

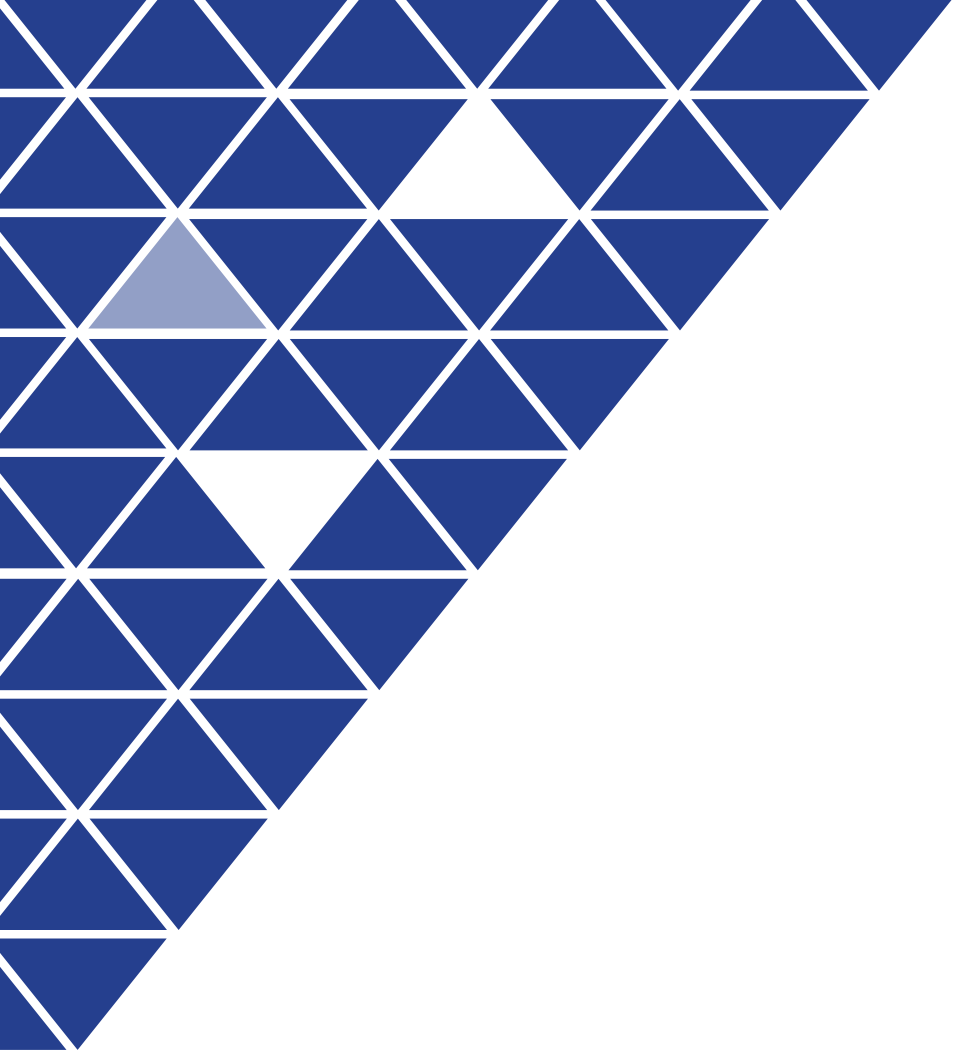


REPUBLIC OF NAMIBIA

NATIONAL CONSUMER PROTECTION POLICY 2020 - 2025

Ministry of Industrialisation and Trade





ACKNOWLEDGEMENT



The National Consumer policy has been a consultative effort between various stakeholders, individuals and representatives from various O/M/As through joint meetings of the Technical Committee, Working Groups, Plenaries, and Workshops.

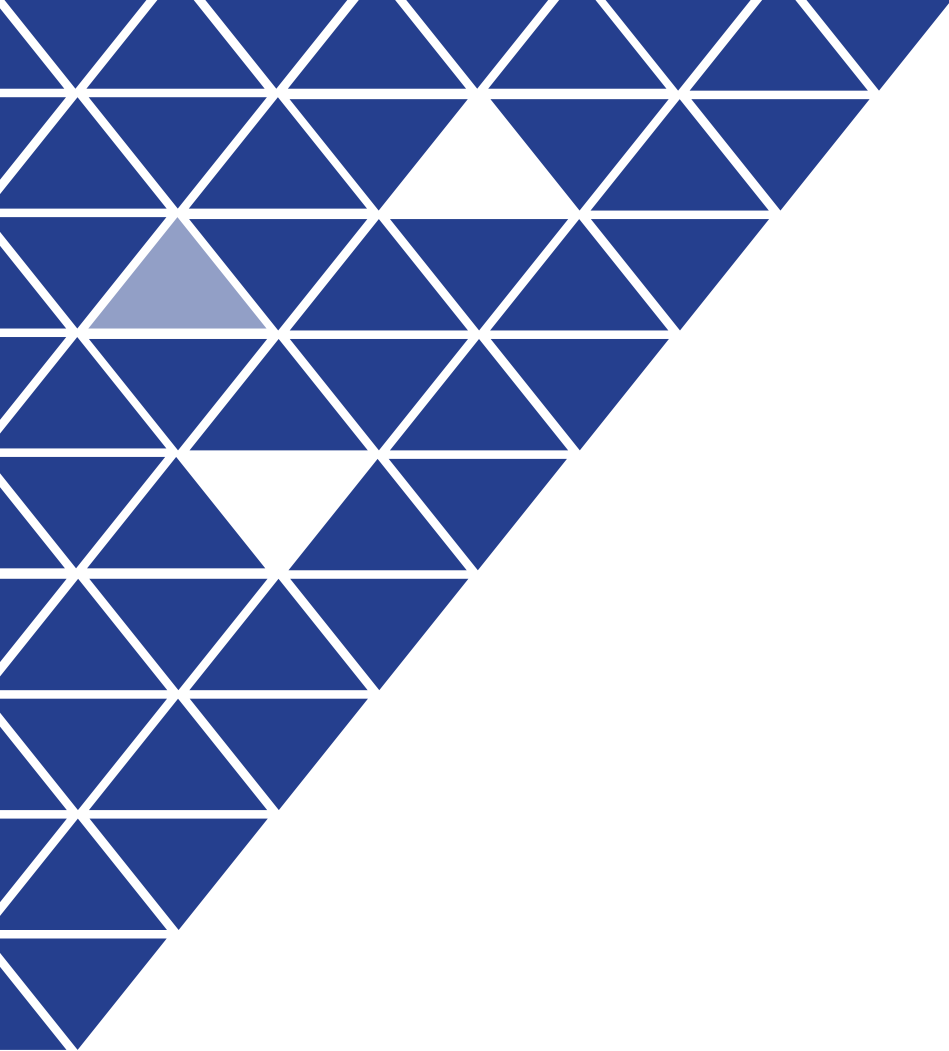
I wish to acknowledge the commitment and dedication in preparing this policy and acknowledge the leadership role that the Minister of Industrialisation and Trade, provided in ensuring the finalization of this document in line with government procedure.

