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CCPC Fines Four Hatcheries 7% of their Annual Turnover for Anti-Competitive Trade Practices



Seated, Commission Board Chairman Kelvin Fube Bwalya and Vice Board Chairman Ms. Chishala Kateka. From left to right Commissioners Fredrick Imasiku, Dr. Chenga Chisha, Mrs. Georgina Kasapatu and Dr. Aubrey Chibumba.

The Board of Commissioners of the Competition and Consumer Protection Commission (CCPC) has fined four hatcheries in Lusaka seven (7%) percent of their annual turnover for fixing trade conditions and setting production quotas in a long-running cartel case. Further, the Board has ordered them to terminate the agreement and to independently set a time requirement for pre-booking of chick orders that is viable and auditable.

The decision to fine Hybrid Poultry Farm Zambia Limited, Ross Breeders Zambia Limited, Quantum Foods Zambia Limited and Tiger Chicks was made during the 30th Board of Commissioners Meeting for the Adjudication of Cases held on 1st March 2018. This was after a comprehensive investigation by the CCPC found that the four hatcheries were involved in collusive practices contrary to the provisions of the Competition and Consumer Protection Act, No. 24 of 2010.

The Board also directed that the hatcheries develop and implement compliance programmes in their respective firms within ninety (90) days of receiving the directive and to publish quarterly performance numbers on deliveries of day old

chicks in three (3) newspapers with nationwide circulation.

The Commission initiated the investigation in 2013 after the Poultry Association of Zambia (PAZ) posted a news item on its website on 26th February 2013 which stated that hatcheries through PAZ had agreed to only set eggs according to demand and that poultry farmers had to book four weeks in advance for day old chicks.

The investigation which lasted four (4) years revealed that the four hatcheries whilst being competitors in the production of day old chicks had through the Poultry Association of Zambia (PAZ) agreed to develop and implement a common policy known as a 'Chick Order Policy' that required poultry

farmers to book for day old chicks four weeks in advance.

Further, the investigations revealed that there was no justification for all four hatcheries to have a common policy as each hatchery had different production capacities, customer base, number of agents and employees and would therefore not all take the same time to sort out orders from poultry growers neither did each hatchery need four weeks to supply day old chicks to farmers.

The investigation further revealed that the four weeks' time requirement agreed by the hatcheries was in fact a trading condition and was therefore in violation of section 9(1) (a) of the CCP Act. Furthermore, it was noted that the four hatcheries through the Chick Order Policy intended to limit the production of day old chicks on the market and consequently determine the price of day old chicks. In this regard, the four hatcheries were indirectly setting production quotas and thus violated section 9(1) (d) of the Act.

The investigation also revealed that the Chick Order Policy was consistent with the definition of an agreement under the Act and was therefore considered as an agreement.

The Board noted that the agreement affected competition among hatcheries in the market for the sale of day old chicks since a similar trading condition was imposed on poultry farmers. The fact that poultry farmers were faced with a similar trading condition set by hatcheries entailed that their ability to choose the hatchery to deal with was reduced as far as delivery of day old chicks upon purchase was concerned



given that the trading condition was the same for all hatcheries i.e. they have to book day old chicks four weeks in advance.

In addition, the agreement was discouraging to other hatcheries from investing in technology or methods that make it possible to supply day old chicks in less than the four weeks required by the agreement.

Based on these facts, The Board of Commissioners decided that each hatchery be fined 7% of their annual turnover for violating section 9(1) (a) and (d) of the Act in accordance with section 9(3) of the Act. In addition, the Board directed the four Hatcheries to develop and implement compliance programmes in their respective

firms, terminate the agreement and set a time requirement for pre-booking independently that is viable and auditable and to publish quarterly performance numbers on deliveries of day old chicks in three (3) newspapers with nationwide circulation.

We would like to warn businesses that are engaged in collusive arrangements to desist from such conduct. The Commission remains steadfast in its commitment to root out collusive and anti-competitive practices which negatively impact on Zambia's quest to promote a competitive business environment and an inclusive economy for job creation.

Remove Competition barriers, let SMEs participate- Hamukale



Journalist listening attentively during COMESA Competition Commission Presentation

Insert: Hon Minister of Southern Province Dr Edify Hamukale giving his key note speech during the Media Training Workshop in Livingstone

Government has disclosed that the purpose of a Competition Policy was to facilitate efficient allocation of resources in order to maximise national welfare.

Southern Province Minister Dr Edify Hamukale MP said, an effective Competition Policy was not meant to deter business growth but was concerned with conducts that create, enhance and preserve market power, thereby creating a conducive market environment for all players.

Speaking during the official opening of the Competition and Consumer Protection Commission (CCPC) Media Training Workshop held in Livingstone at the Fairmount Hotel, Dr Hamukale said CCPC should ensure that it removed competition barriers that prevented Small and Medium Scale Enterprises (SMEs) business from effectively participating in the economy.

“The Commission should remove barriers that prevent SMEs from effectively participating in the economy, these include exclusive

agreements, Cartels, Abuse of Dominance and anti-competitive mergers”, he said.

The Hon Minister added that Government had put in place necessary legislation to promote competition and consumer welfare and tackle inefficiencies associated with market power which would result in higher prices, reduced incentives, lack of innovation as well as undermining of potential entrants.

“My Government has recognised the benefits that can be derived from Competition law enforcement. We are therefore, committed to ensuring that market participants in the Zambian economy are trading on a level playing field” Dr. Hamukale stated.

Dr Hamukale further cautioned CCPC to be wary of consumers who were vexatious and frivolous in their claims on infringements of their rights adding that companies fell prey to scheming selfish consumers whose aim was to pocket huge sums of money at the expense of the well-meaning enterprises.

And speaking at the same event, CCPC Executive Director Chilufya Sampa said the Commission would remain focused and ensure that it fully participated in a creating a better Zambia by making sure that favourable competition and consumer conditions were attained.

Mr Sampa called for the media involvement through sensitization of the public to enable the Commission enforce the laws.

“ The public have a huge reliance on the media for information, and therefore can serve as an effective platform to publicise what appropriate laws to look out for regarding the various unfair trading practices resorted to by the traders and service providers,” said Mr Sampa.

The Workshop was aimed at enhancing Journalist’s knowledge on concepts of competition and consumer protection and the legal frame work. The two-day Workshop which took place from the 4th -5th of April 2018 was attended by 28 Journalists from various media houses.

