



The Role of the CARICOM Competition Commission in Community Competition Policy

The CARICOM Competition Commission (CCC) was inaugurated on 18 January 2008 in Paramaribo, Suriname. The establishment of the CARICOM Competition Commission is a joint obligation of the Member States and the Community as signatories to the *Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy (CSME)* in 2001.

The CSME is a trade arrangement whereby the Member States would seek to encourage and expand trade amongst themselves for the benefit of each Member State and the region as a whole. The CSME creates a single economic space within which goods, services, capital and labour are to move freely and the right of establishment is secured.

Under Article 169 of the Revised Treaty the objective of Community Competition policy shall be to ensure that the benefits expected from the establishment of the CSME are not frustrated by anti-competitive business conduct. These benefits are expected to be shared by all stakeholders including the private sector, government and the consumers. They should not go to a select group of persons or businesses.

Anti-competitive business conduct can take the form of agreements between enterprises (market sharing, direct or indirect fixing of prices, price discrimination) or abuse of dominance (unfair purchasing or selling prices or restrictive practices). Anticompetitive business agreements can be viewed as agreements between two or more competitors which have the intention or the effect of limiting competition amongst themselves in order to gain higher profits. While an abuse of dominant market position can occur when a firm which is dominant in a market has power which far exceeds that of its rivals, and can set prices without taking into account how competitors would react. In some jurisdictions, for instance, a firm is considered dominant if it possesses at least 40 percent share or more of the market for a particular product.

The mandate of the CCC is to (a) apply the rules of competition, in respect of anti-competitive cross-border business conduct; and (b) promote and protect competition in the Community and co-ordinate the implementation of the Community Competition Policy within the CSME.

To carry out its mandate the Commission is authorized among other things under Article 173 of the Revised Treaty to:

- Monitor anticompetitive business conduct in the CSME
- Coordinate implementation of competition policy in the CSME
- Cooperate with national competition authorities
- Investigate and arbitrate cross-border cases
- Develop and disseminate information about competition policy, and consumer protection policy

The Commission having been given certain powers under Article 174 of the Revised Treaty:

- May make determinations regarding the compatibility of business conduct with rules of competition and other related provisions of the Treaty.



- Shall order the termination or nullification of agreements, decisions or activities prohibited under the Revised Treaty
- Shall impose fines for breaches of Community competition rules
- Order payment of compensation to persons affected
- Adopt measures such as issuing cease and desist orders as appropriate to end anticompetitive business conduct

The CCC in carrying out its functions and using its powers under Chapter VIII of the Revised Treaty is subject to the legal rules of the national jurisdiction in which it executes its powers. This means that the Commission has to operate according to the national competition law in each Member State. For example, in Barbados, the CCC operates according to the provisions of the Fair Competition Act Cap. 326.

The work of the CCC is very dependent on collaboration with national competition authorities in the Member States. As such the Commission continues its work with the Member States to support their implementation of the national requirements of Chapter VIII of the Revised Treaty.

The CCC is most effective when each Member State has enacted a national competition law and established a national competition authority to enforce the law. Community Competition Policy was designed to ensure effective enforcement at the Member States and Community levels. It is a partnership that works best when each party carries out its required functions.

The Caribbean Court of Justice (CCJ) is the final court of appeal for persons or companies against whom the CCC has issued a determination of a breach of Community competition law. The CCJ has the authority under the Revised Treaty to review the administrative and quasi-judicial functions of the CCC.

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