Thank you.

A handwritten signature in black ink, appearing to read 'Sikongo Haihambo', written over a horizontal line.

Sikongo Haihambo

Executive Director: Ministry of Industrialisation and Trade



FOREWORD



The Namibian policy makers embarked upon the path towards the creation of a comprehensive consumer protection framework by way of the Consumer Protection Discussion Report (CPDR). This report was intended to guide legislative framework on consumer protection in Namibia. The CPDR represented an important step in Namibia's sustainable and strategic building of a progressive and mature economy with consumer protection at its core.

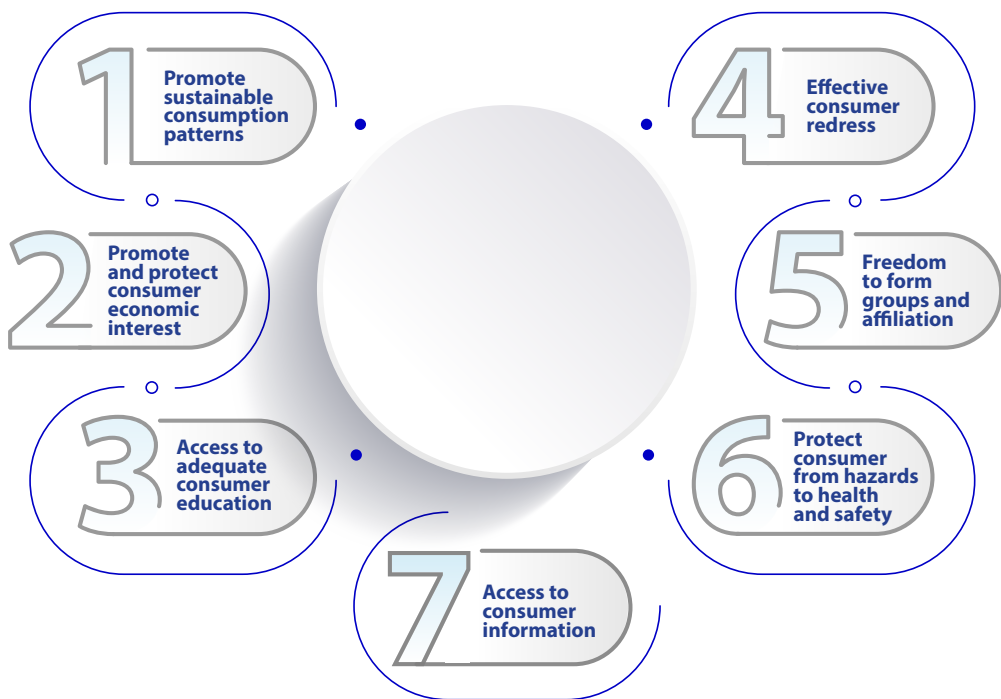
An effective framework for consumer protection is indispensable to the attainment of Namibia's development aspirations and is a necessary supplement to the country's constitutional framework that is committed to the wellbeing of its citizens. To assist the Government in monitoring, controlling and prohibiting unfair consumer practices in the Namibian economy, the Ministry has summoned consensus around a national policy that is expected to offer guidance. This Policy sets out Government's vision to provide a regulatory framework on consumer protection.

This Policy sets out guidelines for a professional, transparent and high performing implementation and networking system within Namibia's economic growth and development agenda as articulated in the National Development Plans and the Harambee Prosperity Plan. Implementation of such a policy requires concerted efforts of all organs of Government. I would like to make an assurance that Government shall ensure that the implementation process is well resourced. In this context, the Ministry shall provide the requisite political support for the implementation of consumer policy in the country.