World Consumer Rights Day

“Promoting E-Commerce without Leaving Consumers Behind”

Minister of Commerce, Trade and Industry, Honorable Christopher B. Yaluma MP has said that this year’s theme for the World Consumer Rights Day Commemoration, “Promoting e-commerce without leaving consumers behind” does not only resonate well with many Zambians who are now buying things via e-commerce platforms - but also underlines the strides the country is making towards digital financial inclusion for all Zambians.

Speaking during the Commemoration of the 2018 WCRD on 15 March, 2018 running under the theme, “Promoting E-Commerce without Leaving Consumers Behind” at Levy Business Park in Lusaka, Hon Yaluma said Zambia’s e-commerce sector to the consumer market is still developing and that whilst consumers undoubtedly benefit from the increased access, choice and convenience that these technologies deliver, questions remain about how to improve the quality of services.

“Suffice to mention that e-commerce has not only clearly raised new exciting opportunities for consumers, but also challenges that regularly require increased attention from a regulatory perspective. Arguably the biggest challenge being Security and Trust, these are extremely important issues in e-commerce. It has become important for organisations and their online presence to identify the risks and threats to security in order to promote a safer security environment,” Hon Yaluma said.

The Minister stated that identifying pro-active policies and regulatory measures were essential in order to protect the rights of consumers in a digital environment. Adding that it called for strengthened collaboration among key stakeholders such as the Zambia Information and Communications Technology Authority (ZICTA), the Bank of Zambia (BoZ), Zambia Compulsory Standards Agency (ZCSA), the Competition and Consumer Protection Commission

(CCPC), service providers, law enforcement authorities and other stakeholders.

He added that the increasing significance of digital platforms for the modern economy required a comprehensive consumer policy and the protection of consumer rights in



Minister of Commerce, Trade and Industry, Hon Christopher B. Yaluma MP giving his keynote speech during WCRD commemoration.

the digital world and that his Ministry had been working towards adoption of pro-consumer interventions that would enhance consumer confidence in the digital market place.

“In this vein, the Government will consider where appropriate, reviewing existing consumer protection laws and frameworks to accommodate the special features of e-commerce, and ensure that

consumers and businesses are informed and aware of their rights and obligations in the digital marketplace,” Hon Yaluma noted.

The Hon Minister appealed to all stakeholders to partner with the Government in providing timely Information and Communication Technology related information to consumers.

Prior to the 15th of March, the National Organizing Committee had put into place a hive of activities to sensitise the masses such as Radio and Television Programs, posts on the WCRD Facebook page as well as an exhibition at the Main Post Office building.

A Media Briefing was held on the 17th of January, 2018 where the Chairperson of the National Organizing Committee, Mr. Lee Haamunji, Public Relations Officer from ZCSA, unveiled the 2018 WCRD Ambassador Mawano Kambeu also known as Dot Com.

Mr. Haamunji reminded Members of the public that whilst e-commerce came with massive advantages to consumers, there was need to protect consumers. He further urged the public that every business that trades online should ensure that consumers are the ultimate beneficiaries and winners.



High Table Delegates listen attentively during WCRD commemoration

CCPC to assume 2018/19 ICPEN Presidency

Zambia will assume the Presidency of the International Consumer Protection and Enforcement Network (ICPEN) with effect from July 1, 2018.



CCPC Executive Director, Chilufya Sampa giving his keynote address during an ICPEN meeting in Istanbul, Turkey

Zambia takes over from Turkey, which has been ICPEN President covering the period 2017 to 2018.

Charge'd Affaires at the Zambian Mission in Turkey Mr. Bwalya Nondo described Zambia's accession to the ICPEN Presidency as a milestone for Zambia which will showcase the country's acumen in providing leadership in ensuring fair economic practices at international level.

Mr. Nondo noted that abuse of dominant market power, anti-competitive activities and other acts that eroded consumer rights and welfare, especially in Africa, are an economic menace which should be fought at all levels through networking.

"Zambia is an integral part of the global village and cannot afford to lag behind other countries in a constantly evolving consumer protection agenda," Mr Nondo said.

He also urged ICPEN to tighten measures to ensure that African

countries were not used as a dumping ground for counterfeit products.

ICPEN is an international network of 64 countries, which collaborate and co-operate in enforcement of consumer protection laws.

Speaking on the sidelines of the ICPEN high-level conference in Istanbul, Turkey Competition and Consumer Protection Commission (CCPC) Executive Director Chilufya Sampa said Zambia's Presidency will cover the period 2018 to 2019.

"From 2017 to 2018, Turkey has been the President of ICPEN and now we are taking over from 2018 to 2019 and our effective date of takeover is July 1, 2018," he said.

Mr Sampa who was leading a four-member delegation to the conference, said during Zambia's Presidency, the agenda will be to bridge the gap between developed and Least Developed Countries (LDCs) to ensure that ICPEN becomes relevant to both.

He said although Zambia was the first African country in the 26 years of ICPEN's existence to hold the presidency, it will not only be focused on the country alone but on the entire African continent.

Currently, only five African countries namely, Nigeria, Egypt, Malawi, Kenya and Zambia are members of ICPEN.

"We would like to see to it that we expand and have more African countries participate. We have reached out through the Common Market for Eastern and Southern African Development Community so that we can facilitate more African countries' participation".

"Our message to them is that you cannot set the agenda if you are not part of the network. The concern that they have is that they do not see the relevance of the network but the world is moving and waits for no one" Mr Sampa said.

He further explained that emphasis would be placed on the financial

sector to ensure that more people are financially included and bring to an end unfair trading practices against consumers in the sector.

“We will also be looking at issues of E-Commerce, online retail and online education services. Most of the services we are using in developing countries are generated from developed countries hence the reason to be part of the network, which encourages cooperation and collaboration among consumer protection agencies” Mr Sampa said.

He added that CCPC planned to host a Best Practices Workshop scheduled for November 2018 in Lusaka and an Annual Conference in April 2019 in Livingstone.

ICPEN operates under a rotating presidency, currently held by Turkey’s Ministry of Trade and Customs, Directorate General for Consumer Protection and Market

Surveillance, for a period of twelve months.

Others in the delegation were CCPC Director for Consumer Protection

Brian Lingela, Chief Investigator Eunice Hamahwa and Public Health Officer, Twaambo Chuula.



