

PROJECT OF THE CARICOM COMPETITION COMMISSION PURSUANT TO ARTICLE 186 OF THE REVISED TREATY OF CHAGUARAMAS:

IMPLEMENTATION OF REGIONAL ACTION PLAN FOR COMPETITION LAW AND CONSUMER PROTECTION DURING THE COVID-19 PANDEMIC

DOCUMENT:

ACTION PLAN FOR A REGIONAL COMPETITION AND CONSUMER PROTECTION RESPONSE TO COVID-19

GOAL: To Protect Consumers and Ensure Markets for the Supply of Essential Goods remain Competitive During the COVID-19 Pandemic

RECOMMENDED ACTION <i>(What needs to be done?)</i>	RESPONSIBLE AGENCIES <i>(Who will do it?)</i>	KEY LINKAGES <i>(Critical agencies for gathering information or taking action)</i>	POTENTIAL BARRIERS <i>(What could get in the way of this action?)</i>	STRATEGIES TO OVERCOME BARRIERS	EXPLANATORY NOTES	STATUS UPDATE
PILLAR # 1: MONITORING MARKETS Steering Committee Lead: Guyana Competition and Consumer Affairs Commission - 1.1, 1.5; Trinidad and Tobago Consumer Affairs Division – 1.3						
1.1. Create dedicated web portals to allow businesses and consumers to report deceptive sales and pricing practices during the COVID-19 pandemic.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ CCC ▪ National competition and consumer protection authorities ▪ CARICOM Secretariat 	<ul style="list-style-type: none"> ▪ Lack of financial to create a dedicated web portal. 	<ul style="list-style-type: none"> ▪ Use of social media 	<ul style="list-style-type: none"> ▪ Web portals allow businesses and consumers to report unscrupulous sales and pricing practices anonymously. ▪ CSME Unit’s Rapid Alert System (CARREX) is also an option. 	<ul style="list-style-type: none"> • Some institutions developing digital initiatives to support their advocacy and education outreach • Businesses and consumers have channels to report deceptive sales and pricing practices during the pandemic. • Social media posts will be created to advise accordingly.

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1.2. Coordinate with competent authorities to obtain last available prices of basic grocery items and healthcare products needed for COVID-19 protection before the pandemic and other critical items (e.g. masks, latex gloves, hand sanitizers, hand wash, alcohol, and disinfectants).	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ CCC ▪ National emergency management agencies ▪ National Competition authorities ▪ Ministries of Trade and Commerce 	<ul style="list-style-type: none"> ▪ Lack of cooperation from national statistical offices, and ministries of trade and commerce ▪ Unavailability/Non-collection of data prior to onset of COVID-19 pandemic 	<ul style="list-style-type: none"> ▪ Use of public data where possible. ▪ Engagement with private sector organisations e.g. chambers of commerce ▪ National emergency management agencies 	<ul style="list-style-type: none"> ▪ Collecting the prices of products before pandemic enhances ability to understand the impact the pandemic has had on product prices in the Member States. ▪ Need to develop a common basket of goods ▪ Will be a challenge in some instances due to non-collection of data prior to COVID-19 	<ul style="list-style-type: none"> • Most national statistical offices or price committees use a basket of goods to calculate retail price indices. • Consideration is being given to the development of a harmonised basket of goods for monitoring.
1.3. Collaborate with member states on the creation of a basic basket of goods for the region to be monitored for medicinal, sanitation, and basic food needs	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ CCC ▪ National competition authorities ▪ Ministries of Trade and Commerce ▪ National emergency management agencies ▪ CDEMA 	<ul style="list-style-type: none"> ▪ Lack of cooperation from national statistical offices, and ministries of trade and commerce ▪ Unavailability/Non-collection of data prior to onset of COVID-19 pandemic 	<ul style="list-style-type: none"> ▪ Use of public data where possible. ▪ Engagement with private sector organisations e.g. chambers of commerce ▪ National emergency management agencies ▪ CDEMA 	<ul style="list-style-type: none"> ▪ Member States have different lists for goods which are monitored. ▪ Need to have one uniform list which Steering Committee and Region can monitor and does not affect the national lists 	NCAs are liaising with their national statistical services to compile relevant data.