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Lucia Lipumbu

MP: Minister of Industrialisation and Trade



EXECUTIVE SUMMARY

Namibia attained political independence in a global economic context transformed by knowledge-intensive industries and pervasive economic interdependence. Economic transactions characterized by increasingly diversified production processes spanning different markets, production and distribution networks have occasioned new business models, strategies and new forms of exploitation of weak or vulnerable consumers.

Namibia's commitment to promote economic growth and greater productive efficiencies must be balanced by an equally firm commitment to bolster current legal instruments intended to preserve fair and transparent markets. Namibians are increasingly exposed to sub-standard products, hazardous products, abusive business practices, pervasive forms of advertising/marketing, low quality services and deceptive or unethical business practices.

As is the case in other jurisdictions, many unfair and deceptive practices are directed at the poorest and most vulnerable members of society. This population – a significant part of the Namibian society – are easy targets for abusive market behaviour due to lack of awareness, compounded by social and fiscal constraints. Compared to often sophisticated and wealthy industry counterparts, consumers in developing countries navigate the marketplace from an unequal and lesser position of power and influence.

When such practices become entrenched in the market, the government's ability to effectively advance policies that promote equitable and sustainable economic and social development is indisputably undermined. Anecdotal macroeconomic evidence confirm the fact that a weak or unenforced consumer protection framework perpetuates cycles of poverty, exacerbates social inequality and inequities, and undermines the economic system by creating high levels of economic instability in significant numbers of the population.

In light of these trends, it is clear that an effective framework for consumer protection is indispensable to the attainment of Namibia's development aspirations and is a necessary supplement to the national vision that is committed to the well-being of all its citizens.

Consumer protection policy then constitutes an important measure to counter some of the worst effects of poverty on Namibia's citizens. The Policy seeks to protect vulnerable consumers and secure an even playing ground for all businesses to ensure promotion and protection of the rights of consumers, and to ensure unfair trade practices and unscrupulous exploitation of consumers in any market or transaction are monitored, controlled and prohibited at national level and in all possible situations.

The Policy provides for the establishment of an effective institutional and legal framework for information, redress and enforcement that promotes the economic interests of the consumers.

While acknowledging the existing interventions aimed at protecting consumers' rights by various institutions such as the Communications Regulatory Agency of Namibia (CRAN), the Bank of Namibia (BoN), the Ministry of Health and Social Services (MoHSS), the Namibian Standards Institute (NSI), and the Namibian Competition Commission (NaCC) amongst others; there is need to formulate a comprehensive national legal framework. The need is premised on the fact that the current consumer protection is faced with fragmented set of institutions, regulations and system of enforcement. In this respect, harmonization is thus necessary for a fully functioning consumer protection framework. The Policy thus seeks to provide harmonised standards and principles pertaining to consumer protection.

Further, the Policy provides for the comprehensive consumer protection framework, enforcement institutions and redress systems, and consumer education and provision of relevant, adequate and accurate information to the consumer.

Consumer protection in Namibia emphasizes a principles-based approach to consumer protection law, which allows for targeted and cost-effective development of Namibian law in this regard. This Policy describes the difference between regulations through principles versus rules, outlines the various pillars underlying general principles of consumer protection. The Policy further discusses the two primary principles imbedded in the legal framework established by this Policy and the envisaged Consumer Protection Legal Framework.

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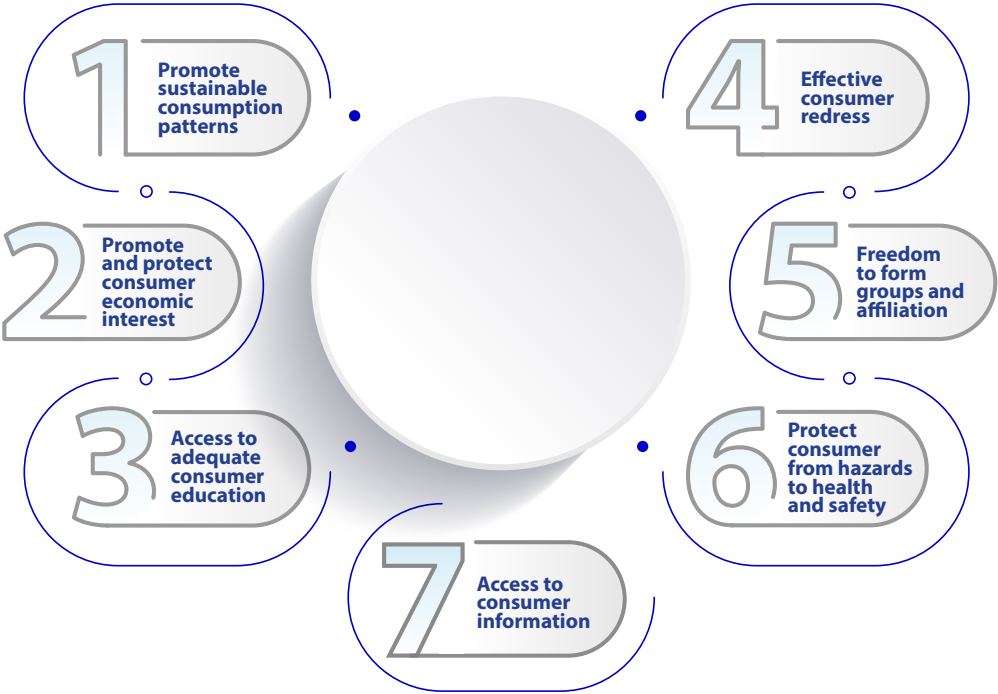
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1. INTRODUCTION

