

Fee Schedule for Submissions of [Anti-] Competition Procedures to Competition Regulatory Authority

The Ministers of Industry and Commerce and of Economy and Finance have jointly approved and enacted a *Ministerial Order No. 77/2021 of 16 August*, that approves a fee schedule for submissions before the Competition Regulatory Authority ("CRA"), namely:

	Procedure	Fee
1	[Anti-competition] Exemption Application	200,000.00 MT (USD3,175 - 1USD@63Mts)
2	[Anti-competition] Exemption Annuity	150.000,00 MT (USD2,380.95 - 1USD@63Mts)
3	CRA's [Binding] Opinion	40.000,00 MT (USD634.92 - 1USD@63Mts)
4	Notice of concentrations [of companies]	0.11% of the annual turnover of the previous fiscal year the application is submitted, but not exceeding 2,250,000.00 MT (USD35,714.28 USD@63Mts), pursuant to paragraph 3 of Article 12 of Decree No. 97/2014, of 31 December.
5	Copies of Certificates per page (even if in electronic format)	40.00 MT (USD0.63 - 1USD@63Mts)

With the above fee schedule being in force the legal framework for the regulation of [anti-]competition practices is now complete. The CRA has now all the required tools to fully operate and enforce the Competition Law (Law No. 10/2013 of 11 April) and its associated regulation (Decree No. 97/2014 of 31 December).

1. The Mozambican Competition Law

You will recall that the Mozambican Competition Law provides that the following acts are regarded as anti-competitive and as such prohibited:

- acts of horizontal agreements;
- acts of vertical agreements; and
- abuse of dominant position and abuse of economic dependency.

1.1 Horizontal agreements – those agreements, decisions of business associations and concerted practices amongst businesses, which have a horizontal relationship, if their purpose or effect is to hinder, distort or materially restrict competition, whether in the whole or in part of the domestic market, particularly those which result in:

- a) adopting a uniform or concerted commercial conduct;



- b) fixing, directly or indirectly, purchase or sale prices, or interfering in their determination;
- c) provoking a fluctuation in prices, without just cause;
- d) setting, directly or indirectly, other conditions for transactions effected at the same or different stages of the economic process;
- e) limiting or controlling the production or distribution of goods, the provision of services, research, technical development or investments aimed at the production of goods or services or their distribution;
- f) apportioning markets or sources of supply by sharing clients, supplies, territories or types of goods and services;
- g) forming coalitions, or undertaking other concerted practices, so as to obtain advantages, interfere or influence the results of public tenders for the supply of goods or services; and
- h) limiting or hindering the access of new businesses to the market.

The Mozambican Competition Law defines *horizontal relationship* as a relationship between businesses, which compete in the same sector, irrespective of the size of each of them and the form in which the competition takes place.

As seen above, horizontal agreements with the practice of limiting or controlling the production or distribution of goods, the provision of services, research, technical development or investments aimed at the production of goods or services or their distribution, is prohibited, and considered as an anti-competitive practice.

1.2 Vertical agreements – are those agreements between businesses or other subjects which are in a vertical relationship, when they result in, among others:

- a) applying, in a systematic or occasional manner, discriminatory pricing conditions or others, regarding equivalent payments;
- b) refusing, directly or indirectly, without just cause the purchase or sale of goods and the provision of services;
- c) subjecting the conclusion of contracts to the acceptance of supplementary obligations, which, by their nature or according to commercial customs, have no connection with the purpose of those contracts;
- d) making the sale of goods or the provision of services conditional upon the acceptance of payment conditions which are different or contrary to normal commercial practices and customs;
- e) making commercial relationships subject to the acceptance of commercial clauses and conditions which are unjustifiable or anti-competitive;



- f) imposing on distributors resale prices, discounts, payment conditions, minimum or maximum quantities, profit margins or any other conditions for commercial transactions with third parties;
- g) discriminating against suppliers or consumers of goods or services, by way of differentiated price fixing, or operating conditions of sale, or provision of services;
- h) making the sale of goods conditional upon the acquisition of others, or the utilisation of a service, or making the provision of a service subject to the utilisation of another, or the acquisition of goods; and
- i) imposing excessive prices, or increasing the price of goods or of a service without just cause.

The Mozambican Competition Law defines *vertical relationship* as a relationship between a business, which produces goods or supplies goods or services and other businesses that are related along the production chain including consumers.

1.3 Abuse of dominant position – an abusive exploitation, by one or more businesses, of a dominant position in the domestic market, or in a substantial part of it, with the objective or the effect of hindering, distorting or restricting competition.

The following are deemed to have a dominant position relative to the market for specific goods or services:

- a) business that operates in a market in which it has no significant competition, or in which it figures prominently in relation to its competitors;
- b) two or more businesses that operate jointly in a market, in which they have no significant competition, or figure prominently in relation to third parties;
- c) abuse of economic dependence - abusive exploitation, by one or more businesses, of the state of economic dependence in which any supplier or client finds itself without an equivalent alternative in relation to those businesses, particularly where this results in the adoption of any of the behaviours referred to in respect to horizontal agreements above;

2. Exemption from Anti-Competition Practices

The Mozambican Competition Law establishes that horizontal and vertical agreements as well as abuse of dominant position may be deemed to be justified if they have the objective to, among others, contribute to the improvement of the production and distribution of goods and services; and



reduce prices for consumers; accelerate economic development. For this purpose, the interested parties shall apply for an exemption by the Competition Authority.

Any public entity or private persons may lodge complaints against a company suspected of flouting the competition law and penalties may be levelled on the company, may it found to be having anti-competitive practices.

The Competition Authority is fully operational, hence any anti-competition practices may be penalized.

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