

Unfair or Anti-Competitive Conduct

What is meant by anti-competitive conduct?

Section 13(2) of the Fair Competition Act prevents agreements between businesses that have or are likely to have the effect of preventing, restricting or distorting competition in a market. This includes agreements that:

- directly or indirectly fix purchase or selling price or any other trading conditions
- limit or control production, markets, investment or development
- provide for the artificial divvying up of markets or sources of supply
- affect tenders to be submitted in response to bids
- apply different conditions to equivalent transactions with other parties engaged in the same trade (competitors) hence, putting them at a competitive disadvantage
- make the conclusion of contracts subject to parties other than the offering party accepting supplementary obligations which have no connection with the subject of such contracts.

What are the different types of anti-competitive conduct?

- Abuse of a dominant position – This is when a dominant firm (one which has a sustained market share of 50% or more) uses its position to block effective competition in the market.
- Resale Price Maintenance – This is when a supplier takes action to try to prevent an independent dealer from reselling goods below a price specified by the supplier.
- Cartels, Bid-Rigging, Conspiracies and Boycotts- These offences occur when otherwise competing companies conspire to agreements that are designed to reduce competition and artificially boost profits at the expense of consumers and the economy.
- Interlocking Directorships – This occurs when a person serves as a director on the board of two or more companies that are significant competitors. This may have the effect of binding together the companies' policies in such a way as to reduce competition between them.