Zambia ICPEN Team lead by CCPC Executive Director Chilufya Sampa.

CCPC seeks to amend Act

The Competition and Consumer Protection Commission (CCPC) is seeking to amend the Competition and Consumer Protection Act No. 24 of 2010 (CCPA) in order to make it more effective.

The Commission had noted some gaps in the current law that need to be addressed in order to achieve effective enforcement of the law.

To this effect, the Commission has since submitted the proposed amendments to the Ministry of Commerce, Trade and Industry.

The Commission had also shared the proposed amendments with other relevant stakeholders for input and consideration by conducting a series of workshops.

The workshops were held on the Copperbelt Province in Kitwe, Eastern Province in Chipata, and Lusaka Province in Lusaka.

The consultative workshops also provided a platform for stakeholders to submit proposals to the Commission on what they felt should be added to or subtracted from the Act.

The Commission received positive feedback from all three workshops as well as written proposals from stakeholders that were unable to attend the workshops.

Stakeholders engaged included both the private and public sectors with representatives from but not limited to the legal fraternity, banking, insurance, agricultural sector, manufacturing association, professional associations and market associations.

The proposals were consolidated into a layman’s draft through the Ministry of Commerce, Trade and Industry, the Ministry of Justice and

the Commission. This was done following a retreat held on 14th to 16th May 2018 at Chita Lodge in Kafue.

Following this process, the document will be submitted as a bill before Parliament for consideration.

It is prudent to note that amongst the proposed amendments is a clause recognising the application of COMESA Competition Commission Regulations in Zambia.

The Commission is hopeful that these amendments when enacted into law will bring about ease of enforcement of the Act as well as ease of doing business in Zambia.



Delegates of the Amendments Workshop held at the Raddisson Blu in Lusaka

Media Vital in Competition and Consumer Protection promotion- CCPC

The Competition and Consumer Protection Commission (CCPC) recently conducted a Media Training Workshop aimed at enhancing Journalist's knowledge on concepts of competition and consumer protection and the legal frame work.

Speaking during the Workshop, CCPC Director of Consumer Protection, Brian Lingela said that the Media being the fourth estate had an important role of educating the people on the importance of competition and their consumer rights thereby increasing awareness of the adverse effects of anti-competitive and unfair practices on the economy.



Mr Brian Lingela Director Consumer Protection during the media Workshop

Meanwhile, Chief investigator Mergers and Monopolies, Patrick Chengo stated that the Competition and Consumer Protection Act (CCPA) prohibits certain conducts by one or more firms which amount to an Abuse of Dominance position and that dominance was legitimate if it was achieved through genuine innovation, greater entrepreneurial efforts and mergers and acquisitions.

Mr Chengo said that the Commission had received a total of 84 mergers notifications in 2017 against the set target of 40 representing a 60% increase compared to the previous year 2016.

He added that the approximate value in pledged Merger investments was \$6,000,000 million with about 4,430 direct and indirect jobs created and 411 more maintained through transactions.

"The Commission will in 2018 continue contributing to Zambia's foreign direct investment (FDI) and ease of doing business by facilitation of merger transactions." Chengo said.

Speaking at the same event Investigator Restrictive Business Practices, Joseph Kaumba said Cartel conducts were harmful to the economy as they hindered competition in a free market economy thereby subjecting customers to paying more for less quality.

He added that the CCPA prohibited agreements and concerted practices involving horizontal practices such as direct and indirect fixing of prices and any trading conditions.

Mr Kaumba further said Cartels were by nature very secretive and difficult to investigate however, the Commission in 2017 closed a total of seven (7) cartel cases in the Service, Agriculture and Livestock sectors.



Mr Patrick Chengo delivering his presentation on Mergers and Abuse of Dominance during the media Workshop.

"The media's channels, content and reach are powerful enablers for promoting behavioural change, as well as exposing anti-competitive business practices and conduct. Further, the public have a huge reliance on the media for information therefore, you can serve as an effective platform to publicise information about the Commission's activities and empowering consumers by educating them on their rights and obligations." He said.

Mr Lingela revealed that the Commission in 2017 recovered a total amount K1, 806,000 in product refunds and replacements. This is the amount consumers would have lost had it not been for the Commission's intervention.

He added that, the Commission at the close of 2017, investigated and resolved more than 2000 cases bordering on consumer rights violation, Cartel conduct Abuse of Dominance and mergers and acquisitions.



Supreme Court of Zambia Rules in Favour of CCPC

The Supreme Court on 14th May 2018 delivered a ruling in favour of the Competition and Consumer Protection Commission (CCPC) following a motion brought by Puma Energy Zambia PLC under Rules 48 and 78 of the Supreme Court Rules, Chapter 25 of the Laws of Zambia. The intention of the motion was to achieve two things being the reversal of a ruling and order of a single judge of the Supreme Court which was made on 30th December 2016 and to correct or expunge certain pronouncements that the Court made in its judgment of the 9th March 2016.

This flows from a dispute which the CCPC and Puma Energy Zambia Limited have had since February 2012 on whether Puma could distribute Castrol Products in Zambia. The dispute was premised on the decision of the CCPC Board of Commissioners which had accordingly imposed a fine 2% of Puma's annual turnover for breach of undertakings as directed by the CCPC Board. Puma was aggrieved with this decision and appealed to the Competition and Consumer Protection Tribunal (CCPT) on nine grounds which were inter alia:

"That the Board of Commissioners erred in fining Puma Energy Zambia Limited without first applying to the Tribunal for a mandatory order in line with Section 64 of the Competition and Consumer Protection Act (CCPA), No.24 of 2010."

The CCPT resolved the appeal entirely on the aforementioned ground agreeing with Puma, that the CCPC needed to obtain a mandatory order from the CCPT before it could proceed to fine Puma. The CCPC appealed against the Judgment of the CCPT to the High Court which held that the

CCPC did not need to first seek a mandatory order from the CCPT before it could impose a fine on Puma and accordingly reversed the CCPT's decision and ordered that the appeal was to proceed before the CCPT on the other remaining 8 grounds. However Puma appealed against the decision of the High Court to the Supreme Court, which upheld the decision of the High Court.

