

CONSUMER PROTECTION POLICY

**MINISTRY OF TRADE, INDUSTRY, CO-OPERATIVES
AND
MARKETING**

THE KINGDOM OF LESOTHO

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FOREWORD

This policy document outlines the Consumer Protection Policy (CPP) for Lesotho and is the outcome of the policy formulation process that began in 2010. The CPP is based on the findings of two issues documents; the Road map for the Kingdom of Lesotho (hereafter referred to as the Road Map) and the Inventory of Lesotho Legislation with a bearing on Consumer Protection (hereafter referred to as the Legal Inventory). Both these reports were informed by feedback from stakeholders meetings. The preparation of the Road Map and the Legal Inventory also benefitted from the interviews with various stakeholders in the economy. In effect, a process of extensive consultation with stakeholders was used to test the formulation of the CPP.

The Government of Lesotho, and the Ministry of Trade and Industry, Cooperative and Marketing, remains committed to genuine consultations, as illustrated by the continuation of the Consumer Protection Institutions which will continue to advise and assist the Ministry in the development and preparation of the Consumer Protection Law to give effect to the CPP. In addition, the Government will ensure that the wider stakeholder consultations continue, as including implementation occurs.

In formulating the CPP, the Government has applied the flexibility as embodied in economic theory, UN Guideline – Consumers’ Rights and the Model law for Consumer Protection, and, internationally accepted standards and principles to take account of the Lesotho economy. Lessons have also been drawn from the experience in consumer protection law enforcement in neighbouring and other SADC member countries. Having understood the pivotal role of consumers’ protection policy in the economy, the Government is committed to ensuring the viability of Business community economic participation while adhering to the social obligations arising from international agreements and treaties. The CPP constitutes an important tool, which in the long term will enhance the protection of consumers and economic growth as the consumers will benefit value for their money.

The financial contribution by SADC from the initial stage of the preparation of the background documents and the EIF for finalisation of the CPP formulation is gratefully acknowledged. The stakeholders meeting can be difficult and my gratitude also goes to all stakeholders and the representatives from the Ministry in particular Consumer Welfare Office for coordinating the process of the development of this policy.

Honourable Temeki Tsolo

Minister of Trade and Industry, Cooperatives and Marketing

Date: SEPTEMBER 2013

ABBREVIATIONS AND ACRONYMS

CPD	Consumer Protection Department
CPI	Consumer Protection Institution
CPP	Consumer Protection Policy
CWO	Consumer Welfare Office
MTICM	Ministry of Trade and Industry, Cooperative and Marketing
SADC	Southern African Development Countries

INTERPRETATION OF TERMS AND WORDS

“Advertisement” means any direct or indirect visual or oral communication by means of which a person seeks to inform the public of the existence or identity of a supplier or any information relating to that supplier or its goods or services or anything relating thereto.

“Agreement” means any contract, arrangement or understanding between two or more persons to follow a specific course of conduct or to establish a relationship among them.

“Consideration” means anything given and accepted in exchange for goods or services, irrespective of its value.

“Consumer” means any person to whom those particular goods or services are marketed in the ordinary course of the suppliers business and shall include a user of such goods or services irrespective of whether such a user was a party to a transaction with the supplier.

“Direct marketing” means to approach a person either in person or by any other medium for the direct or indirect purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the person or requesting the person to make a donation of any kind or to participate in any promotion or competition.

“Distributor” means a person who, in the ordinary course of business, is supplied with goods by a producer, importer or other distributor and, in turn, supplies those goods to either another distributor or a retailer.

“Goods” means anything marketed for human consumption or use and includes all tangible items or articles acquired or used by consumers.

“Importer” means a person who brings goods, or causes goods to be brought, from outside the Kingdom of Lesotho into the Kingdom of Lesotho, with the intention of making those goods available for supply within the Kingdom of Lesotho.

“Manufacturer” means a person who makes or produces any goods or parts thereof and shall include a person assembling or fabricating parts made by others and claiming the end product to be goods manufactured by himself or a person puts or causes to be put his own mark on any goods made or manufactured by any other person.

“Minister” means the Minister responsible for consumer affairs.