- 1.1. Since 2005, the Government of Namibia has conducted awareness campaigns on consumer rights issues. The Government has highlighted the need for legislation and an enabling policy framework to address unfair commercial practices affecting businesses and consumers, including marketing tactics, advertising campaigns, sales promotions and other commercial practices directed at influencing consumer decisions in the marketplace. The Government considers that the effective protection of consumer rights is a vital component for the realization of Vision 2030 and, therefore, ranks high on the agenda of the Ministry of Industrialisation and Trade.
- 1.2. In addition, the goals, objectives and priorities set forth by Policy makers as articulated in the Four National Development Plans (NDPs) and the Harambee Prosperity Plan particularly the pillar on social progression are underpinned by the welfare of Namibian consumers. To this end, the foremost consideration is on socio-economic advancement of the nation, particularly on the welfare of consumers of goods and services. However, such national aspirations have been hindered amongst others by the failures in the market. It is against such a background that the Policy makers have now focused the attention on the protection of consumers of goods and services due to market misconduct.
- 1.3. It is imperative therefore as a remedy to the problem to horn highest standards for the benefit of consumers similar to those accepted at regional and international level. In this respect, a meaningful national consumer protection framework rests on seven principles as the underlying pillars (see figure 2).
- 1.4. Overall, the pillars underlying the general guiding principles of consumer protection aim at promoting awareness in the market leading to consumer confidence.
- 1.5. Similarly the Government's main goal in seeking an effective consumer protection framework is to protect vulnerable consumers. In the same vein, the National Consumer Protection Policy, recognizes and responds to trends that, if left unchecked, could exacerbate lack of consumer confidence.

Figure 2. Pillars underlying General Principles of Consumer Protection



2. RATIONALE (ALIGNMENT)

- 2.1. The need for consumer protection is directly linked to the level of a country's economic development. This relationship exists because more complex consumer transactions allow the seller to take advantage of the information asymmetries associated with such products. As the Namibia economy continues to develop, more complex consumer products are being introduced thus increasing the possibility of consumer confusion and misunderstanding. Accordingly, market globalization and the increased prevalence of the internet economy further the need for consumer protection laws in Namibia.
- 2.2. As such, consumer protection laws are designed to increase the transparency of consumer market transactions and thus decrease the incentives for engaging in deceptive or unfair practices. If effectively enforced, these laws can increase the confidence of consumers, sellers and investors in the openness and fairness of consumer markets, and thus increase economic activity in these markets.
- 2.3. Further, consumer protection is an integral aspect of a properly functioning market. Confident consumers are one of the important drivers of competitiveness in any economy. By demanding competitive prices, product safety, improved product quality, and better service, consumers provide a driving force for innovation, efficiency, and better performance by business entities.

3. VISION

To provide a comprehensive regulatory framework for the protection of consumers' rights.

4. GOAL

The Government's main goal in seeking an effective consumer protection framework is:

- 4.1 to develop the knowledge and skills necessary to understand their rights associated with their spending and investment choices;
- 4.2 to institute adequate protection for Namibian consumers protect consumers;
- 4.3 to encourage fair trade in order to ensure a competitive economy;
- 4.4 To mediate industry's interactions between consumers, producers and suppliers and the public;

- 4.5 to ensure that production and distribution patterns remain responsive to consumers' needs;
- 4.6 promote strong ethical conduct by private industry actors; to curb abusive, deceptive and unfair business practices; and
- 4.7 encourage both domestic and international consumers to invest and participate in the economic growth and prosperity of Namibia.

5. OBJECTIVE

- 5.1. The main objective of the National Consumer Protection Policy is to encourage both domestic and international consumers to invest and participate in the economic growth and prosperity of Namibia.
- 5.2. The main objective is guided by the various pillars underlying the general principles of consumer protection stipulated in Figure 2, and inter-related and indispensable principles outlined under Paragraph 6 below, which also foster market trust reflected in the following six specific objectives identified in this policy:
 - 5.2.1. create market transactions that strive to obtain a fair balance of power between sellers and consumers;
 - 5.2.2. protect vulnerable consumers from marketplace conduct that takes advantage; unsophisticated, less educated or infirm consumers; provide an incentive for honesty and fair dealing by all sellers;
 - 5.2.3. promote efficiency and transparency in the Namibian economy and marketplace; thus increasing economic development;
 - 5.2.4. ensure accessible, transparent and efficient redress for consumers; and
 - 5.2.5. promote consumer participation in decision-making processes concerning the regulation of the marketplace in the interests of consumers.

6. GENERAL GUIDING PRINCIPLES

- 6.1. Market regulation is based on principles when it sets forth general standards of conduct. Most consumer protection law is a combination of principles and rules. Principles-based regulation relies on an ex post (after the fact) application, whereby the regulatory principle is applied against the specific conduct of a regulated entity only after the conduct has occurred.

6.2. In achieving their consumer protection policy objectives, the competent authorities must be guided by a number of basic principles. The principles relied upon for the regulation of consumer protection are as stipulated below:

6.2.1. **Principle 1**

Legitimacy: actions shall always remain based on and implemented within the scope of the relevant provisions of applicable laws.

6.2.2. **Principle 2**

Effectiveness: the mechanisms used should ensure effective implementation of the consumer rights and enforcement of the consumer protection legislation; law in action is as essential as law on paper.