It was upon receipt of the Supreme Court's judgment dated 9th March 2016 that the parties failed to agree on the terms of the order of the Court that was drawn in accordance with Rule 75 of the Supreme Court, Chapter 25 of the Laws of Zambia. This prompted the CCPC to apply to the Supreme Court to settle the order as provided by Rule 75(2). Despite the Court settling the order which inter alia provided:

"The CCPC had jurisdiction to fine Puma Energy Zambia Limited under section 37 of the CCPA without resorting to Section 64(1),"

Puma Energy Zambia appealed against the settling of the order on grounds that, the order only needed to embody the ratio decidendi of the court's judgment and not the obiter dictum.

The Supreme Court took into consideration arguments by both parties and deduced that the motion was about whether the order that had been settled by a single judge of the Supreme Court was reflective of the decision of the 9th March 2016. However the Court found that Puma had breached the directives, which meant that the imposition of the fine by the CCPC was justified.

The Court went further to pronounce itself on the fact that it was alive to Puma's argument

that the issue concerning whether or not Puma had breached the directives was not properly before the Court in that it had not yet gone through the process before the Tribunal, however the Supreme Court of Zambia Act, Chapter 25 of the Laws of Zambia, a statute that governs the operations of the Supreme Court did not restrict the Court in determining matters only through that narrow channel. This is because the Supreme Court is empowered to with any matter with the ultimate aim of meeting the ends of justice.

In concluding, the Supreme Court stated that it was of great importance to consider the questions that were at the core of the appeal being whether on the interpretation of Section 64 of the CCPA, the CCPC required to first obtain a mandatory order from the CCPT before it could exercise its powers under Section 37 of the CCPA to fine Puma.

The second question was whether the basis for the CCPC's exercise of its powers under section 37 had arisen at all, considering that in Puma's view, it had not breached the directives. The Court held that the second question was material to the appeal because had it not been resolved in favour of Puma, it would have affected the fine that the CCPC had imposed. This therefore demanded of the Court to examine the source of the dispute in order to arrive at a decision. The Court thus concluded that that the second question was material to the appeal and the Court's findings thereon formed part of the ratio decidendi and that the order did not embody any obiter dicta.

It is however prudent to note that despite the Court's judgment, Puma Energy Zambia has filed a Notice of Motion to set aside the Ruling confirming the Judgment.

Be persistent in your awareness campaigns, Western Province PS urges CCPC



Western Province PS Mr Sibanze Simuchoba

Western Province Permanent Secretary, Sibanze Simuchoba has urged the Competition and Consumer Protection Commission (CCPC) to be persistent and consistent with its provincial sensitization campaigns in a bid to raise awareness on its mandate and enhance consumer welfare.

Mr Simuchoba said that CCPC's approach and strategy of visiting districts in the province to meet and sensitise members of the public was an effective channel that would yield fruitful results in bridging the information gap between the rural and urban areas.

Speaking when a team of CCPC Officers paid a courtesy call on his office during a sensitisation and advocacy tour of Western

Province, Mr Simuchoba said that Government appreciated such awareness initiatives as they gave consumers the ability to get value for money and prevented them from being exploited by traders.

"I welcome this initiative by your Commission and want to encourage you to scale up your Mongu Office as well as establish offices in rural areas in order to ensure that consumers in far flung unreachable areas are

"..members of the public to be alert and report any element of unfair trading practices to the Commission..."

Mr. Sibanze Simuchoba

kept informed on their rights and obligations," said Mr Simuchoba.

Mr Simuchoba noted that the continued supply of expired and unsafe products to consumers on the market especially in rural areas was extremely worrying and needed concerted efforts from stakeholders to eradicate the vice.

He further urged traders to desist from engaging in unfair trading practices by not selling expired, defective and poorly labelled products. He also called on traders to always endeavour to put prices on various products and services they dealt in.

CCPC Public Relations Officer, Namukolo Kasumpa said the Commission visited the province not only to sensitise consumers about their rights and obligations but also to educate them on rural financial expansion as well as inform the traders on the need to respect consumer rights in the course of the day to day operations.

She explained that the sensitization tour created a platform for consumers to fully understand and appreciate their rights, hence resulting in effective enforcement of the Act and consequently complementing the Commission's effort in executing its mandate.

Mrs Kasumpa further informed the Permanent Secretary that the Commission had outlined a number of consumer education activities in the province, which included live radio programs, giving talks to traders at markets, secondary schools, colleges, meetings with traditional and civic leaders and inspections of trading places among others.

▶ **Continues on page 13**



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1. CCPC Chief Investigator Northern Region (in blue shirt) Masautso Phiri inspecting a product with the Nchelenge Health Officer during the sensitization tour of Luapula Province.
2. CCPC Executive Director Mr Chilufya Sampa with Commissioner Georgina Kasapatu during the Amendment of the Act Workshop at Radisson Blu Hotel in Lusaka
3. CCPC ICPEN Team with Bob Bolema ICPEN Trainer (back centre in blue shirt) take a moment to pose during an ICPEN Preparatory Training Workshop.
4. CCPC Officers during the WCRD commemorations in Lusaka.
5. From right to left Restrictive Business Practice Investigator, Michael Chota, Investigator Faith Mwamba, Manager Consumer Protection Swaziland, Ayanda Ziyane during a WCRD exhibition at Main Post Office Cairo Road Lusaka.
6. CCPC Kitwe Office members of Staff pose during the Labour Day Commemoration.
7. Pupils leading the WCRD Marchpast from Government Complex to Levy Business Park.
8. The Minister of Commerce, Trade and Industry, Hon Christopher Yaluma signs a visitors log book on the CCPC Stand during WCRD commemoration while CCPC Commissioner, Dr Chenga Chisha and Executive Director, Mr Chilufya Sampa look on.
9. Kabova who was also Master of Ceremony entertains the public during the WCRD commemorations.
10. Hon Minister of Commerce Trade and Industry far left with CEOs from CCPC, NWASCO, MCTI, CUTS and ZCSA as they presented trophies to winning Secondary Schools of the Essay Competition during WCRD commemorations.
11. CCPC Executive Director, Chilufya Sampa and Commissioner Dr Chenga Chisha pose with pupils and teachers of the winning Matero Girls Secondary School during WCRD Commemoration.
12. Seated from Left to right CCPC Executive Director, Chilufya Sampa, Hon Minister of Southern Province Dr Edify Hamukale and COMESA Competition Commission, Chief Executive Officer Dr George Lipimile pose with the Journalists during a CCPC Media Training Workshop in Livingstone.
13. Officers from the Swaziland Competition Commission pose with Director Consumer Protection, Mr Brian Lingela (second from Left) during the CCPC Media Training Workshop in Livingstone.
14. From Left to right, CCPC Public Relations Officer Namukolo Kasumpa, Western Province Investigator, Bravo Muchuu, Manager Consumer Protection Ayanda Ziyane and RUFEP Coordinator, Owen Munkombwe during the Sensitization tour of Western Province.
15. From Left to Right CCPC Administration Assistant Chipepo Mulimbika, Consumer Protection Investigator Josephine Katoka and Eastern Provincial Investigator Emmanuel Zulu During the Nc'wala Ceremony.