“Person” means a natural person or a juristic person, including (but not limited to) a body corporate, co-operative, partnership, association, trust or company.

“Price” in relation to the supply, transfer, provision or sale of goods or services, includes any consideration given in exchange for such goods or services.

“Producer” means a person who grows, nurtures, harvests, mines, generates, refines, creates, manufactures or otherwise produces goods or causes any of those things to be done, with the intention of making them available for supply in the ordinary course of business.

“Promote” means to advertise, display or offer to supply any goods or services in the ordinary course of business, to all or part of the public for consideration or to make a representation in the ordinary course of business that could reasonably be inferred as expressing a willingness to supply any goods or services for consideration or engaging in any other conduct in the ordinary course of business that may reasonably be construed to be an inducement or attempted inducement to a person to engage in a transaction.

“Sale” shall include a sale, an agreement to sell or offer for sale and an “offer for sale” shall be deemed to include the exposing of goods for sale, the furnishing of a quotation, whether verbally or in writing, and any other act or notification whatsoever by which willingness to enter into any transaction for sale is expressed.

“Service” shall include, but not be limited to –

- a) any work or undertaking performed by one person for the direct or indirect benefit of another;
- b) the provision of education, advice, information or consultation;
- c) the provision of facilities in connection with banking, finance, insurance, transport, communication, processing, the supply of electricity, water and other public utilities, boarding and lodging, housing, construction, entertainment, amusement or the like.

“Service Provider” means a person who promotes supplies or offers to supply any service.

“sms” means a short message service provided through a telecommunication system.

“Supplier” means a person who promotes any goods or services.

“Supply” means in respect of goods shall include sell, rent, exchange, hire and make available and in respect of services shall include, selling, performing or causing them to be performed or provided or to grant access to any premises, event activity or facility in the ordinary course of business for consideration.

“Transaction” means, in respect of a person acting in the ordinary course of business –

- a) an agreement between or among that person and one or more other persons for the supply or potential supply of any goods or services in exchange for consideration; or
- b) the supply by that person of any goods to or at the direction of a consumer for consideration; or
- c) the performance by, or at the direction of, that person of any service for or at the direction of a consumer for consideration.

Words importing the singular only shall include the plural and vice versa.

Words importing the masculine gender only shall refer to or include the feminine gender and vice versa.

When a particular number of days is provided for the reference to days shall mean business days and the calculation of the number of days shall exclude the first day of such calculation and shall include the last day of such calculation.

NATIONAL CONSUMER PROTECTION POLICY, 2013

1.0 INTRODUCTION

The Ministry of Trade and Industry, Cooperatives and Marketing in Lesotho (MTICM) has developed this Consumer Protection Policy (CPP) to protect consumers of goods and services in Lesotho against abuse and exploitation by service and/or goods supplier.

1.1 POLICY BACKGROUND

The fundamentals of consumers rights emanate from the first signing of the Consumers Rights Protocol in March 1962. Lesotho, like many other countries who are members of the UN adopted this protocol in order to protect her people from unscrupulous business practices. However, implementing this protocol has been a challenge. For a number of years it was realized that the growth of foreign investment, foreign trade and cross-border supply leads to various anti-competitive practices as well as the dumping of unsafe goods into emerging economies where consumers are vulnerable due to poverty, illiteracy, desperation and the high levels of unemployment. In an attempt to respond to this unhealthy situation the Government of Lesotho established Consumer Welfare Office within the MTICM whose mandate, among others, is to protect and promote the welfare of the consumers. Since then the CWO's journey has not been easy due to lack of supporting legal instruments. Without policy and legislation the efforts of CWO have not been taken seriously at all levels of society and support from other stakeholders has been shaky. It is therefore essential to formalise the establishment of a legislated Consumer Protection Body which is empowered to protect and promote consumers' rights.

In this regard, the MTICM undertook to formulate a policy that will enable it to monitor the implementation of appropriate commercial, marketing, and industrial development policies, and enforce supporting legislation. The process began in 2010 with consultants conducting an analysis of existing consumer policies ("legal inventory") and thereafter conducting an analysis of the market needs and problems experienced by consumers.