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1.4. Coordinate with other government ministries and agencies to monitor product markets, e.g. ministries of health, ministries of trade and commerce, etc.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ CCC ▪ National competition and consumer protection authorities ▪ Ministries of Trade and Commerce ▪ National Inter-governmental committees on COVID-19 response ▪ Bureau of standards ▪ Ministry of Agriculture 	<ul style="list-style-type: none"> ▪ Lack of human resources to adequately monitor markets 	<ul style="list-style-type: none"> ▪ Use of public data where possible. ▪ Engagement with private sector organisations e.g. chambers of commerce ▪ Use of MoU's to facilitate collaboration and information sharing 	<p>which are in existence.</p> <ul style="list-style-type: none"> ▪ Builds relations with private sector organisations and competent agencies to gain better insights to changes in product markets 	Some NCA's have established MoUs with relevant agencies to formalise the sharing of information pertaining to consumer and competition matters for COVID and beyond (this is already in trained and will serve objectives at instant).
1.5. Share information with other competition and consumer agencies in the region on the sale of fraudulent products and services.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ CCC ▪ National Competition authorities and consumer protection authorities ▪ Ministries of Trade and Commerce ▪ Ministry of Health 	<ul style="list-style-type: none"> ▪ Reports of fraudulent products not made to consumer authorities ▪ Information on fraudulent products not being collated ▪ Lack of monitoring by consumer agencies 	<ul style="list-style-type: none"> ▪ Promotional tips about spotting scams on web sites, radio, television, ▪ Module to take advantage of CARREX network to report fraudulent products ▪ Use of MoU's to facilitate collaboration and information sharing 	<ul style="list-style-type: none"> ▪ The CARREX was designed to share information on harmful or dangerous goods. Some fraudulent goods are not dangerous and hence a separate mechanism may be needed for information sharing. 	Competition and consumer agencies considering establishment of MoUs with relevant agencies

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1.6. Conduct price checks of a basket of basic food items and health products listed above in stores.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Consumer protection authorities ▪ Ministries of Trade and Commerce ▪ Private sector organisations 	<ul style="list-style-type: none"> ▪ Lack of staff to conduct price checks ▪ Lack of funds to purchase personal protective equipment for staff ▪ Impact of social distancing measures by Member States ▪ Poor or slow response rate from businesses 	<ul style="list-style-type: none"> ▪ Collaboration among regulators and chambers of commerce ▪ Electronic filing of information requests. ▪ Collecting price information via telephone. 	<ul style="list-style-type: none"> ▪ Allows us to monitor price trends during the crisis. It is noted some grocery items will be under price control. ▪ There is a risk that businesses might not be truthful about the prices they charge for their products or services. If the legal framework provides that it is an offense to submit false information to the competent authority, this should be communicated. 	This continues in some member states in person or alternatively via telephone and other electronic means to obtain data
PILLAR # 2: COMPETITION AND CONSUMER ADVOCACY Steering Committee Lead: Jamaica Fair Trade Commission and Jamaica Consumer Affairs Commission						
2.1 Encourage businesses and consumers to report mis-leading advertising, and excessive pricing via radio, TV, websites,	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ CCC ▪ National Competition authorities and consumer protection authorities 	<ul style="list-style-type: none"> ▪ Lack of funding for a sustained media campaign. ▪ Web sites not designed to take 	<ul style="list-style-type: none"> ▪ Use of government information systems 	<ul style="list-style-type: none"> ▪ All types of media platforms available to authorities should be used to 	Specific activities in progress.

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social media, and print media (press releases).		<ul style="list-style-type: none"> ▪ Ministries of Trade and Commerce ▪ Private sector organisations ▪ Government information Systems ▪ CCS Communications Division ▪ Media companies ▪ Telecommunications companies 	<ul style="list-style-type: none"> ▪ advantage of social media platforms such as Facebook, twitter, etc ▪ Availability of personnel to monitor and respond to social media contacts 	<ul style="list-style-type: none"> ▪ Social media platforms where technology already being used by agencies ▪ Establishment of Consumer protection telephone hotline to report unscrupulous practices ▪ Promotion of contact numbers for hotline and consumer agencies 	encouraged vigilance by consumers and businesses	
2.2 Warn businesses via press releases notices and online media <i>not</i> to engage in mis-leading advertising and excessive pricing via radio, TV and print media (press releases)	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ National competition and consumer protection authorities ▪ CCC ▪ Ministries of Trade and Commerce ▪ Private sector organisations ▪ Government information Systems ▪ CCS Communications Division ▪ Media companies 	<ul style="list-style-type: none"> ▪ Lack of funding for a sustained media campaign. ▪ Lack of free support from media companies to undertake campaign 	<ul style="list-style-type: none"> ▪ Use of government information systems ▪ Social media ▪ Media companies 		Specific activities in progress.
2.3 Collaborate with sector regulators on areas that have sector specific regulation to ensure	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ National Competition and consumer protection authorities 	<ul style="list-style-type: none"> ▪ Sector regulators do not exist ▪ Scope of legislative framework limits 	<ul style="list-style-type: none"> ▪ Development of Industry codes of conduct and practice 	The Committee will facilitate negotiation and settlement of	<ul style="list-style-type: none"> • In Barbados the FTC has established an MoU with the