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Continues from page 11

Be persistent in your awareness campaigns, Western Province PS urges CCPC

And CCPC Western Province Investigator, Bravo Muchuu highlighted the need for members of the public to be alert and report any element of unfair trading practices to the Commission, adding that failure to do so would not help in the fight against consumer infringements.

Mr Muchuu further advised consumers to take time to read and understand the information that is provided on labels for various products before making a purchasing decision as the

consequences of not reading could be detrimental and to some extent fatal. He said consumers also have obligations such as demanding for a receipt after purchasing a product.

The CCPC Team in collaboration with inspectors from the Local Councils also conducted inspections in the various districts to check on compliance levels in the province. The inspections yielded few expired products in all districts thereby implying high compliance to the Competition and

Consumer Protection Act.

The CCPC team comprised of Mrs Namukolo Kasumpa Public Relations Officer, Mr Bravo Muchuu, Western Provincial Investigator, Mrs Ayanda Ziyane, Consumer Protection Manager and Mr Owen Munkombwe, RUFEP Project Coordinator.

The tour covered seven (7) districts in Western Province namely Mongu, Mulobezi, Sioma, Nalolo, Luampa, Kaoma and Nkeyema.



CCPC Western Province Investigator Mr Bravo Muchuu sensitizes consumers on their rights and obligations

“Protecting Every Consumer in the Digital Economy” - African Dialogue

The Competition and Consumer Protection Commission (CCPC) in its quest to protect consumers has continued to collaborate and share knowledge on consumer protection in the digital economy with other consumer protection agencies in Africa.

The Commission attended the Ninth (9th) Annual African Consumer Protection Dialogue Conference which was held in Banjul, Gambia from the 7th to the 9th of March, 2018 running under the theme “Protecting every consumer in the digital economy”.

The Conference which attracted twenty five (25) Member countries focused on the developmental needs for Africa such as information technology with the aim of coming up with vital recommendations to trigger and shape new policy decisions and directives to combat cybercrime and other financial scams.

Speaking in an interview CCPC Senior Investigator, Inonge Mulozi said that the three day Conference brought together Africa’s consumer protection and competition agencies to discuss the cross-border commercial activities that affected consumer interests and encouraged cooperation among law enforcement agencies in Africa, United States and the rest of the world by setting the way forward in creating innovations.

Ms Mulozi said that consumer protection issues were now bordering on e-commerce issues and therefore there was need to have greater discussions around harmonization of consumer protection laws which would address the emerging issues.

She added that e-commerce was the thematic area discussed as the digital economy in all its variations including traditional websites,



From Left to right CCPC Officers, Ms Faith Mwamba, Mr Royd Banda, Mr Joseph Kaumba and Ms Inonge Mulozi take a moment to pose during AD Conference.

search engines, mobile technology and social media had become increasingly important with the potential to transform inclusive economic growth.

Speaking at the same meeting CCPC Consumer Protection Investigator, Faith Mwamba stated that the development of the internet had facilitated the globalization of markets and growth of e-commerce. Online shopping on domestic and international platforms had increased resulting in increased consumer choice and access to products and services.

She highlighted that while e-commerce had numerous benefits, consumers were at risk of issues such as identity theft. Jurisdiction issues were also another challenge to ecommerce as it was difficult to ascertain which laws to apply

“The Conference acknowledged that e-commerce has promoted great potential to contribute to transformative and inclusive economic growth. However, most African countries were facing different challenges such as barriers in doing business and

competition was limited therefore, collaboration and information sharing between jurisdictions would assist in addressing these challenges”. Ms. Mwamba said.

Ms. Mwamba added that the Conference emphasized on the need for cooperation between and among sector regulators, civil society organizations, consumer groups and consumer enforcement agencies if consumer protection was to be effectively attained adding that cooperation was a critical factor which needed to be treated with the necessary commitment in order to make progress.

The Conference had Agencies responsible for enforcing consumer protection and related laws attending as well as stakeholders from the Non-Governmental Organizations of the Gambia.

The Commission was represented by Ms. Inonge Mulozi, Senior Investigator, Mr. Royd Banda, Provincial Investigator, Ms. Faith Mwamba, Investigator and Mr. Joseph Kaumba, Investigator who attained knowledge on how other consumer protection agencies handled consumer complaints.

Competition Law Annual International Conference held in New Delhi, India



From Left to Right Senior Investigator Mergers, Ms Kondwani Kaonga, Zambia High Commissioner to India, Judith Kapigimpanga and Director Legal Mrs Maureen Mwanza

“Cartels under the Zambian law are civil and criminal in nature but the Commission exempts the criminal aspect once a party applies for leniency under this programme”.

The CCPC Director of Legal and Corporate Affairs further praised the media for working with the commission in unearthing uncompetitive practices as well as providing awareness.

Meanwhile, CCPC Senior Investigator on Mergers and Monopolies, Kondwani Kaonga said the commission had initiated a leniency programme for cartels among others.

“Cartels under the Zambian law are civil and criminal in nature but the Commission exempts the criminal aspect once a party applies for leniency under this programme,” Ms Kaonga said.

She said a number of cartels had come forward to seek leniency with a latest case being in the insurance sector.

“The media in Zambia had performed well in highlighting the importance of competition and consumer protection in an economy,” Ms Kaonga said.

By: Bangwe Naviley.

First Secretary Press and Tourism at the
Zambian Mission in New Delhi, India,

The Competition and Consumer Protection Commission (CCPC) has urged firms seeking to invest in Zambia to familiarize themselves with the country’s competition and consumer protection law.

CCPC Director of Legal and Corporate Affairs, Maureen Mwanza said her Commission had noted with gratitude the number of investors coming from India and Asia in general adding that CCPC stood ready to guide them especially on cartels, mergers, acquisitions and take overs in the spirit of

maintaining a competitive business environment.

