

STATEMENT OF INTENT ON CROSS BORDER COLLABORATION

12TH SEPTEMBER 2013, LIVINGSTONE, ZAMBIA

AT THE 5THAFRICAN CONSUMER PROTECTION DIALOGUE CONFERENCE HELD FROM 10TH-12TH SEPTEMBER 2013 AT THE ZAMBEZI SUN HOTEL IN LIVINGSTONE, ZAMBIA;

RECOGNISING THE NEED FOR EFFECTIVE AND ENHANCED CROSS BORDER COLLABORATION BETWEEN AND AMONG THE PARTICIPATING CONSUMER PROTECTION AND COMPETITION AGENCIES AS WELL AS CRIMINAL AUTHORITIES FOR ENFORCEMENT COOPERATION ON CONSUMER PROTECTION MATTERS, RECIPROCAL EXCHANGE OF INFORMATION AND EXPERTISE AMONG AGENCIES;

RECOGNISING THAT ALL PARTICIPATING COUNTRIES ARE AFFECTED BY NUMEROUS CONSUMER VIOLATIONS ACROSS BORDERS AND THE NEED TO COMBAT THEM;

RECOGNIZING THAT COOPERATION BETWEEN CONSUMER AGENCIES AND CRIMINAL ENFORCEMENT AGENCIES ON MATTERS OF MUTUAL CONCERN, SUCH AS FRAUD, ALSO HELP PROTECT CONSUMERS AGAINST SUCH PRACTICES;

THE PARTICIPATING AGENCIES HEREBY RESOLVE TO WORK TOGETHER AND COLLABORATE ON THE FOLLOWING AREAS AND AS ELABORATED IN THE APPENDIX HEREWITH WHICH IS MADE AN INTEGRAL PART OF THIS STATEMENT OF INTENT:

1. ENFORCEMENT

TO ENFORCE SOME OR ALL CONSUMER PROTECTION LAWS IN THEIR RESPECTIVE COUNTRIES ON MATTERS RELATING TO MISLEADING ADVERTISING, FRAUD, SPAM, AND OTHER UNFAIR AND DECEPTIVE COMMERCIAL PRACTICES AFFECTING CONSUMERS. THE PARTICIPATING AGENCIES MAY ALSO HAVE ENFORCEMENT AUTHORITY IN OTHER AREAS, SUCH AS COMPETITION, PRODUCT SAFETY, AND FOOD SAFETY.

2. INVESTIGATIONS

TO HAVE THE AUTHORITY AND DISCRETION TO COOPERATE ON APPROPRIATE INVESTIGATIONS AND CASES, BOTH THOSE INVOLVING DOMESTIC PRACTICES TARGETING FOREIGN CONSUMERS AND THOSE INVOLVING FOREIGN PRACTICES TARGETING DOMESTIC CONSUMERS. HOWEVER, THIS WILL BE DONE ONLY TO THE EXTENT THAT THEIR RESPECTIVE LAWS ALLOW.

3. INFORMATION SHARING

TO ENCOURAGE COMMUNICATION, COORDINATION, AND RECIPROCAL EXCHANGE OF INFORMATION AND EXPERTISE AMONG THE PARTICIPATING AGENCIES FOR THE

FURTHERANCE OF INVESTIGATIONS ON COMMON CONSUMER PROTECTION CHALLENGES IN THEIR RESPECTIVE COUNTRIES AND ACROSS BORDERS.

4. CAPACITY BUILDING

TO COLLABORATE REGARDING STAFF EXCHANGES & CAPACITY BUILDING REGARDING INVESTIGATIONS AND ENFORCEMENT OF CONSUMER PROTECTION LAWS BETWEEN AND AMONG AGENCIES.

THE PRINCIPLES BEHIND THIS STATEMENT OF INTENT ARE PRESENTED HERE AS AN APPENDIX FOR FURTHER REFERENCE.

CONSISTENT WITH THIS STATEMENT OF INTENT AND THE ATTACHED COOPERATION PRINCIPLES, AGENCIES PARTICIPATING AT THE 5TH AFRICAN CONSUMER PROTECTION DIALOGUE CONFERENCE AGREE, SUBJECT TO APPROPRIATE APPROVALS FROM THE RESPECTIVE AUTHORITIES, TO INSTITUTE A WORKING COMMITTEE COMPRISING REPRESENTATIVES OF THE AFRICAN DIALOGUE THAT ARE EXPECTED TO PERIODICALLY CONSULT TO REVIEW THIS STATEMENT OF INTENT AND THE ATTACHED APPENDIX.

APPENDIX:

**AFRICAN DIALOGUE PRINCIPLES ON COOPERATION
IN CONSUMER PROTECTION ENFORCEMENT**

On September 10 -12, 2013, agencies responsible for enforcing consumer protection and related laws in 20 countries, having worked together in connection with the African Consumer Protection Dialogue (“African Dialogue”), met in Livingstone, Zambia, to address enforcement cooperation on consumer protection matters.

Misleading advertising, fraud, illegal spam, and other unfair and deceptive commercial practices undermine the integrity of both domestic and global markets, to the detriment of businesses and consumers, and undermine consumer confidence in those markets.

The enforcement challenges that exist go beyond national frontiers. Cooperation between public authorities responsible for the enforcement of consumer protection laws is essential to fight such practices. Moreover, cooperation between consumer agencies and criminal enforcement agencies on matters of mutual concern, such as fraud, also helps protect consumers against such practices.

