (e) disposes of or has in his possession, any die, block, machine, or other instrument for the purpose of forging a trademark.

(3) A person who contravenes this section, commits an offence.

**66.** It will be the duty of the Commission to seize any goods found to be unsafe or counterfeit.

Seizure of  
unsafe and  
counterfeit.  
product.

**67.**-(1) Any goods found to be unsafe or counterfeit shall be disposed by the Commission through the procedure as stipulated in the regulation.

Disposal of  
unsafe and  
Counterfeit  
goods.

(2) The Commission shall determine the cost of seizing or disposing of such goods at the expense of manufacturer, seller or supplier.

(3)The Commission shall issue the certificate of disposal after disposing unsafe or counterfeit products.

## PART EIGHT MISCELLANEOUS PROVISIONS

**68.** The Minister may give to the Commission directives of a general or specific nature as to the performance of its functions and the Commission shall give effect to such directives according to this Act.

Directives  
of the  
Minister.

**69.**- (1) Where the Commission is satisfied that a person has committed or is likely to commit an offence against this Act other than Parts Four or Five, it may make a compliance orders under this section against that person and any person involved in the offence.

Compliance  
orders and  
Compliance  
Agreements.

(2) A person who fails to comply with the orders made against him, commits an offence.

(3) A compliance order may require a person to refrain from conduct in contravention of this Act or to take actions to comply with this Act, and shall specify the time for compliance with the order and the duration of the order.

(4) The Commission may make an interim compliance order pending a proper consideration of a matter if the Commission is of the

opinion that there is an imminent danger of substantial damage to a person if a threatened or likely offence is committed or there are other good reasons for making such an order.

(5) Without limiting the generality of sub section (3), where the Commission is satisfied that person in this sub- section referred to as the “acquirer” has acquired shares or other assets in breach of sub-section (1) of section 49, the Commission may make an order at any time within three years after the acquisition:

- (a) requiring the acquirer to the dispose of some or all of the shares or assets within such time as the Commission specifies in the order, or
- (b) declaring the acquisition to be void, requiring the acquirer to transfer some or all of the shares or assets back to the person from whom the acquirer acquired the shares or assets in this sub-section referred to as the “vender” and requiring the vendor to refund to the acquirer some or all of the amounts received by the vendor in respect of the acquisition, as the Commission specifies in the order.

(6) Without limiting the generality of the provisions of sub-section (3) of this section, where the Commission is satisfied that person has committed an offence against this Act other than under Part Four and Five, the Commission may order that person to publish, in such manner and within such time as the Commission sees fit, such information as it considers appropriate relating to the offence.

(7) A compliance order shall be made in writing specifying the grounds for making the order.

(8)The Commission may enter into an agreement in writing, referred to in this section as a “compliance of agreement”, whereby a person undertakes to the Commission to refrain from conduct in contravention of this Act from a date, and for a period of time, specified in the compliance agreement or for the disposal of shares or assets and

other matters referred to in sub-section (3) of this section on such terms and conditions as the Commission deems appropriate.

(9) A Compliance order shall be enforceable as an order of the High Court.

(10) A copy of a compliance order or compliance agreement shall be placed on the Public Register and, in the case of a compliance order; a copy shall be served on the person against whom it is made.

(11) Notwithstanding any law to the contrary, a copy of compliance order or compliance agreement duly certified by the Commission shall be conclusive evidence in any court of the making of the order and the grounds for making it or the making of the compliance agreement.

(12) The Commission does not have jurisdiction to make compliance orders or enter into compliance agreements in relation to breaches of conditions or warranties implied under Part Four and Five or manufacturer’s obligations under Part Seven.

**70.-(1)**Subject to this section, this Act applies to all persons in all sectors of the economy and shall not be read down, excluded or modified: Inconsistency with other Laws.

- (a) by any other Act except to the extent that the Act is passed after the commencement of this Act and expressly excludes or modifies this Act; or
- (b) by any subsidiary legislation whether or not such subsidiary legislation purports to exclude or modify this Act.

(2) A person shall not contravene this Act by reason only of engaging in a conduct, unless a provision of enforcement specified in sub- section (3) of this section:

- (a) requires the person to engage in the conduct or conduct of that kind; or

(b) authorizes or approves the person engaging or refraining from engaging in conduct of that kind.

(3) The enactments referred to under sub-section (2) of this section are the Zanzibar Utilities Regulatory Authority Act, Zanzibar Maritime Authority Act, the Zanzibar Food and Drugs Authority Act, the Zanzibar Trading Act, the Zanzibar Standard Act and Sectors Legislation, enactments for the protection of the Environment and the subsidiary legislation or instrument under any of the aforementioned Acts.

(4) Where the Commission is of the opinion that, any conduct required, authorised or approved by a regulatory authority under an enactment referred to in sub-section (3) would be in breach of this Act if sub-section (1) did not apply to the conduct the Commission, shall report the matter to the Minister.

(5) Where the Minister receives a report from the Commission under sub-section (4), he may direct the relevant regulatory authority to take the necessary steps to ensure that the conduct described by the Commission is not required, authorised or approved by the regulatory authority.

Appeal. **71.** A person aggrieved by the decision made by Commission under this Act and decision by other Regulatory Authorities may appeal to the Tribunal.

General Offence and Penalty **72.-(1).** A person who contravenes the provisions of this Act or fails to comply with order to the Commission, or the Minister, or the Tribunal commits an offence under this Act, where no specific penalty is provided, shall be liable to a fine not less than one Million Tanzania Shilling and not more than Five Million Tanzania Shillings or one year imprisonment or both.

