



The Fair Trading Commission
Seychelles

MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding between the Fair Trading Commission and the Procurement Oversight Unit.

1. This Memorandum of Understanding between the Fair Trading Commission hereinafter referred to as FTC and the Procurement Oversight Unit hereinafter referred to as POU (both are referred to collectively as the "Parties"), is done with the aim of promoting cooperation in the enforcement of consumer protection and fair competition and related policies, aiming to create favourable conditions for the development of mutual relations, based on the principles of equality and mutual benefit.
 - 1.1 This memorandum of understanding provides a framework for communication, cooperation and coordination between FTC and POU, so that they can both, collectively, and within each of their own jurisdictions, most effectively protect and empower consumers, promote fair trading and maintain effective competition in Seychelles' economy.
 - 1.2 The Parties recognise that communication, cooperation and coordination are desirable and necessary to:
 - a. Discharge their respective functions
 - b. Maximise the implementation of the Public Procurement Act, 2008, Consumer Protection Act 2010 (CPA) , Fair Competition Act 2009 (FCA) and other related legislations.

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- c. Promote efficient and streamlined use of resources for the benefit of consumers and for maintenance of effective competition.
- 1.3 The parties recognise the need for ongoing communication, cooperation and coordination in the promotion of consumer education and sensitisation as well as enforcement of existing consumer legislations in order to protect consumers from unfair trading and to make businesses aware of what those unfair trading practices are.
- 1.4 The parties recognise the need to prohibit the; prevention, restriction or distortion of competition, the abuse of dominant positions in trade and any other type of unfair competitive practices, thus ensuring that enterprises, irrespective of size, have the opportunity to participate equitably in their respective markets.
- 1.4 This MOU sits alongside the general principles that the parties use when working with partners, to ensure compliance with the Procurement Laws, Consumer Protection Laws and the Fair Competition Laws.
- 1.5 This MOU is based on the principle that FTC primarily deals with both the promotion and the enforcement of consumer protection law in a fair and transparent manner and maintaining and encouraging fair competition amongst competing firms whilst POU shall serve as a procurement policy making, regulatory and monitoring body for public procurement.
- 1.6 The terms of any domestic or international agreements that the Parties have entered into will not be amended as a result of this MOU.
- 1.7 Cooperation between the Parties under this MOU is subject to the Laws of Seychelles.
- 1.8 This MOU is a statement of intent that does not give rise to legally binding obligations on either FTC or POU

2. ROLES AND RESPONSIBILITIES OF THE PARTIES

Roles and responsibilities of FTC

- 2.1 FTC is responsible for administering, and enforcing consumer protection and competition laws. It does this by ensuring compliance with and enforcing the provisions of the Consumer Protection Act and the Fair Competition Act.
- 2.2 The role of FTC under the Fair Trading Commission Act 2009 is to facilitate and encourage compliance with the laws it enforces by:
- Reviewing commercial activities
 - Receiving and evaluating consumer complaints
 - Educating and assisting consumers in resolving complaints
 - Investigating whether businesses are engaged in restrictive practices
 - Monitoring and determining the standard of services applicable to providers

Roles and responsibilities of POU

- 2.3 The Procurement Oversight Unit –
- Shall serve as a procurement policy making and monitoring body
 - Shall not in any way be involved in conducting procurement proceedings or resolving procurement disputes; and
 - May request information from, and consult with, the Board , the Review Panel, or any public body, in the development of procurement policy for the Government
- 2.4 The Procurement Oversight Unit shall, in the performance of its functions as per the Public Procurement Act of 2008;