A. Representatives of the participating agencies listed below are government or public agencies with investigative and/or enforcement authority, whether civil, criminal, or administrative, to enforce some or all consumer protection laws in their respective countries. Consumer

protection laws here means laws against misleading advertising, fraud, spam, and other unfair and deceptive commercial practices affecting consumers. The participating agencies may also have enforcement authority in other areas, such as competition, product safety, and food safety.

B. The participating agencies recognize that with respect to the enforcement of consumer protection laws, it is in their common interest:

1. To have the authority and discretion to cooperate on appropriate investigations and cases, both those involving domestic practices targeting foreign consumers and those involving foreign practices targeting domestic consumers;
2. To encourage communication, coordination, and reciprocal exchange of information and expertise among the participating agencies;
3. To have amongst the authorities in each country the ability to obtain evidence to investigate and take action in a timely manner against consumer protection law violations;
4. To each examine their respective laws to identify obstacles to effective cross-border co-operation;
5. To promote a better understanding by all participating agencies of economic and legal issues relevant to such enforcement; and

6. To inform each other of developments in their respective countries that relate to these Principles.

C. In furtherance of these common interests, the participating agencies further recognize the value of working together:

1. to prioritize the most serious problems for coordinated action;
2. to exchange information and evidence, including complaint information, with other participating agencies in appropriate particular investigations and enforcement matters;
3. to provide investigative assistance in appropriate cases, including obtaining evidence under the Participants' respective legal authorities, on behalf of another participating agency;
4. to designate a contact point within each participating agency to further enforcement communication as part of an African Dialogue joint enforcement committee;
5. to identify a contact point for a criminal enforcement authority within each country with a participating agency, if such authority is not already itself a participating agency;
6. to participate in periodic teleconferences of the joint enforcement committee to discuss ongoing and future opportunities for cooperation,

capacity building, training, staff exchanges, and best practices for consumer protection enforcement;

7. to explore systematic complaint and trend sharing;

8. to periodically review of the impact of these Principles, and when appropriate, consider additions and modifications.

D. In connection with the sharing of information and evidence, participating agencies cooperating with each other recognize the value, to the fullest extent possible and consistent with applicable laws, of:

1. maintaining the confidentiality of information shared , and the existence of any investigation to which the shared information relates, when requested to do so by the other agency;

2. using the information only for official purposes, and for the purposes agreed to with the other agency;

3. retaining the information shared only for so long as is reasonably required to fulfill the purpose for which it was shared, or is required by the laws of the country of the participating agency receiving the information; and

4. communicating to a participating agency with which they are cooperating any limits placed on their ability to cooperate in accordance with these Principles.

E. Participating agencies are expected to give at least 30 days prior written notice to the other agencies if they no longer intend to work towards cooperation consistent with these Principles. Other authorities are also invited to endorse these Principles.

F. The participating agencies recognize that nothing in these Principles is intended to:

1. Create binding obligations, or affect existing obligations, under international or domestic law.

2. Prevent a participating agency from seeking assistance from or providing assistance to the other participating agencies pursuant to other agreements, arrangements, or practices.

3. Affect any right of a participating agency to seek information on a lawful basis from a Person located in the territory of another participating agency's country, or preclude any individual or entity from voluntarily providing legally obtained information to a participating agency.

4. Create a commitment that conflicts with any participating agency's national laws, court orders, or any applicable international legal instruments.

5. Create expectations of cooperation beyond a participating agency's jurisdiction, or suggest that each participating agency already has the legal authority to act in accordance with every Principle above.

Participating agencies (List to be updated and modified):

Angola National Institute of Consumer Protection

Botswana Competition Authority

Botswana Department of Trade and Consumer Affairs, Ministry of Trade and Industry

COMESA Competition Commission

Egypt Consumer Protection Agency

Egypt National Telecommunications Regulatory Authority

Consumer Protection Association of the Gambia

Ghana Ministry of Trade and Industry

INTERPOL

Competition Authority of Kenya

Malawi Competition and Fair Trading Commission

Namibia Ministry of Trade and Industry - Office of Consumer Protection

Namibia Competition Commission

Namibian Consumers' Association

Nigeria Consumer Protection Council

Nigeria Economic and Financial Crimes Commission

Rwanda Consumers' Rights Protection Agency

Rwanda Utilities Regulatory Authority

Seychelles Fair Trading Commission

South Africa National Consumer Commission

South Africa National Consumer Forum

South Africa National Credit Regulator

South Africa Nelson Mandela Metropolitan University

South Africa RBB Economics

South Africa National Consumer Tribunal

Swaziland Competition Commission

United National Conference on Trade and Development - UNCTAD

Tanzania Energy and Water Regulatory Authority - Consumer Consultative Council

Tanzania Fair Competition Commission

Tanzania Surface and Marine Transport Regulatory Authority - Consumer Consultative Council

Tanzania Civil Aviation Authority - Consumer Consultative Council

Tanzania Communication Regulatory Authority - Consumer Consultative Council

Uganda Communications Commission

United States Federal Trade Commission

Zambia Competition and Consumer Protection Commission

Zambia National Prosecutions Authority

Zambia Consumer Unity Trust Society

Zambia Information & Communication Technology Authority

Zimbabwe Competition and Tariff Commission