She was speaking in New Delhi, India, during the 2018 International Conference on Competition Law attended by Zambia’s High Commissioner to India Judith Kapigimpanga among other dignitaries.

“CCPC has a healthy working relationship with the Judiciary in Zambia as observed by landmark judgements that have excited the legal minds worldwide,” Mrs. Mwanza said.

The Commission guides Local Authorities in the awarding of Franchise Contract Agreements for Waste Management Services

The Commission has found that the action by some Local Councils to engage one private company to collect and transport waste in each respective Waste Management Zone does not restrict competition by object but that the franchise contract agreements restrict competition by effect.

This finding follows a review by the Commission of the agreements that Lusaka City Council, Luanshya Municipal, Ndola City and Kafue District Councils had with private waste collection companies in order to assess their potential effect on competition.

During the review of the agreements, the Commission found that the Franchise Contract Agreements restricted competition by effect as they contained a clause that provided for automatic renewal of the contracts without stating the

circumstances under which the contract would be renewed or the period of renewal.

The Commission therefore concluded that this could potentially preclude other waste management companies from bidding for the contracts.

The Board of Commissioners has since directed Lusaka City, Luanshya Municipal, Ndola City and Kafue District Councils to entirely remove the anti-competitive clause from the contracts. The Board of Commissioners further directed the Councils to cancel the current agreements containing the clause and re-tender the franchise services within six months of receiving the Board directive.

In December 2017, the Commission decided to review the Franchise Contract Agreements that Local

Government Authorities had entered into with private waste collection companies following a recommendation by the Board of Commissioners.

This was after the Commission conducted investigations in the awarding of Tenders for the collection, transportation and disposal of household and commercial solid waste to the private sector companies by Chongwe District and Ndola City Councils.

The investigations were initiated following complaints from consumers and waste management collection companies in Chongwe and Ndola Districts that the Local Authorities had divided their areas into Waste Management Zones and engaged only one company in each zone to collect, transport and dispose of solid waste.

The Commission fines Millers Association of Zambia (MAZ) and Milling Companies

The Board of Commissioners of the Competition and Consumer Protection Commission (CCPC) has fined Millers Association of Zambia (MAZ) and milling companies namely: National Milling Corporation Limited, Superior Milling Company Limited, Simba Milling, Midlands Milling (2011) Limited, Star Milling Limited, and Dariyaye Milling Limited 10% and 5% of their annual turnover respectively for price fixing.

The Decision to fine the Association and Milling Companies was made during the 31st Board of Commissioner's Meeting for Adjudication of Cases held in Lusaka on the 26th of April, 2018. This was after a protracted investigation by the Commission when it noticed through various media reports that MAZ issued a press statement on 4th October,

2015 informing the public that due to increase in the price of maize on the market, the prices of mealie meal would increase by K10 to K15 per 25 kg bag of breakfast mealie meal in Lusaka.

The investigations which focused on the period 2010 to 2015 lasted for three (3) years and revealed that MAZ and its members had several meetings where they agreed to fix the prices of mealie meal.

Further, the investigations found that the agreement to fix prices manifested in MAZ issuing a statement that prices of 25Kg breakfast mealie meal were going to increase by K10 to K15 in Lusaka.

Based on these facts, the Board decided that MAZ be fined 10% of their annual turnover while National Milling Corporation Limited, Simba Milling Limited, Superior Milling

Company Limited, Midlands Milling (2011) Limited, Star Milling Limited and Dariyaye Milling Limited be fined 5% of their annual turnovers for violating Sections 8 and 9 of the Act.

The Board further directed that Chat Milling Limited should not be fined considering that they were not members of MAZ and that during the time the press statement was issued, their milling plant was shut down.

The Commission would like to take this opportunity to warn business that engage in collusive arrangements to desist from such conduct. The Commission remains steadfast in its commitment to root out collusive and anti-competitive practices and has intensified its investigations into cartel conduct by monitoring activities in all key sectors of the economy.

CCPC, Councils, seize goods worth over K 7, 000 in North-Western Province

The Competition and Consumer Protection Commission (CCPC) in collaboration with four Local Authorities in North-Western Province seized assorted goods collectively worth K7,195 following four separate joint inspection operations conducted in over 57 trading places in February 2018.

The items seized included soft drinks, biscuits, juices, baking powder, yeast, toothpaste, blue band butter and Cosmetics all which had expired or were insufficiently labelled and therefore did not meet the mandatory product information standards set by Section 50 of the Competition and Consumer Protection Act No 24 of 2010 and the Food and Drugs Regulations under the Food and Drugs Act Cap 303 of the Laws of Zambia.

The seizure of the goods was conducted during a sensitization and advocacy tour of the province aimed at educating the consumers on their rights and obligations as well as inspecting trading premises in selected Districts in the Province with the view of ascertaining the traders' s compliance levels with the Competition and Consumer Protection Act (CCPA) No 24 of 2010.

Expired food items contributed to over 90 percent of the products seized, a situation which was very worrying as product safety hinges directly on the lives of the consumers.

CCPC is of the view that total consumer protection can neither be achieved single-handedly by the CCPC nor the Government, but



North- Western Provincial Investigator, James Chalungumana loading the seized goods.

requires concerted efforts from various stakeholders such as the traditional leadership, institutions of learning and members of the public. To this effect, the Commission has scaled up vigorous sensitisation programmes to both traders and consumers in the districts to increase compliance.

The issues of consumer protection need to be given the importance they deserve as most of them border on people's health. As such the Commission would like

to urge consumers to be careful when buying and consuming food products.

The Commission's appeal is to members of the public to check for expiry dates and general information of the products so as to avoid consuming products that might endanger their lives.

The Local Authorities involved in the exercise were Solwezi, Mufumbwe, Manyinga and Kabompo Districts Councils.

CCPC continues to partner with Learners in Secondary Schools



Pupils from winning Schools take a moment to pose for a picture

The Competition and Consumer Protection Commission in North-Western Province held an Essay Writing Competition in conjunction with the Business Studies Teachers Association of Zambia (BUSTAZ) from 27th to 30th March, 2018 at the Solwezi College of Education.

The partnership saw the coming together of 44 senior secondary scholars alongside another 44 junior Secondary scholars from all 11 districts of North Western Province. The participants were CCPC School Club Members who had previously emerged victorious

when they represented their respective schools at district level.