6.2.3. **Principle 3**

Unity/Comprehensiveness: the horizontal or transversal nature of the consumer protection policy calls for the coverage of all types of goods movable and immovable, tangible and intangible; all types of services, both material and intellectual ones, all categories of economic operators, whatever their role in the process of manufacturing, distribution of goods or provision of services and whatever their legal status, being a private, mixed or state-owned company; in the formal and informal, all consumer-related subject matters and all categories of consumers.

6.2.4. **Principle 4**

Complementarity: the Law on Consumer Protection should be seen as an umbrella legislation which supplements special/sector/vertical laws and is applicable to all relationships between the consumer and the trader, consumer contracts and all goods and services likely to be used by consumers, in so far as there are no specific provisions with the same purpose in the sector laws governing the said relationships or contracts or goods or services and providing consumers with a higher level of protection.

6.2.5. **Principle 5**

Integration: consumer protection related issues must be taken into account in defining and implementing other national strategies, policies and activities.

6.2.6. **Principle 6**

Plurality: key actors or stakeholders on the consumer scene are numerous and various; while consumer protection and welfare is the main responsibility of the state authorities, the role of non-governmental consumer organizations is crucial and must be promoted.

6.2.7. Principle 7

Security of Payment and Personal Information: Sellers and intermediaries should take reasonable steps to ensure that transactions in which they are involved are secure. Consumers should act prudently when undertaking transactions. Seller and intermediaries should safeguard payment and personal information that is exchanged and/or stored as a result of a transaction. Consumers should take reasonable steps to conduct transactions safely and securely.

6.2.8. Principle 8

Effective and Affordable Redress: Consumers should have access to fair, timely, effective and affordable means for resolving problems with any transaction. Consumers should have adequate resources to handle consumer complaints efficiently and effectively. Where internal mechanisms have failed to resolve a dispute, consumers should make use of accessible, available, affordable and impartial third-party processes for resolving disputes with consumers. Consumers are not disadvantaged; governments should cooperate in the development of clear rules regarding the applicable law and forum, and the mutual enforcement of judgements, in the event of cross-border disputes.

6.2.9. Principle 9

Liability: Consumers should be protected from unreasonable liability for payments in transactions. Consumers should not be held liable for amounts billed to them for “unauthorized transactions.”

6.2.10. Principle 10

Unsolicited Commercial E-mail: Vendors should not transmit commercial E-mail without the consent of consumers, or unless a vendor has an existing relationship with a consumer.

6.2.11. Principle 11

Consistency: both the set of consumer laws and rules designed to protect the consumer and the institutional framework for consumer protection policy should be made as coherent as possible; responsible authorities for policymaking in the field of consumer protection and market inspection authorities must be clearly designated and dispersion of competencies avoided as much as possible; the diffuse nature, or the wide scope of application of consumer protection policy calls for the careful coordination of all initiatives taken towards the protection and promotion of consumer interest and welfare; the same will be true concerning market inspection as a critical element in consumer protection.

6.2.12. Principle 12

Proportionality: actions taken to protect the consumer on the marketplace must remain proportionate to the targets which are to be achieved; a similar proportionality rule should be applied to market investigation, market inspection and law enforcement powers.

6.2.13. Principle 13

Subsidiarity: institutions close to the citizens and active at local levels should be promoted as their action is likely to have a more direct impact in areas such as consumer education, information, advice and participation in the decision-making process; such institutions include local self-governments, local consumer organizations and other grassroots organizations.

6.2.14. Principle 14

Good governance: political and administrative actions and market inspection in the area of consumer protection must be taken in an independent, non-discriminatory, impartial and transparent manner.

6.2.15. Principle 15

Precaution: when there are reasonable grounds for concern that potential hazards may affect consumer health and safety and when at the same time the available scientific data preclude a detailed risk evaluation, the precautionary principle calls for the introduction of measures to prohibit a risky product from being put into circulation, or to withdraw or revoke them

6.2.16. Principle 16

Preventive measures: risk or fraud prevention should be preferred over the correction of unfair behaviour and compensation of damage caused to the consumer; damage to the consumer interest, whether individual or collective, should be as a priority, rectified at source and the one who creates the risk should pay the cost.

7. STRATEGIES

In light of the overall objective of the Policy, which is to protect the interests of consumers and promote fair trading in the market would require, amongst others, strategic actions that ultimately purport, namely:

7.1 Policy Development;

7.2 Legislation Development;

7.3 Consumer education campaign;

- 7.4 Create an exchange forum with sellers;
- 7.5 Monitoring and evaluation of strategies;
- 7.6 Decentralised and cost effective resolution of consumer complaint; and
- 7.7 Empowering relevant stakeholders, including consumer organizations and traders, for active and voluntary participation.

8. IMPLEMENTATION FRAMEWORK

8.1 The institutions relevant to the implementation of this Policy shall include to Consumer Protection Office or its successor, in conjunction with sector regulators, dispute resolution adjudicators, in collaboration with stakeholders, such as the consumers.

8.2 Institution Responsible for Consumer Protection

8.2.1 The primary institution mandated to implement the Policy is the Consumer Protection Office or its successor. The Ministry responsible for Industrialisation and Trade already has a division tasked with consumer protection and internal market regulation.

8.2.2 The existing division of consumer protection and internal market regulation within the Ministry responsible for Industrialisation and Trade will be extended to include consumer protection to the extend provided for in this Policy and the envisaged Consumer Protection Legal Framework.