1.2 JUSTIFICATION OF THE POLICY

The Government of Lesotho is one of the signatories to the UN Consumers' Rights Protocol which outline Eight International recognised consumer rights. These have been factored in this policy as guiding principles. Currently these rights are safe-guarded by Consumer Welfare Office (CWO) within the MTICM. However, CWO lacks legislative powers to address, meaningfully, the violations of the aforesaid rights. It deals with complaints through conciliation and mediation which sometimes mandate entering business premises to carryout the investigations, hence need to have legal tool that will empower its operations. There is a need to balance the interests of consumers against the need to promote the growth of business in Lesotho. Consumer Protection Legislation, therefore must be drafted taking into account the socio-economic development that is mindful of the rights of all sectors of the society. It is imperative that consumers know and understand both their rights and obligations and this can only be achieved by having sound policies and legislation in place and ensuring implementation of the same.

Secondly, the policy will enable CWO to regulate the informal sector, which once left unregulated can take advantage of the vulnerable consumers who are not aware of their rights and do not have prompt redress available to them. Although consumers have access to the civil courts in terms of violation of their rights, they lack financial muscle to access the courts as high legal and other fees are prohibitive for them. Very few consumers can afford to sue goods and service providers as this will cause them a couple of thousands Maloti. On the other hand, cases tend to drag on for several months, if not years in courts in particular civil cases. The recently established Commercial Court and small claims courts' impact in speeding up cases in this category is yet to be realized. This policy and law will therefore assist by providing alternative measures of dealing with consumer issues in a speedious, simple and consumer-friendly manner.

Thirdly, there is a need to ensure that there are sufficient awareness programmes and a drive to educate consumers and business people on consumers' rights. Consumer education must therefore be a mandatory feature of the consumer protection framework.

Lesotho currently applies a rights' based approach to consumer protection as set out in its publication entitled "Consumer Education – Consumer Rights" which is issued and

distributed by the CWO. This activity should be intensified hence the need to capacitate the CWO legally, professionally and otherwise.

While the MTICM is preparing Consumer Protection Policy, CWO is aware of the existence of the Sector Regulators in the different sectors of economy where the consumers lodge their complaints. However, this does not hinder the consumer to lodge their complaints to the CWO whenever they are not satisfied with the decisions of the sector regulators to have just claims.

1.3 APPLICATION OF THE POLICY

The policy shall apply to all suppliers of goods or services irrespective of whether such a supplier:

- a) is an individual, juristic person, partnership, trust, organ of government, an agent or authorised supplier or contractor of an organ of government, a public-private partnership, an association or informal trader/ vendor;
- b) resides or has its principal place of business within or outside Lesotho; or
- c) operates on a profit or non-profit basis.

2.0 MISSION and VISION

2.1 Mission

The mission of the CWO is to, effectively, efficiently and without discrimination, protect and promote consumers' rights by educating them about their rights and to provide them with means of redress against exploitation by service and goods suppliers.

2.2 Vision

Protected consumer' rights, knowledgeable consumer on their rights and responsibilities.

3.0 OBJECTIVES OF THE POLICY

The main objective of this policy is to improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling confident participation of consumers in markets in which both consumers and suppliers trade fairly. This main objective is supported by operational objectives which are to:

- ensure that consumers are sufficiently well-informed to benefit from and stimulate effective competition;
- prevent practices that are unfair;
- meet the needs of those consumers who are most vulnerable or are at the greatest disadvantage;
- provide accessible and timely redress where consumer detriment has occurred;
- promote proportionate, risk-based enforcement;
- promote, protect and advance the social and economic welfare of Lesotho consumers; and
- to inform the consumer protection legislation which will establish a legal framework for maintenance of a consumer market which is fair, accessible, efficient, sustainable and responsible for the benefit of consumers;

4.0 GUIDING PRINCIPLES

This policy will be guided by the following principles:

4.1 Political Will

Strong political will and commitment at all levels of Government is essential for meaningful consumer protection. The Government of Lesotho is therefore committed to working with all stakeholders, internationally, regionally and nationally to ensure that consumers get the protection they deserve and that their issues are responded to timeously and impartially.