North Western Provincial Investigator James Chalungumana said the Competition included the presentation of practical and viable business plans from the respective districts with the Citizens Economic Empowerment Commission (CEEC) taking keen interest in the business plans with the possibility of funding the best one in 2019.

The event was graced by the Provincial Education Officer Mr. Brainley Malambo as the guest of Honour. Solwezi District

scooped the first prize walking away with individual Certificates of Achievement, Commerce and Principles of Accounts text books, a group Shield and CCPC materials which included branded t-shirts, folders and brochures.

And on the 15th of March 2018 the Commission in Chipata conducted a sensitization and awareness talk to over 200 students at St Francis School of Nursing in Katete District of Eastern Province.

During the talk, Consumer Protection Investigator Mrs. Josephine Katoma made a presentation on Consumer Protection and E-commerce following the theme of the 2018 World Consumer Rights Day (WCRD) Commemoration.

The Commission further invited St. Magarates Girls Secondary School and Anoya Zulu Secondary to participate in WCRD activities by interviewing different Service Providers on CCPC Radio Programs.

The pupils interviewed, Mr. Chanda Mubanga, the Public Relations officer of Zambia National Building Society (ZNBS) and asked questions on the products that ZNBS was offering in the E-commerce era and on their complaint handling procedures among other things.

The Pupils also interviewed the Branch Manager for Atlasmara, Chipata Mr. Anderson Zulu. This activity was enlightening and beneficial to the consumers and traders as it gave them an opportunity to interact with these officials on air.

The interviews which took place on 13 and 14th March, 2018 were part of the awareness programs conducted towards the WCRD commemoration which carried the theme: 'Promoting Ecommerce without leaving consumers behind'.



North-Western Province Investigator (red tshirt) James Chalungumana and Acting PEO Mr Brainley Malambo giving awards during an Essay Competition

CCPC conducts compliance talk with Toyota Zambia

The Competition and Consumer Protection Commission (CCPC) undertook a compliance training with Toyota Zambia members of staff in an effort to increase awareness of the Competition and Consumer Protection Act No. 24 of 2010 and abreast them with the tenets of the law.

This training which primarily targeted the members of staff who directly interacted with the clients aimed at encouraging them to comply with the law in their day to day dealings with their customers.

Speaking at the training CCPC Investigator from the Mergers and Monopolies Department Mr Ndonga Kamelu gave a back ground on the Commission Act stating that before 1991, the Zambian Economy was a Command Economy which had no need for competition law and consumer protection because firms were under the control of the Government which naturally had the interests of the citizens of the country at heart.

Mr Kamelu explained that after 1991 when the economy was liberalised and competition among firms came in, there was need to enact a law that could level the competition landscape and also provide protection for consumers who were growingly being subjected to unfair trading practices.

"In 1997, the Competition and Fair Trading Act which gave birth to the Zambia Competition Commission was enacted and was repealed by the Competition and Consumer Protection Act No. 24 of 2010 which brought about CCPC. The Commission has a dual mandate which is to protect consumers and to promote competition in the economy," He said.

Mr Kamelu took time to highlight the definition of a merger which was a transaction between two or more independent parties and resulted in one party acquiring an interest in the other party and that this interest may be through the purchase of shares or assets or an agreement to work together in a joint venture.

"For a merger to be deemed notifiable, the merger; must have an effect on the Zambian market, it must lead to a change of control in the entity in question and it must meet the notification threshold which stands at K15, 000, 000," Mr Kamelu said.

He further went on to explain on Abuse of Dominance adding that the Act provided an illustrative list of potentially abusive conducts including; Unfair Trading, Anti-Competitive Foreclosure (or creation of Barriers to Entry), Discrimination, Tying and Bundling, Excessive Pricing and Predation.

Speaking at the same training Restrictive Business Practices Investigator Mr Shadreck Milezhi explained that there were four main types of business practices that could have anti-competitive effects: Horizontal Agreements which included Cartels, Vertical Agreements which included Resale Price Maintenance, Full Line forcing, Tie-in sales, Refusal to Deal Practices under taken by a single firm, and Anti-competitive Mergers and Acquisitions.

"Any category of agreement, decision or concerted practice which had as its object or effect, the prevention, restriction or distortion of competition to an appreciable extent in Zambia was anti-competitive and prohibited," Mr. Milezhi said.

Meanwhile, CCPC Investigator for Consumer Protection Ms. Faith Mwamba warned the members of staff on the dangers of engaging in unfair trading practices which included; false/misleading representation, display of disclaimers that purports to disclaim any liability or deny any right the consumer has, sale of defective products, supply of unsuitable goods and services, sale of unlabelled & expired products, Price display, Consumer Product Safety and Unfair contract terms, was punishable by law either by fine or prosecution in selected cases.

She added that in 2017, the Commission had observed that the Retail Trade and, Information and Communication Technology sectors had the most complaints accounting for 53% and 13% respectively.

Concluding the session was CCPC's Legal and Corporate Affairs Officer Mrs. Leya Mwape who stated that enforcement of Competition and Consumer Protection Law in Zambia was provided for in the CCPA and that compliance entailed that market players were adhering to the provisions of the law as stated in the Act.

Mrs Mwape added that the Commission used a number of enforcement mechanisms and tools to achieve compliance to the Act which included Administrative Resolutions, Imposition of Fines, Consent Agreements/Undertakings and Prosecution all of which were meant to deter abrogation of the Act.

The Training was conducted at the Toyota Zambia Offices in Lusaka.

Competition and Consumer Protection Tribunal Fines Airtel Networks Plc

The Competition and Consumer Protection Tribunal (CCPT) has fined Airtel Networks Zambia PLC K600,000. For misleading advertising.

This follows a complaint that was lodged before the Competition and Consumer Protection Commission (CCPC) in which the Complainant alleged that Airtel was deceiving internet users.

Facts of the matter were that on September 13th 2013, the Complainant lodged a complaint against Airtel that it deceived internet users by providing an internet service called "unlimited daily or monthly plan" which according to the Complainant was in fact limited.

After conducting investigations CCPC presented its findings to the CCPT for ruling.

The CCPT delivered a judgment which ordered Airtel to pay costs incurred by the Complainant to include costs of the proceedings for the period of 4 years which is the period that it had taken the matter to be disposed of by the CCPT.

