



Competition Commission of
Mauritius
1st Floor, GM Tower
7 Maupin Street
Port Louis
Tel. No. 211-2005
Fax No. 211-3107
email: info@ccm.mu

PRESS RELEASE

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COMPETITION COMMISSION OF MAURITIUS LAUNCHES AN INVESTIGATION INTO BUNDLING OF INSURANCE PRODUCTS AND CREDIT IN THE BANKING SECTOR

The Competition Commission of Mauritius (CCM) has today launched an investigation into potential breaches of the Competition Act 2007 in the banking sector.

The concern is that banks do not always offer customers taking out housing loans a choice of insurance policies. Life insurance is sold together with housing loans, to provide cover to repay the loan in the event of the customer's death or serious disability. Some banks may be offering only a 'bundle' so that customers taking out a housing loan from them are required, or pressured, to buy life insurance only from one company.

This could potentially be a breach of the monopoly provisions of the Competition Act, which are concerned with companies in a strong market position acting to 'restrict, prevent or distort' competition. Some banks may be in a strong market position because of their size within the retail banking market, but even smaller ones may have a 'point of sale' advantage such that they face little competition at the point when the customer is presented with a requirement to take out life insurance.

The Competition Commission received a complaint on this issue and has also heard concerns about it from consumer association representatives and others. It therefore carried out initial 'mystery shopping' exercises to see whether applicants for housing loans were offered a choice. The picture was a mixed one: some banks offered a choice, others did so only when prompted, others would only allow housing loan customers a life insurance loan from one provider.

At this early stage, the Executive Director has concluded that he has reasonable grounds to suspect that there are practices that may represent breaches of the Act, particularly Section 46 of the Act. This is merely the start of the process, and there is no presumption that these practices are universal or that they necessarily breach the Act. Only the Commissioners can decide that, following a full investigation led by the Executive Director. Alternatively, the

investigation might find no infringement of any sections of the Act, in which case the investigation would be closed down without action.

If other concerns related to this same business activity are identified during the course of the investigation, the parties will be notified in the Statement of Issues. If other concerns relating to other areas of banking activity are identified, the CCM reserves the right to launch separate investigations.

The Bank of Mauritius, as the regulator of the banking sector, has been informed about the investigation, under the terms of the recently-signed Memorandum of Understanding between the two organizations.

John Davies, Executive Director, said:

“Consumer choice is the driver of competition and efficiency. Competition authorities the world over have therefore been rightly concerned when financial institutions ‘bundle’ products together, so that the customer faces no effective choice over some of the products he or she needs. Our early enquiries have established that there may be concerns about some of the practices by some of the banks, when it comes to the provision of life insurance products to cover repayment of housing loans. There are grounds for a full investigation, to establish the facts and to determine whether any breach of the Competition Act is involved.”

“Many consumers will have taken out housing loans at one time or another. It is an important market. I would encourage consumers to get in touch with the CCM, for example by emailing info@ccm.mu, if they feel that particular life insurance policies were forced upon them, packaged with a housing loan.”

“I hope that the banks will co-operate fully with this investigation. Our early enquiries have shown a mixed picture, but one that does raise concerns in some areas. Action will only be taken where there is evidence of a breach of the Competition Act, so I would strongly encourage banks to engage with us openly and effectively, so we can arrive at a complete and accurate picture of the situation.”

This brings the number of investigations launched by the CCM to seven since the Competition Act came fully into effect last year.

Background for editors:

The Competition Act

The Competition Act 2007 came fully into effect on November 25th 2009, and is enforced by the Competition Commission of Mauritius, the CCM. Sub-parts II and III of Part III of the Competition Act 2007, cover restrictive practices described under ‘Other restrictive agreements’ and ‘Monopoly situations’.

To take action, the CCM must find that the conduct of an enterprise in a monopoly situation restricts, prevents or distorts competition or otherwise exploits the monopoly situation. We refer to such conduct as 'abuse of monopoly'. Where the Executive Director has reasonable grounds to believe that abuse is occurring, or will occur, he may launch an investigation.

Monopoly abuse:

It is not in itself any breach of the law for an enterprise to be in a monopoly situation. However, as per Section 46(2) of the Competition Act, enterprises which hold monopoly positions may be in breach of the abuse or exploit any market power this position confers upon them. The question for the CCM is whether such enterprises are engaged in conduct which restricts, prevents or distorts competition (such as using their market position to exclude rival enterprises) or otherwise exploiting the monopoly situation.

'Anticompetitive foreclosure' is said to occur when the conduct of a monopoly enterprise restricts or eliminates the effective access of actual or potential competitors to customers or to supplies, to the detriment of consumers or the economy in general. 'Foreclosure' should be read to mean 'exclusion of competitors in a manner that damages consumers or the economy in general', not simply 'exclusion of competitors'.

Anticompetitive foreclosure may arise through exclusive dealing – preventing competitors from selling to customers through the use of exclusive purchasing obligations or rebates. Retrospective rebates, such as a rebate on all wholesale purchases over a year if the sales exceed a target threshold, may have foreclosure effects because they can result in very powerful incentives for a wholesale buyer just below the threshold to increase sales volumes.

The CCM takes the view that, in most markets, free competition is an effective guarantor of the interests of consumers and is likely best to promote the efficiency, adaptability and competitiveness of the economy of Mauritius. Significant weakening of competition will therefore have adverse effects.

Consequently, if the CCM finds evidence of behaviour that is preventing, restricting or distorting competition, on the part of an enterprise with market power, in a monopoly situation, it will normally expect that such behaviour will have adverse effects on consumers or the economy as a whole.

Following an Investigation, the CCM has the power to force changes in company behaviour and will consider behavioural undertakings offered by the investigated party or parties.

Further information:

For further information see the CCM's website at www.ccm.mu, and the CCM's Procedural Rules and Guidelines: 'CCM 1 - Procedural Rules', 'CCM 4 - Monopoly situations and non-collusive agreements' and '[CCM 6 - Remedies and Penalties](#)', all available on the web site.