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<p>information and services accessible.</p>		<ul style="list-style-type: none"> ▪ National sector regulators ▪ OOCUR and other regional sectoral groupings 	<p>response in a timely manner</p>	<ul style="list-style-type: none"> ▪ Use of MoU's to facilitate collaboration and information sharing 	<p>information sharing arrangements.</p>	<p>Financial Services Commission (FSC) that can assist in monitoring practices within the insurance sector (regarding treatment of claims and premiums given pronouncements/ earlier commitment of a moratorium on premiums and the honouring of all claims).</p>
<p>2.4 Educate or sensitize businesses and consumers on the importance of competition and consumer protection.</p>	<p>STEERING COMMITTEE</p>	<ul style="list-style-type: none"> ▪ National Consumer protection and Competition authorities ▪ Ministries of Trade and Commerce ▪ Private sector organisations ▪ National sector regulators ▪ OOCUR and other regional sectoral groupings ▪ CCC 	<ul style="list-style-type: none"> ▪ Restrictions on the number of persons able to gather in one place ▪ Access to online meeting platforms ▪ Access to internet /relevant technology (hardware /software) 	<ul style="list-style-type: none"> ▪ Virtual learning platforms ▪ Use of government information systems ▪ Social media ▪ Negotiate zero rates access to consumer protection information sites with local internet providers 	<p>The Committee will provide assistance to Member States in creation and dissemination of relevant consumer information.</p>	<ul style="list-style-type: none"> • In practice. Specific activities in progress (webinars, short courses/ sensitization sessions).

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2.5 Extend merger investigation period where possible except those involving failing firm situations or fast track mergers where relevant. This action is only relevant to those members with merger regulations and mergers which arise due to the pandemic.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ National Competition authorities ▪ Ministries of Trade and Commerce ▪ Solicitor General Chambers ▪ Private sector organisations 	<ul style="list-style-type: none"> ▪ Firms may still file merger notifications. 	<ul style="list-style-type: none"> ▪ Extend timelines for merger proceedings unless cases involving failing firms 	<ul style="list-style-type: none"> ▪ Gathering evidence to assess mergers will be challenging during the pandemic. This evidence will be necessary for the agencies to make sound regulatory decisions. 	<ul style="list-style-type: none"> • Some national competition legislations already allow some flexibility. • Extensions will be considered and will be applied as appropriate given national circumstances.
2.6 Advise national Governments on policy and legislative measures to ensure markets function as well as possible in the coming months.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ National Competition authorities ▪ Ministries of Trade and Commerce ▪ Solicitor General Chambers ▪ Private sector organisations ▪ CCC 	<ul style="list-style-type: none"> ▪ Other government priorities ▪ Lack of political will to take legislative measures 	<ul style="list-style-type: none"> ▪ Soft policies implemented by the agencies ▪ Moral suasion ▪ Articles and press releases highlighting issues 	<ul style="list-style-type: none"> ▪ Where market conditions do not support competition, price controls might have to be implemented on basic food items and healthcare products needed for protection against COVID-19. ▪ For competition law enforcement, timelines for review may have to be extended (e.g. merger control) 	<ul style="list-style-type: none"> • In member states, public announcements being prepared for dispatch. • More detailed information to be shared with responsible Ministries to inform of the adopted approach(es).
2.7 Facilitate communication by competent authorities	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Competition and consumer protection authorities. 	<ul style="list-style-type: none"> ▪ Lack of sector regulation or consumer 	<ul style="list-style-type: none"> ▪ Involve suppliers in efforts to assure the public 	<ul style="list-style-type: none"> ▪ Whereas prioritization can occur for 	<ul style="list-style-type: none"> • In progress with meetings held with telecoms

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with the public on the availability of internet to ensure work at home, education, emergency services and essential goods and services.		<ul style="list-style-type: none"> ▪ National and Regional Telecommunications Sector regulators ▪ Ministries with responsibility for telecommunications 	protection legislation		emergency and essential services, what can also be done is consumer agencies, sector regulators, get together and meet and discuss with ISP's on raising level of access. For example, for the duration of the pandemic with work at home, the basic package can be increased to a higher tier bandwidth package to facilitate work and access to information.	providers to a few member states to ascertain their approach/ policies (re. connectivity; security/ reliability/ continuity of service; payment outlets; installations/ maintenance).
PILLAR # 3: ENFORCEMENT ACTION Steering Committee Lead: Barbados Fair Trading Commission – 3.1, 3.4, 3.5; Guyana Competition and Consumer Affairs Commission – 3.2; Ministry of Commerce, St. Lucia.						
3.1. Prohibit and sanction anti-competitive business conduct that restricts competition in markets for the supply of	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Competition authorities ▪ Ministries with responsibility for competition 	<ul style="list-style-type: none"> ▪ No competition law enacted 	<ul style="list-style-type: none"> ▪ Ministerial waivers or government policy initiatives 	<ul style="list-style-type: none"> ▪ Enforcement action might have to be taken to prohibit businesses from 	<ul style="list-style-type: none"> • Active monitoring of markets taking place in Barbados, Guyana, Jamaica and Trinidad