8.2.3 The Consumer Protection Office will implement this Policy and the envisaged Consumer Protection Legal Framework by effectively implementing and enforcing the Unfair, Deceptive and Abusive Acts and Practices (UDAAP) Principles. It will be also tasked with the establishment of cost-effective redress mechanisms or strengthening of redress mechanisms, consumer education and information dissemination, designing of consumer complaints receipt and capturing mechanisms, and receiving and resolving of consumer complaints, and so forth.

8.2.4 In addition, the Consumer Protection Office will liaise with relevant Offices, Ministries, Agencies, and sector regulators to ensure that the consumer feels protected in all sectors of business.

8.2.5 In order to enable the Consumer Protection Office to effectively implement this Policy and the envisaged Consumer Protection Legal Framework, it should be accessible to all consumers' countrywide and therefore, decentralisation of the functions of the Consumer Protection Office will be made in the future.

8.3 Role of Sector Regulators

8.3.1 The Consumer Protection Office will be the central or focal institution to deal with consumer protection issues, irrespective of the type or form of consumer protection issue.

8.3.2 However, in order to implement this Policy and the envisaged Consumer Protection Legal Framework, the Consumer Protection Office will follow a coordinated approach, which will ensure cooperation with the various sector regulators. This will ensure that the consumer protection function is shared between the Consumer Protection Office and the relevant sector regulators.

8.3.3 The Consumer Protection Office will design mechanisms that will ensure continuous coordination and communication with sector regulators on consumer protection issues.

9. CONSUMER PROTECTION LEGAL AND REGULATORY FRAMEWORK

9.1 The Policy will be translated into a Consumer Protection Legal Framework that will regulate consumer protection in accordance with the UDAAP Principles.

9.2 UDAAP PRINCIPLES

9.2.1 The central tool for meeting the objectives in consumer protection law is the prohibition against unfair, deceptive and abusive acts and practices, known as "UDAAP." These three principles provide limits on marketplace transactions that help balance the power between buyers and sellers, and provide incentives for all actors in the consumer marketplace to avoid misleading conduct, overreaching and exploitation of consumers.

9.2.2 Variants of the UDAAP principles exist in almost all consumer protection law around the world prohibiting "misleading" and "aggressive" conduct. The elements that comprise a violation of each principle in the Namibian context should be clearly discerned within the envisaged Consumer Protection Legal Framework.

9.2.3 The envisaged Consumer Protection Legal Framework is written against the background of common law and other statutory regulation. These laws often include embedded assumptions and proof requirements based on presumed equivalence of bargaining power and information between the parties, assumptions that are inaccurate in most consumer market transactions and that UDAAP based legislation is designed to correct. Accordingly, the seller's liability can be established without the necessity of proving facts that are required in common law causes of action, thus making it easier to establish a violation under the law.

9.2.4 The essence of each UDAAP Principle is set out in the paragraphs that follow below.

9.3 UNFAIRNESS

9.3.1 Unfairness can be established when a transaction results in a "significant imbalance" in the rights of the consumer in comparison to the rights of the seller. However, it also requires that this imbalance be as a result of the seller's conduct for which "consumers do not or are not likely to possess the capacity to avoid the injury or loss." Unfairness, therefore, is not just about the outcome of the transaction, but also requires that the consumer substantially lacks the ability to reasonably control the transaction.

9.3.2 **Example:** A Namibian consumer is seeking a loan to purchase certain household goods. The potential creditor checks with a "credit bureau" about the creditworthiness of the consumer. The credit bureau provides incorrect information about the consumer's past practices. The consumer points out the error to the credit bureau and offers to provide documentation of the inaccuracy of the information. The credit bureau refuses to investigate the accuracy of the information and refuses to correct the error. The potential creditor refuses to provide the loan to the consumer. This is a potentially unfair practice, in part, because the consumer did not pick the credit bureau to provide information for review of a possible loan and could do nothing to avoid the injury resulting from the relationship between the potential creditor and the credit bureau.

9.4 DECEPTIVE

9.4.1 The UDAAP principle most commonly employed is the prohibition against deceptive acts and practices.

9.4.2 Sellers misleading consumers about the actual price of merchandise or the actual discount amount, advertising products not intending to be sold as advertised, representing that goods are of a certain origin or brand when they are not, and similar conduct are well-established deceptive sales practices.

- 9.4.3 Information asymmetries between consumers and sellers often figure prominently in cases based on alleged deception. Sellers engaging in deception know what consumers will ultimately pay for the goods, the actual origin or brand of merchandise, and the like, and then use this information advantage to mislead consumers about the deal.
- 9.4.4 Deceptive acts or practices can be found with either express or implied representations. A seller stating that a household good is “new” when the good actually has been used and repainted is making an express misrepresentation. Either the implied misrepresentations can arise from “half-truths,” where the seller makes a statement but omits to add qualifying information so the statement misleads the consumers, or from silence by the seller where the consumer would reasonably expect that a seller would disclose relevant information.
- 9.4.5 **Example:** A company is selling in Namibia imported food products that have been taken off the market by a food safety regulator in another nation due to concern about contamination by toxins and it is “dumped” on the Namibian market. The company selling the food does not make any express representation about the quality of the food, but it also does not disclose that the food has been found unacceptably contaminated and ill fit for consumer sale in another country. Consumer would reasonably expect that this information would be prominently disclosed, and thus sale of the food constitutes a deceptive act or practice.