4.2 Consumer Rights

The rights, obligations and responsibilities of both consumers and suppliers must be observed by all players for the benefit of consumers and business community at large. This policy will therefore be guided by the following rights and obligations:

4.2.1 The Right to Information

- a) Information is very important to consumers as it enables them to make an informed choice. Consumers should be given all relevant information that pertain to goods and services they want to acquire and engage. The information should include among others, how the products are operated, their guarantees or warranties and the terms and conditions of the same.
- b) Consumers shall have the right to full and correct information about the service or product once he shows interest in the said service or product and no supplier shall give consumers misleading information either by verbal, written or electronic advertisements.
- c) Government shall ensure that there are sufficient awareness programmes and a drive to educate consumers and business people on consumers' rights. Consumer education shall therefore be a mandatory feature of the consumer protection framework.

4.2.2 The Right to Good Quality & Safe Goods

The Government of Lesotho is aware of the growth of foreign investment, foreign trade and cross-border supply that leads to various anti-competitive practices as well as the dumping of unsafe goods in emerging economies. The Government therefore undertakes to put in place strong legal and institutional frameworks that will combat such practices and ensure that the consumers enjoy their right to good quality and safe goods.

4.2.3 Right against Discrimination

Consumers are entitled to fair, non-discriminatory treatment by suppliers of goods and services irrespective of their race, colour, sex, religion, language or social status. The market should be open for any person to transact for goods and services which he desires as long as these are within the ambit of the law.

4.2.4 Right to Privacy

Consumers are entitled to the right to privacy which encompass the right not to be harassed by a supplier and the right to have their personal information protected by persons to whom such information is shared.

4.2.5 Right to Choose

Consumers are entitled to the right to make their own choices with regard to which business entities they wish to transact with or what they wish to purchase.

4.2.6 Right to fair, just and reasonable terms & conditions

The supplier–consumer relationship is often skewed towards the interest of the supplier in so far as contracts for the transacting for goods and services are concerned. Consumers are forced into accepting terms and conditions which waive their common law rights and rights of recourse against suppliers. This being the case, the consumers have the right to enter into agreements for the supply of goods or services:

- a) that are of a good standard;
- b) at a price which is just, fair or reasonable where the price is regulated by law;
- c) on terms that are just, fair or reasonable

4.2.7 Right to Redress

a) Government shall ensure that legal and administrative measures are put in place to enable consumers to obtain redress through formal and informal procedures that are expeditious, fair, inexpensive and accessible. Such measures will take particular account of the needs of low-income consumers.

b) Government shall also encourage all enterprises to resolve consumer disputes in a fair, expeditious and informal manner, and to establish voluntary mechanisms, including advisory services and less formal complaints procedures, which can provide assistance to consumers.

c) Information on available redress and other dispute-resolving procedures shall be made available to consumers and they must be assured that there is some relief available to them when their rights are infringed.

5.0 POLICY STATEMENTS

These policy statements respond to the objectives of this policy, the guiding principles (rights of consumers) and legislative and institutional frameworks that are meant to operationalise this policy. They are of two categories, namely, goods and services.

5.1 General Policy Statements

- 5.1.1 A supplier of goods or services will, in respect of any transaction, provide the consumer with a physical receipt which must indicate the date of the transaction, the name of the supplier, the goods or services provided, the price of the goods or services, physical address and contacts of the supplier, any terms or conditions relevant to the provision of such goods or services and any other information required in terms of any other legislation, policy or guideline of any other authority.
- 5.1.2 A supplier or promoter of goods or services shall not unfairly discriminate against any person or group of persons by, inter alia, denying access to any goods or services offered to any other person or group of persons, imposing differential terms and conditions relating to the provision of any goods or service or charging different prices to that charged to any other person or group of persons.
- 5.1.3 Refusal of the supplier of goods or services shall not be deemed discriminatory if such refusal is due to any public regulation, or such goods or services are not generally intended for minors, or if such refusal is reasonably necessary to protect the health, wellbeing or safety of a person.
- 5.1.4 Any person who has been approached by a promoter or supplier of goods or services for the purposes of direct marketing shall have the right to refuse to engage in any communication with such promoter or supplier and may request not to receive any future communication from such promoter or supplier.
- 5.1.5 A consumer will not be charged a fee for communicating his intention of not receiving any future communication from a promoter or supplier of goods or services or for opting out of any unsolicited mailing lists.
- 5.1.6 Unless a consumer has consent thereto, a supplier shall not engage in any direct marketing promotion of any goods or services or conduct any survey with such consumer after normal business hours.