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essential goods needed for COVID-19.		<ul style="list-style-type: none"> ▪ Judiciary ▪ CCC 			price-gouging or colluding to raise prices of essential products.	<p>where NCAs operate.</p> <ul style="list-style-type: none"> • Legislation in some countries allows for entities to seek authorisations (exemptions). • Consideration given to possibility of ‘fast-tracking’ process by circumventing some procedural steps in some countries.
3.2. Prohibit and sanction misleading advertising by businesses that market products that claim to prevent, cure or treat COVID-19.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Consumer protection authorities ▪ Judiciary ▪ Police service ▪ Ministry of Health 	<ul style="list-style-type: none"> ▪ No legislation to prohibit misleading advertising practices 	<ul style="list-style-type: none"> ▪ Moral suasion ▪ Publicising information on mis-leading business practices ▪ Other legislation that can be used (e.g. Public Health Act) ▪ Issuance of Cease and Desist notices to businesses 	<ul style="list-style-type: none"> ▪ This might include taking products off shelves that make fraudulent claims of treating, curing or preventing COVID-19. 	<ul style="list-style-type: none"> • In practice and enforced. • Enforcement proceedings executed in some instances in a few member states including Barbados. • Highlights need for MS to enact and create strong consumer protection authorities.
3.3. Enact legislation to empower consumer	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Consumer protection authorities 	<ul style="list-style-type: none"> ▪ No relevant legislation enacted 	<ul style="list-style-type: none"> ▪ Moral suasion 		<ul style="list-style-type: none"> • In practice in some member states such as

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agencies to issue cease and desist orders		<ul style="list-style-type: none"> ▪ Ministries of Trade and Commerce ▪ Solicitor General Chambers ▪ CCC 				Barbados, Jamaica, and Guyana <ul style="list-style-type: none"> • Highlights need for MS to enact and create strong consumer protection authorities.
3.4. <u>Consider</u> extensions or <u>moratoria on</u> statutory deadlines for merger review or change of control application where relevant to allow competition authorities or sector regulators more time to analyse proposed transactions.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Competition authorities ▪ Ministries of Trade and Commerce ▪ Solicitor General Chambers ▪ CCC 	<ul style="list-style-type: none"> ▪ Difficult to modify legislation under social distancing measures for COVID-19 pandemic ▪ Political will to revise legislation ▪ Legislation does not provide for Ministerial action on deadlines 	<ul style="list-style-type: none"> ▪ Ministerial policy directive is one possible option 		<ul style="list-style-type: none"> • In some countries the legislation allows some flexibility for example in Barbados
3.5. <u>Use</u> electronic merger filings and documentary exchanges during merger control to avoid physical contact with merging parties.	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Competition authorities ▪ CCC 	<ul style="list-style-type: none"> ▪ Merger policies may not provide for electronic submissions. 	<ul style="list-style-type: none"> ▪ 		<ul style="list-style-type: none"> • Established in Barbados where a dedicated email address created for the electronic submission of merger applications.

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3.6 Explore legislative options for Interim Orders to address price gouging or other harmful behaviour	STEERING COMMITTEE	<ul style="list-style-type: none"> ▪ Ministry responsible for Trade /Commerce ▪ Solicitor General Chambers 	<ul style="list-style-type: none"> ▪ No legislation to support Trade Order 	<ul style="list-style-type: none"> ▪ 		<ul style="list-style-type: none"> • Jamaica approved such an order on March 31, 2020 (See Jamaica’s The Trade Act (Sales of Goods During Period of Declaration of Disaster Area) Order, 2020)
3.7 Develop database of measures currently available to MS authorities now	<ul style="list-style-type: none"> ▪ STEERING COMMITTEE 	<ul style="list-style-type: none"> ▪ CCC ▪ Competition authorities ▪ Ministries of Trade and Commerce 	<ul style="list-style-type: none"> ▪ Disruptions to staff due to country distancing policies 	<ul style="list-style-type: none"> ▪ Utilisation of national authorities to compile database ▪ Use of media sources to track changes in national policy ▪ Use of MoU’s to facilitate collaboration and information sharing 		