9.5 ABUSIVE

- 9.5.1 Abusive acts or practices are based on the seller taking unreasonable advantage of a consumer’s ignorance, vulnerability or dependence on the seller. This UDAAP principle can be employed to protect vulnerable consumers.
- 9.5.2 Importantly, this principle is employed with reference to the particular capacity and circumstances of the consumer or group of consumers targeted by the seller, rather than judged from the perspective of a typical or ordinary consumer.
- 9.5.3 As a similar principle enunciated under the European Union Unfair Commercial Practices Directive states, unconscionability is “assessed from the perspective of the average member” of a particular consumer group who is “vulnerable to the practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee.”² Finding this type of conduct deceptive under UDAAP principles arguably differ from the result under common law in which “caveat subscriptor (let the seller beware)” prevails.

9.6 EXISTING SECTORAL LAWS

9.6.1 Currently various sectorial legislation are in existing, although not directly regulating consumer violations, but rather regulating the conduct of industry within the sector that is regulated and therefore, indirectly promoting consumer welfare and consumer protection.

9.6.2 As consumer protection is a joint responsibility, the Consumer Protection Office must ensure that sector regulators continuously promote consumer welfare and consumer protection in their respective sectors through coordination arrangements and consultations.

9.6.3 Currently legislation to promote consumer welfare and consumer protection exists in the following areas:

- (a) Communications;
- (b) Non- Banking Financial sector;
- (c) Banking Sector;
- (d) Food industry;
- (e) Access to public services and utilities;
- (f) Competition; and
- (g) Health/pharmaceutical.

9.7 The following international or regional arrangements or guidelines are in existence impacting consumer protection and consumer welfare:

9.6.4 Economic partnership Agreements;

9.6.5 SADC Declaration on Competition and Consumer Policies;

9.6.6 WTO treaties;

9.6.7 UN Guidelines for Consumer Protection; and

9.6.8 UN Guidelines for Consumer Protection for the Digital Age.

9.8 The Consumer Protection Office will ensure that, wherever relevant, guidelines advanced in the abovementioned instruments, some of which are non-binding, are incorporated into the implementation of this Policy and the Consumer Protection Legal Framework.

10. ENFORCEMENT OF CONSUMER PROTECTION

10.1 Legal protections without effective enforcement are illusory promises. Therefore, in addition to clear and concise principles that have been referred to previously, the Policy and the envisaged Consumer Protection Legal Framework must contain effective enforcement mechanisms.

10.2 Effective enforcement requires proper coordination between relevant sector regulators and a particular authority, information dissemination, consumer education, trader in goods and service education (to allow businesses to know what is expected from them), staff training on the Policy and envisaged Consumer Protection Framework, development of relevant mechanisms for consumer complaints and redress. Furthermore, strengthening of existing redress mechanisms will further ensure effective enforcement.

10.3 Therefore, the Consumer Protection Office should introduce and/or establish enforcement mechanisms to ensure that enforcement provisions of this Policy and the envisaged Consumer Protection Legal Framework are effectively implemented.

10.4 The Consumer Protection Office will facilitate continuous monitoring and evaluation of enforcement mechanisms and constantly modify, wherever necessary, any enforcement mechanism that is introduced and/or established in terms of this Policy and envisaged Consumer Protection Legal Framework.

11. COMPLAINTS PROCEDURE AND RESOLUTION OF CONSUMER DISPUTES

11.1. Complaints Procedure

The Consumer Protection Office will establish and introduce a complaints procedure that will allow a consumer to register his/her dispute.

11.2. Consumer Alternative Dispute Resolution Forum

11.2.1 The Consumer Protection Office will, in line with the guiding principles of this Policy, establish a Consumer Alternative Dispute Resolution Forum with the aim of resolving consumer disputes through conciliation, mediation or arbitration.

- 11.2.2 The introduction of the Consumer Alternative Dispute Resolution Forum will be a cost-effective way for the Consumer to resolve his/her dispute and will further allow the Consumer to make his/her case in an informal setting with a less overwhelming set-up that is evident from the existing traditional judicial forums currently in existence.
- 11.2.3 The Consumer Alternative Dispute Resolution Forum will have prescribed rules, set out forms, timelines, capacity, processes and practice.
- 11.2.4 The alternative dispute resolution process under the Consumer Alternative Dispute Resolution Forum will be effective and have sufficient enforcement powers which may require the appointment of consumer inspectors to implement the decision of the Consumer Alternative Dispute Resolution Forum. Furthermore, the Consumer Alternative Dispute Resolution Forum will be decentralised avoiding the costs of travel.
- 11.2.5 For this purpose this Policy dictates the need to outline training programmes to train conciliators, mediators and arbitrators after the development and implementation of this Policy and the Consumer Protection Legal Framework.

11.3 Existing Redress Mechanisms

- 11.3.1 Any Consumer that opts to utilise the existing traditional Judicial Institutions such as the Courts is not precluded from resolving his/her dispute in such traditional Judicial Institutions. However, the Consumer Protection Office will ensure that an adequate process of information dissemination is undertaken to allude the Consumers of the existence of the Consumer Alternative Dispute Resolution Forum and the benefit of resolving their disputes through the Consumer Alternative Dispute Resolution Forum.
- 11.3.2 In addition, businesses will be sensitised to amend the relevant contracts/agreements to allow the Consumer to resolve disputes through the Consumer Alternative Dispute Resolution Forum, failure to resolve such dispute, the Consumer may choose to approach the traditional Judicial Institutions to resolve the dispute.
- 11.3.3 In addition, certain sector regulators are opting to create Tribunals to resolve sector related consumer complaints. The Consumer may equally choose to resolve his/her dispute through these Tribunals. However, such sector regulators are urged to provide adequate Consumer education and mechanisms for information dissemination to ensure that the Consumer is aware about these Tribunals.