- 5.1.7 A supplier of goods or services will not share any personal information (especially names and contact details) of a consumer with any other person or entity without the consent of the consumer.
- 5.1.8 The Government shall, through CWO, relevant institutions and/or agents, protect Consumers against unscrupulous suppliers who attempt to force consumers into agreeing to terms and conditions of trade which bind them to purchase goods or services which they do not need or which they can purchase cheaper from other sources.
- 5.1.9 A supplier shall not require a consumer to transact with him or any third party, for any additional goods or services to those which the consumer wishes to transact as a condition for the supply of the goods or services which the consumer wishes to transact, unless the supplier can show that the bundling of such goods or services would be in the best interest of the consumer or the supplier offers the bundled goods or services separately and at individual prices, which prices must be fair and reasonable.
- 5.1.10 In any agreement or any contract, any term or condition, whether written or verbal, may be declared null and void, if it is likely to limit, in any way, the responsibility or liability of the supplier for defects or deficiency in goods supplied or services rendered, constitute an assumption of any risk by the consumer which risk would normally lie with the supplier, impose an obligation on the consumer to indemnify the supplier against any liability.
- 5.1.11 Any agreement, notice or other document relating to the supply of goods or services must be written in plain, simple language in a manner which an ordinary customer of the class of persons for whom such agreement, notice or document is intended, could be expected to understand the content thereof.

5.2 Policy Statements with Regard to Goods

- 5.2.1 The Government shall ensure that a supplier of goods shall, at all times, supply goods that are suited for the purpose for which they are generally intended for, are of

required quality, in good working order, free from any defects and will remain in that condition for a reasonable duration and are in compliant with applicable standard set out by any other legislation, regulation, guideline or policy. However this shall not be applicable where the supplier of goods has expressly informed the consumer that the specific goods are being sold as they are *voetstoods* and the consumer accepts that condition.

5.2.2 The consumer shall have the right, within seven (7) days from the date of delivery of the goods, to return the goods to the supplier without penalty if the goods fail to satisfy the requirements set out in 5.2.1. Under these circumstances, he may request the supplier to repair or replace the defective goods, or to refund to him the cost price paid.

5.2.3 It shall be the responsibility of the supplier of goods to provide the consumer with clear instructions the correct mode of operation of the goods, information on the technical characteristics of the goods, the safety precautions relevant to the operation of the goods, any risks associated with the goods or operation thereof and any other information, term or condition relating to the provision of such goods.

5.2.4 The supplier of goods shall not, tamper with, remove or deface, any information written on the label or container indicating the shelf life of the products/goods such as sell-by, best-before or expiry date imprinted on any goods.

5.2.5 A consumer shall be entitled to cancel any advance booking, reservation or order for any goods viced to be supplied if the said goods are not a special order which was sourced or created especially for such consumer in accordance with the consumer's special request.

5.2.6 The supplier may be entitled to charge a fair and reasonable fee for cancellation of special order and this shall have regard to the nature of the goods booked, duration of the notice of cancellation given by the consumer, any out of pocket loss already incurred by the supplier and the general practice of the relevant industry.

5.2.7 Notwithstanding 5.2.6 above, if the consumer can satisfactorily show that the reason for the cancellation is due to the death or hospitalisation of the person for whom the booking, reservation or order was made, no cancellation fee shall be imposed by the supplier.

5.2.8 No supplier shall use any physical force, coercion, undue influence, pressure, duress, harassment, unfair tactics, and exaggeration of facts, innuendo or any similar conduct in order to market any goods or services or to persuade a consumer to transact for goods or services.

5.2.9 In any agreement or contract, any term or condition, whether written or verbal, must be specifically pointed out to the consumer, if it is likely to impose any obligation on the consumer to comply with any material term or condition of the agreement or place the consumer in breach of the agreement if he does not act in a manner set out in the agreement.