(2) Where the Commission is satisfied that a monetary value can reasonably be placed on the damage including loss of income suffered by a person as a result of an offence against this Act, the convicted

person shall, in addition to any other penalty which may be imposed, be liable to a fine of two times such monetary value, which the Director General shall order to be paid to the person suffering the damage.

(3) A person who contravenes section 43, 45 and 61 are not liable to fines under this section but may be subject to compliance orders and compensatory orders to person who suffers loss or damage.

**73.** The Commission may compound an offence committed by a persons under this Act or its Regulations by requiring him to pay the fine prescribed for such an offence, provided that the persons: Compounding of an offences.

(a) admits in writing that he has committed an offence and shall take due care not repeat the same; and

(b) pay other sums payable under this Act or its regulations.

**74.** The Minister may make the following regulations for better implementation of this Act: Regulations.

(a) consumer protection;

(b) fair Competition;

(c) prescribing form to be used under this Act;

(d) procedures relating to Consumer Association;

(e) procedures for seizing and disposing of goods;

(f) procedures for preparation of price structure;

(g) procedure for product recall;

(h) procedures for inspection;

(i) procedures relating to Counterfeiting; and

(j) any other matters that are necessary for giving effect to this Act.

Repeal and Savings.

**75.-**(1) The Zanzibar Fair Trading and Consumer Protection Act No 2 of 1995, is hereby repealed.

(2) Notwithstanding the repealed Law made under sub section (1) of this section, all regulations, or rules made and any things done under the repealed Laws prior to the commencement of this Act shall be deemed to have been made under the provisions of this Act until such time the subsidiary legislation in question is revoked and replaced.

## OBJECTS AND REASONS

The object of this Bill is to enhance the welfare of the people of Zanzibar as a whole by promoting and protecting effective competition in the markets and preventing unfair and misleading market conduct throughout Zanzibar in order to:

- (a) increase efficiency to the production, distribution and supply of goods and services;
- (b) promote innovation;
- (c) maximize the efficient allocation of resources; and
- (d) protect consumers.

The Bill is intended to establish Fair Competition Commission and Fair Competition Tribunal which is responsible to monitor, control and prohibit acts or behaviour that adversely affect competition and fair trading in Zanzibar and hear and determine appeals emanating from orders and decision from the Commission and other Regulatory Authorities.

Therefore, the Bill targeted to empower the Commission on the promotion and protection of effective competition in trade and commerce, to protect consumers from unfair and misleading market conduct.

The Bill is proposed to establish a proper management which is under the Director General who shall be a Chief Executive Officer of the Commission. For that purpose, the Director General shall be responsible to manage under the Commission on his skill and professional manner so that to provide better service toward the intended clients. In addition to that the Director General shall be head of the secretariat of the Commission who shall coordinate and follow up the implementation of the Commission directives.

Above all, the Commission shall perform its specified function under the directives of the Commission.

The Bill creates governing principles to the commission which will help to ensure sound financial managements in reference to planning budget, retention certain percentage of monies, collection of Revenues, submission of financial report to the Minister and other matter related therein accordance with the financial transactions acceptable as provided by the Public Finance Management Act and its Regulations.

The Bill is divided into Eight Parts as follows:

**PART ONE** is about preliminary provision which contains, short title and commencement, Application and Interpretation of certain words in this Bill.

**PART TWO** is about establishment and Administration of the Commission which inter alia contains, seal, logo of the Commission, functions, powers of the Commission, this part also provides for management and administration of the Commission which contains:

- (a) Members of the Commission;
- (b) Secretariat and staff of the Commission, which certain appointment of Director General, function of the Secretarial, Establishment of division of the Commission, together with the establishment of Consumers Association;
- (c) Proceeding of meeting of the Commission, Tenure of the members, initiating a complaint, Commission confidentiality status, conflict of interest and matters pertaining to financial provision that include funds and resource of the Commission, procedure of budget preparation and other matter related thereto.

**PART THREE** is about establishment and administration of the Fair Competition Tribunal which contains :

- (a) Composition of Tribunal which includes Chairperson and other members, functions and powers of Tribunal;

- (b) Is about Registrar, Code of conducts, seal of the Tribunal Judgement and orders of the Tribunal, Obstruction of the Tribunal, Rules of the Tribunal and financial provision that includes funds of the Tribunal and procedure of budget preparations.

**PART FOUR** elaborates the matter pertaining to Restrictive Business Practice, that includes Anti-competitive trade Practice, Anti-competitive Trade Agreements, Hoarding and Restrictive of supply of goods, Misuse of market power, mergers and acquisition and Notification. Investigation, Prohibition of mergers and Market dominant.

**PART FIVE** provides for provision relating to misleading and deceptive conduct which contains false and misleading representation.

**PART SIX** elaborates the matter pertaining to unfair business practices that includes Bait advertising, unfair trading, safety standard, Harassment and coercion.

**PART SEVEN** deals with provision relating to consumer protection which contains, sales of goods ,Price display, Product Guarantee, Price structure, Manufacture's or Agent's obligations, Product Recall, Prohibition, seizure and disposal of unsafe and counterfeit goods.

**PART EIGHT** deals with miscellaneous provisions contain directive of the Ministers, Compliance orders and Compliance Agreements, Inconsistency with other laws, offences and penalties for those wrong doers or any person who does or abstains anything which contrary to this Act will be liable for penalty or fine in respect to offence committed. Also this part provides the power of the Minister to make Regulations, repeal and savings.

HON. AMB. AMINA SALUM ALI  
*Minister of Trade, Industry and Marketing*  
*Zanzibar*