- 11.3.4 In terms of Article 90 of the Namibian Constitution read with section 3 of the Ombudsman Act, 1990 (Act No. 7 of 1990), Consumers have an additional option to resolve consumer disputes through dispute resolution mechanisms designed by the Ombudsman through the Ombudsman Act, 1990.
- 11.3.5 Some contractual arrangements may require the Consumers to resolve disputes through a certain alternative dispute resolution mechanism. The Consumer may opt to utilise such mechanisms to resolve their consumer disputes. It is imperative that businesses ensure that the Consumer is aware of the cost implication of these alternative dispute resolution mechanisms and is given an option to resolve their dispute in accordance with the dispute resolution mechanism identified in the contractual arrangements or to rather choose a less costly manner, such as the Consumer Alternative Dispute Resolution Forum to resolve their consumer disputes.
- 11.4 It is the intention of this Policy and the envisaged Consumer Protection Legal Framework to ensure that the Consumer Protection Office has adequate power to establish any redress mechanism it may deem necessary to resolve consumer disputes in a cost-effective and timeous manner. To this end, the Consumer Protection Office will consult relevant stakeholders to determine incorporation of consumer issue dispute resolution into the existing redress mechanisms.

12. CONSUMER EDUCATION AND INFORMATION

- 12.1 Consumer Education and the provision of information to the Consumer is key to the effective implementation of this Policy and the envisaged Consumer Protection Legal Framework as it generally provides adequate knowledge to the Consumer regarding his or her rights and responsibilities contained in the various instruments providing consumer protection.
- 12.2 In addition, provision of adequate and accurate information to the Consumer relating to a particular product or service enables a Consumer's decision in relation to a purchase. Furthermore, provision of consumer information also relates to information regarding the applicable law or relevant agency charged with regulating a particular industry.
- 12.3 The task or responsibility to provide consumer education and/or providing adequate information to the Consumer is not assigned to any one institution. It should be a joint task or responsibility of the Consumer Protection Office and various stakeholders, such as sector regulators, businesses and Offices, Agencies and Ministries of Government.

12.4 Therefore, the Consumer Protection Office will act as the leading authority/facilitator of Consumer Education and Consumer Information, and design and introduce a Consumer Education and Information Manual with the aim of providing adequate education and information to the Consumer.

12.5 Consumer Education and Information will be provided to all Namibian Consumers through workshops and seminars, pamphlets, electronically and in any other mode or manner as the Consumer Protection Office, in consultation with the various stakeholders, may determine and at regular intervals.

13. RESOURCE MOBILISATION

13.1 Regulation as articulated under institutional arrangements, would require resource (monetary and skills) mobilization. The degree would differ depending on the level of preparation for each institution. For example in the financial sector (in particular the banking sector) where systems are already in place, resource mobilization would be minimal.

13.2 The Consumer Protection Office's mandate is service driven and not profit oriented, and will therefore be funded by the State.

14. MONITORING AND EVALUATION

The Minister responsible for Trade is the custodian of the Policy and ultimately oversees the implementation plan. As such, the monitoring and evaluation of the progress in implementing the Policy rests with the line Ministry. In this respect all line institutions, involved in implementation of activities under this policy will be responsible for providing progress updates at least bi-annually to the Minister for consolidation into one progress report.

15. COMMUNICATION STRATEGY

15.1 As previously indicated, effective and efficient consumer protection requires coordination amongst relevant stakeholders to effectively communicate with an identified target audience, to ensure that information reaches all relevant stakeholders, the media and the consumers.

15.2 The communication strategy relies on the following guidelines:

15.2.1 Communication is factual and presented in plain language;

15.2.2 Communication is designed in a manner appropriate to its audience;

- 15.2.3 Communication is looked upon as involving a dialogue with others;
- 15.2.4 Communication takes on the developments and improvements in new technology and different channels; and
- 15.2.5 Communication is planned, coordinated and evaluated.
- 15.3 The targeted communication audience for the purpose of this Policy will include:
 - 15.3.1 The Consumer;
 - 15.3.2 Sector Regulators;
 - 15.3.3 The Media;
 - 15.3.4 The Business Sector; and
 - 15.3.5 Any other stakeholder that may be identified by the Consumer Protection Office.
- 15.4 The applicable modes of communication will be designed in accordance with the target audience to be communicated with and to at the time of such communication, and with due regard to the abovementioned communication guidelines.

16. REVIEW OF THIS POLICY

- 16.1 Considering the dynamic nature of the global market, and therefore the Namibian market with the equally changing methods of trading in goods and provision of services, the digital age, electronic commerce, the complexity of goods and services, and therefore, the age, spending capacity of Consumers purchase goods and services, it is important to ensure that the Policy framework remains relevant and adequately addresses all consumer issues.
- 16.2 The Ministry responsible for Trade will establish mechanisms for the collection of relevant information from Consumers, and various stakeholders, and the conduct comprehensive and continuous research to identify relevant issues, trends and other matters that may affect the consumer.
- 16.3 In addition, the Ministry responsible for Trade will establish a formal mechanism for the periodic reviews of this Policy, taking into consideration the information collected, the research done and feedback from key stakeholders.

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