5.2.10 A supplier shall not enter into a transaction with a consumer subject to any term or condition which is intended to defeat the purposes and policy underlying consumer protection, mislead or deceive the consumer or subjects the consumer to any fraudulent or other illegal conduct, limit or exempt a supplier from liability for any loss attributable to the gross negligence of the supplier or any person acting on behalf of or under the control of the supplier.

5.3 Lay Bye Transactions

Where a consumer has paid a deposit for goods and the goods remain with the supplier until the consumer has paid the full purchase price (lay-bye) the supplier must honour the supply of the goods immediately upon the consumer paying the final instalment of the purchase price.

5.3.1 In the case whereby the consumer has made a lay-bye of the goods, it shall be mandatory for the supplier to remove the goods from stock and store them safely where the consumer will get them when time for releasing the said lay-bye becomes due. In the event of the supplier failing to deliver the goods to the

consumer, the consumer shall be adequately compensated by being given similar goods (even if they are more expensive) at the same price as the goods paid for.

- 5.3.2 Where the consumer makes a lay-by, but later wishes to cancel such a lay-by or does not collect the goods within a specified number of days after the final date of payment agreed between the supplier and consumer, the supplier may cancel the lay-by and charge a termination penalty in respect of those goods provided at the time of entering into the lay-by agreement the supplier informed the consumer about the penalty and the amount of such penalty.

The termination penalty should not apply if the delay on the part of the consumer in collecting the goods was due to the death or hospitalisation of the consumer or any other such reasonable grounds.

- 5.3.3 The supplier must keep a duplicate of the lay-by agreement at all times and must keep proper record of each and every payment made by the consumer. Under no circumstances may the agreement be cancelled due to the loss of the lay-by agreement by the consumer, however, the supplier may demand proof of identification of the consumer under such a circumstance.

- 5.3.4 The goods shall remain the property of the supplier until the goods have been fully paid and delivered to the consumer. The supplier shall be liable for the safekeeping of the goods thereof and shall be liable to the consumer in the event of any loss or damage thereof.

6.0 DIRECT MARKETING AND MAIL ORDER

- 6.1 Where a transaction is concluded as a result of direct marketing or under any circumstances where the consumer has not been given an opportunity to inspect the goods prior to transacting, the consumer will be entitled to cancel such transaction within a stipulated number of days from the date of delivery of the goods to the consumer, provided that the goods are returned to the supplier in good order and condition.
- 6.2 At the time of entering into an agreement, the supplier and the consumer will agree among others, on the date and place of delivery of services or goods as well as the consequences of any failure or delay thereon.

- 6.3 Any supplier who packages any hazardous or unsafe goods for supply to a consumer will display clearly on the package insert in a warning giving adequate instructions for the safe handling and use of goods in simple, understandable language and in accordance with any other Public Health legislation, regulations, standards, order or policy.
- 6.4 If the purchase, sale, use, storage or disposal of any goods is subject to any legislation, regulations, standards, policy or act, the supplier will inform the consumer in clear plain, and understandable language the requirements of such legislation, regulation, standards, policy or act.
- 6.5 In the event of a consumer electing to rescind the transaction as contemplated in above, the supplier shall, within a specified number of days of such rescission, refund to the consumer all amounts of money paid by the consumer in respect of the rescinded transaction.
- 6.6 In the event of a consumer transacting for goods based on a description provided by the supplier or through any other medium (such as online shopping) where samples of the goods are not physically present at the time of the conclusion of the transaction the goods eventually supplied must, in all material aspects, correspond with what a reasonable consumer would have expected based on the description given by the supplier, failing which the consumer may immediately upon receiving delivery of the goods rescind the transaction and the supplier must immediately refund to the consumer all money paid by the consumer in respect of the rescinded transaction.

7.0 CREDIT AGREEMENTS

7.1 Where goods or services are offered for sale or credit, the supplier of the goods or services or the provider of such credit (as the case may be) will be obliged to inform the consumer and advise him in writing of the following in advance :

- a) The cash price of the goods or services;
- b) The amount of interest, the annual or periodic rate at which same is computed as well as the interest rate in arrears;
- c) The number of instalments payable;
- d) Whether or not the items are insurable

7.2 A credit provider will, before providing credit to a consumer, do all things necessary to assess:

- a) the consumer's ability to understand and appreciate any risk, all cost involved in the transaction and the rights and obligations of the consumer prior to entering into such an agreement.
- b) The consumer's debt-repayment history as a consumer under a credit agreement;
- c) The consumer's current financial means and ability to meet the financial obligations of the credit agreement.