In its judgment, the CCPT stated that Airtel's conduct amounted to luring consumers into purchasing the subject internet product on the belief that they would enjoy the data usage service for the whole product even if the data bundle purchased was exhausted.

In addition to this, the CCPT urged Airtel to refrain from engaging in such conduct in future wherein it put up advertisements that were misleading to consumers as such was capable of distorting the consumers purchasing decisions.

It is however prudent to note that Airtel Networks Zambia PLC has since appealed against the decision of the CCPT to the High Court.

CCPC seizes goods worth K 3,700 in Western Province



Assorted seized items.

The Competition and Consumer Protection Commission (CCPC) in collaboration with five Local Authorities in Western Province seized assorted goods collectively worth K 3, 719. This followed five separate inspections conducted in over 54 trading places in April 2018.

The seized items had defects and did not meet the minimum required for retail. Some of the defects on some of the products included, expired products, having no expiry dates, broken seals and insufficient labeling.

Further, some products were poorly packaged which contravened consumer protection provisions as outlined in the Food and Drugs Act Cap 303 of the Laws of Zambia Act as well as the Competition and Consumer Protection Act No. 24 of 2010.

The products seized included carbonated drinks, biscuits, cosmetics, baking powder, blue band butter and assorted snacks.

The seizure of the goods was conducted during a sensitization and advocacy tour of the Western Province aimed at sensitizing the consumers on their rights and obligations as well as inspecting trading premises in selected Districts in the Province with the view of ascertaining the trader's compliance levels with the Competition and Consumer

Protection Act (CCPA) No 24 of 2010 CCPC Western Provincial Investigator, Bravo Muchuu explained that expired food items contributed to over 80 percent of the products seized, a situation which was very worrying as product safety hinges directly on the lives of the consumers.

Mr Muchuu expressed worry at the continued supply of expired and unsafe food products to consumers on the market and urged traders to ensure that they stocked products with a longer shelf life in order not to endanger the health of consumers as well as avoid being prosecuted through the Courts of Law.

He further commended Nalolo and Sioma Districts for having few expired products thereby being most compliant to the Competition and Consumer Protection Act among the five districts inspected.

Mr. Muchuu also advised consumers to take their obligations seriously by ensuring that they always check for labels and expiry dates on all food and non-food items to ensure that the products are at their highest level of quality for their intended use.

The Local Authorities involved in the exercise were Mongu, Kaoma, Sioma, Nkeyema and Nalolo Districts Councils.

CCPC Celebrates Women's Day with UTH Mothers Shelter women and Malnutrition Ward

The Competition and Consumer Protection Commission has donated various consumables and toiletries worth Four Thousand Kwacha (k4000) to the University Teaching Hospital Mother's Shelter and Malnutrition Children Ward in Lusaka.

CCPC Director of Human Resource and Administration, Beene Siyumbwa said the donation was part of the Commission's Corporate Social Responsibility (CSR) Strategy.

Speaking in an interview shortly after the donation, Mrs Siyumbwa said that the donation was part of the Women's Day Celebrations and that the Commission had chosen to make a difference in the lives of these women who had been forced to stay away from their homes due to nursing loved ones and their children in hospital.

She said that the Commission would continue to identify and support the needy and vulnerable in society as a way of improving the quality of lives adding that there was nothing more gratifying than putting smiles on the vulnerable in Society.

"Our aim as a Commission is to contribute towards making Zambia a better place to live in by improving the quality of life of the vulnerable in whatever way we can" she said.

Mrs Siyumbwa stated that the Commission would continue working with likeminded institutions like the UTH in ensuring that together they uplift the living standards of the vulnerable in society.

And receiving the Donation on behalf of UTH Management, UTH

Public Relation Officer, Ms Natalie Mashikolo said Management was grateful for the Commission's kind gesture.

Ms Mashikolo stated that the UTH Malnutrition Children's Ward usually depended on well-wishers on various assorted items to sustain those that could not afford to take care of themselves during their stay in hospital.

She said it was encouraging to see the Commission extending its hand to the vulnerable in society, and hoped that this gesture would continue in future to UTH and other equally needy people.

And on 16th March, 2018 the Ministry of Commerce, Trade and Industry (MCTI) and all its statutory bodies in line with the 2018 Women's Day Theme "Time is now: Rural and Urban Activists transforming women's lives" donated over K12,000 to Widows and Orphans Cooperative in Kafue

District as a way of giving back to society and empowering rural women.

Speaking on behalf of the MCTI Permanent Secretary Mrs Kayula Siame, Director Cooperatives, Mr Mungalaba, said that cooperatives were very important as a lot could be achieved when people joined hands and worked together, and resulting in poverty eradication in the long run.

"You must all embrace the culture of cooperatives as they are increasingly beginning to venture in different sectors such as construction, tailoring and village banking other than agriculture" he said.

The Commission has in the recent past has made a number of donations to the needy in society as a way of enhancing consumer welfare through Corporate Social Responsibility.



CCPC Officers and UTH members of Staff take a moment to pose during the Donation of goods

Zambia Agribusiness and Trade Project (ZATP)



New members of Staff under Agri- Business Project

About ZATP

The Zambia Agribusiness and Trade Project (ZATP) is a World Bank Group funded project under the Ministry of Commerce, Trade and Industry. The project seeks to open market access and distribute rewards fairly across key agriculture sectors. The project's major objectives are to contribute to inclusive growth by increasing market linkages for emerging farmers as well as strengthening the regulatory and institutional frameworks for agribusiness and trade in order to build productive alliances and to support business development services by enhancing capacities in management skills.

CCPCs' involvement in ZATP

The Commission's entry point in the project is to support Government's economic diversification program through regulating the market, promoting fair competition and safeguarding consumer rights for the benefit of the Zambian people.

The project was officially launched on 4th October, 2017 and is expected to run for two years, and the Commission has since employed six (6) new members of staff to help implement the Action Plan for the ZATP.

By the end of December 2017, the Commission had undertaken a Cotton Study. Based on this study report that the Commission was able to formulate a set of defined agreements with other private sector bodies on the adoption of the recommendations that are to be implemented through Advocacy Activities such as radio and television programmes starting May 2018.

Other studies that the Commission seeks to undertake in the next couple of months include in animal feed, agro inputs as well as the legal infrastructure in edible oils and sugar

HOW TO OBTAIN FURTHER INFORMATION ABOUT CCPC?

Further information about CCPC can be obtained by visiting the Commission offices.
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