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- Issue instructions to public bodies concerning the coordination of their actions with the Procurement Oversight Unit , the Board and the Review Panel;
- Issue public procurement circulars and publications to provide guidance on the interpretation and application of this Act;
- Formulate policies relating to procurement , including directives , procedures, instructions, technical notes and manuals for the implementation of the Act;
- Issue standard forms of contracts, bidding documents, pre-qualification documents, requests for proposals and other similar documents for mandatory use by every public body implementing procurement;
- Collect from the Board, the Review Panel and public bodies information on procurement activities and monitor their compliance with the Act;
- Recommend, and facilitate the implementation of, measures to improve the functioning of the procurement system , including the introduction of information and communications technology, the dissemination of publications and the setting up of websites dedicated to procurement;
- Present an annual report to the Minister regarding the overall functioning of the procurement system;
- Communicate and cooperate with international institutions, funding agencies and other foreign entities on matters of procurement;
- Advise the Minister regarding delegation of financial authority to public officers enabling them to approve contract awards and changes to contracts of a financial nature and carry out an annual review of such delegations;
- Register the names ,and keep a database of, suppliers, contractors and consultants;
- Receive complaints from procuring entities about suppliers, contractors and consultants;

- Maintain a list of firms that have been excluded from participating in public procurements and communicate the list to procuring entities in a transparent manner, on a regular basis;
- Ensure that the standard bidding documents contain all the information necessary for a bidder to submit a bid;
- Vet bidding documents and public notices submitted to it, to ensure compliance with the relevant laws, regulations and policies;

3. MATTER OF MUTUAL INTERESTS

3.1 The parties recognise the individual roles of each other both as complementary and distinctive in nature and thus, this MOU shall only handle matters of mutual interests. Thus, the two parties agree to communicate, cooperate and coordinate with one another through the following elements of understanding:

- Communication, Cooperation and coordination
- Complaint handling
- Information sharing and confidentiality
- Awareness & Advocacy activities
- Policy Opinions

3.2 Communication, Cooperation and Coordination

3.3 The Parties also agree that they will:

- a. Explore opportunities to communicate, cooperate and coordinate efforts activities within the framework of this MOU;
- b. Inform one another regularly of the general compliance and enforcement activities and priorities;
- c. Consult one another in relation to judgements, law reform, policy issues and other matters of mutual interest;
- d. Consult and collaborate with one another to develop publications, awareness materials and liaise with stakeholders on consumer protection and fair competition matters of mutual interest; and

- e. Consider and implement any appropriate opportunities for collaboration between both Parties in training and staff development

Complaint Handling

4.0 INFORMATION SHARING AND CONFIDENTIALITY

4.1 The Parties agree to collaborate to ensure that, as far as possible, procedures exist to support the effective sharing of complaints and investigate information. This may include establishing frameworks for

(a) Providing information to a requesting Party;

(b) Promoting policy development, where appropriate, to enable information sharing between the Parties to occur more freely.

5.0 Compliance strategies

6.0 Enforcement activities

7.0 ADMINISTRATIVE ARRANGMENTS

This MOU shall take place on and from the date that it is signed by both Parties.

Review and amendment of this MOU

7.1 The Parties will review the operations of this MOU every two (2) years at a date considered appropriate by both Parties with a view to improving its operation and resolving any issues that may arise.

7.2 The MOU may be amended at any time in writing by agreement of both Parties.

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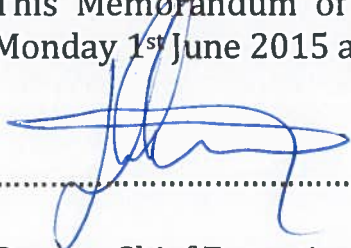
Dispute resolution

- 7.3 Any Party may give notice to the other of a dispute concerning the operation of this MOU.
- 7.4 Where there is a conflict or disagreement between the two Parties over any issue relating to this MOU, the Parties shall attempt to resolve the issue by negotiation.
- 7.5 In the event that a dispute or conflict arises between the parties concerning the operation of this MOU, until the dispute or conflict is resolved and unless this MOU is terminated, normal and intended operation of this MOU shall continue.

8.0 TERMINATION OF THE MOU

- 8.1 The Memorandum of Understanding may be terminated by either Party through a written notification of that Party's intention to terminate the Memorandum of Understanding. Such a notification shall be given 2 months prior to the effective date of termination.
- 8.2 Termination of the present Memorandum of Understanding will not affect any programmes and projects started on the basis of it.

This Memorandum of Understanding between FTC and POU is signed on Monday 1st June 2015 at the office of the Procurement Oversight Unit.



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Deputy Chief Executive Officer
Fair Trading Commission



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Director
Procurement Oversight Unit