7.3 In the event of a consumer transacting for goods as a result of direct marketing by the supplier the consumer shall be entitled to, without the need to furnish reasons, rescind/cancellation the transaction within a specified period from the date:

8.0 PROMOTION AND ADVERTISING

8.1 The promotion, advertising and marketing of any goods or services by a supplier of such goods or services will conform to the rules of decency, sincerity, morality, fairness and truth and must not exploit superstition, ignorance or fear.

8.2 Supplier should not make any false, misleading, fraudulent, deceptive or ambiguous statement regarding any goods or services. Such statements will include any type of business information or communication using text, dialogue, sounds, images or any other description which may directly or indirectly lead consumers to make a decision based on such statement through confusion, misunderstanding, mistake or misrepresentation.

9.0 Hire Purchase

Hire purchase transaction is used to acquire large properties such as houses, automobiles, furniture, and others that, generally, cannot be paid in a lump sum. Hire purchase is operationalized by Hire Purchase Act of 1974 which normally allows the lender to legally hold on the title of the item until the item is fully paid. For anyone to enter into a hire purchase agreement, he must have legal capacity to enter into a binding contract.

9.1 It shall be the responsibility of the goods provider to inform the consumer about the terms and conditions of the transaction. The small prints on all documents relating to the hire purchase transaction should be explained to the consumer.

9.2 It shall be the responsibility of the consumer to ensure that he has read and understood all documents relating to this transaction including the small print terms that are normally found at the back of the pages.

9.3 It shall be the responsibility of the goods supplier to consider the age and the financial position of the buyer before allowing him/her any type of hire purchase.

9.4 It shall be the responsibility of both parties to the hire purchase to ensure that the hire purchase agreement contains a description of the item, the price paid, the deposit (if any), monthly amounts due, statement of each party's rights, and requirements, if any, and that is signed by both parties.

9.5 The purchaser must be aware, and this must be on the face of the contract that if he fails to make the installments in a timely manner, the lender has the right to repossess the property or item. However, this will be done following the Hire Purchase Act provisions.

10.0 Policy Statements In Regard To Services

10.1 The Government shall ensure that consumers have access to the basic or essential services, it be upon consideration or for free, and this shall include, but not be limited to health services, food, drinking water, sanitation, housing and shelter, education, energy, transport, communication and any other identified need.

10.2 A supplier of services shall, prior to the consumer transacting for the supply of services, clearly set out the price of providing the services and the description of the services to be provided as well as any specific goods that may be included in the price or as part of the service.

10.3 A provider of services shall at all times provide services in a timely manner, without any unnecessary delays, and shall timeously inform the consumer of any unavoidable delays.

10.4 The service provided should be of a quality standard which consumers are generally entitled to expect.

10.5 The service provider should provide the requested service only and must only provide additional or supplementary services after obtaining the consent of the consumer.

10.6 The Service provider can only provide additional service without the consent of the consumer if the consent was sought but the consumer delayed to give the required consent and the delay thereof could be detrimental to the health or wellbeing of the consumer or any third party.

10.7 Where the provision of services requires the service provider to supply any goods as part of the provision of service, such goods must be of required quality, free of any defects, reasonably suited for the purpose for which they are generally intended and shall remain in good working condition for a reasonable duration of time.

10.8 Prior to the provision of any service, a supplier of such services must provide the consumer with an estimate of the costs of rendering such services. The consumer must consent to the rendering of services after such estimate has been provided

10.9 The supplier shall only charge the consumer for services rendered to the extent of the estimate given unless the consumer was informed of any additional costs and had accepted such additional costs.

10.10 Where the provider of services fails to perform the services requested to the standard contemplated above, the consumer shall be entitled to require the service provider to remedy any defect in the quality of the service or refund some portion of the price paid for the services rendered.

11. REMEDIES

11.1 Remedies to consumers in respect of the various infringements of their rights may include:

- a) rescission of a transaction and refund of the whole or part of the purchase depending on the reasons of the rescission ;
- b) revision of the whole or part of a contract;
- c) replacement of defective or unsuitable goods;
- d) repair of defective goods;
- f) free rendering of a service for a reasonable term;
- g) penalties against the supplier; or
- h) damages in favour of the consumer.

11.2 In the event of any consumer policy, legislation, contract or agreement being subject to more than one interpretation, same must be interpreted in such a manner that would best promote the objectives of this policy or any other law that aims at promoting protection of the rights of the consumer.

12.0 SUPPLIER OF GOODS AND SERVICES LIABILITIES

12.1 Suppliers of goods or services, regardless of their legal status, shall be subject to legal and administrative liability for their own conduct and for the conduct of their assistants or persons acting on their behalf.

12.2 The manufacturers, importers, dealers, suppliers and all persons involved in the distribution chain shall be jointly and severally liable under civil law, for indemnities deriving from injury or loss caused by the goods supplied or services rendered.

12.3 There shall be an implied warranty of quality by the producer, importer, distributor or retailer warranting that the goods in question, unless altered contrary to the instructions of use or after leaving the control of such a supplier, shall (with proper use and care) remain suitable for the purpose for which they are generally intended, shall remain in working order, shall comply with the required standards. If during a specified period of time the goods fail to meet these requirements, they may be returned to the supplier for an exchange, refund or repairs.

13.0 LEGISLATIVE AND INSTITUTIONAL FRAMEWORKS

Consumer Protection in Lesotho comes as an incidental aspect of various pieces of private and public laws that are meant to protect other things than the consumer. More often than not, the legal protection for consumers from abuse by market actors is based on laws of contract and extra contractual liabilities. There has been no separate consumer protection regime in Lesotho, hence this policy. This part of the policy provides for Legislative and Institutional Frameworks within which the policy will be operating.

13.1 Legislative Framework

The CPP and law shall operate within the broad spectrum of national legislation, regulations and policies as well as institutional frameworks. However, in the case of policies, where there is a conflict the provisions of this policy shall prevail.

13.1.1 The Government is committed to provide acceptable standard of consumer protection and as such legislation from all sectors that have the spirit of consumer protection will be considered part and parcel of this policy and law. This will include but not be limited to the legislation listed in Appendix 1.

13.1.2 The Government shall also ensure that the commitments it has made under and regional and international protocols, in particular the “Eight Internationally Recognised Consumer Rights,” are observed by all stakeholders including government itself.

13.2 Institutional Framework

The implementation of CPP and law requires not only financial and political support at all levels of Government, but also the adoption of sound and well coordinated institutional frameworks. The multi-sectoral approach, which will depend on the collective responsibility and active involvement of relevant Government ministries, institutions, Non-Governmental Organizations and Private Sector will form the thrust for the implementation of this policy and law.

14.0 Consumer Protection Department

14.1 The Government will strive to elevate the CWO to the level of a Consumer Protection Department under MTICM and will capacitate CWO or

newly formed department to enable it to handle, effectively and efficiently, consumer education, complaints and all consumerism matters.

14.2 **The MTICM** shall, from time to time, through the CWO/CPD, liaise with line ministries and other stakeholders to develop consumer-friendly plans and strategies for enhancement of consumer protection in the country.

14.3 The CWO/CPD may conduct joint operations aimed to protect the consumers with any institution, authority or organ of the State that has the power to do so or that will operate under the armpit of CWO/CPD to achieve the objectives of this policy and law. Any government department that may be requested to provide assistance with the intent to respond to the consumer's complaint shall be expected to provide such assistance with immediate effect.

15.0 CONSUMERS PROTECTION DEPARTMENT POWERS

15.1 Where there is a valid reason to do so, the Office shall have the power to enter the business premises in order to gather evidence or conduct investigations.

15.2 An Officer from CPD and upon production of proof that he/she is the officer from CPD, may confiscate goods without a warrant if he witnesses commission of an offence by the supplier of goods and he believes that the goods in question are evidence of a contravention of the law and that the delay in obtaining a warrant may defeat the ends of justice. However, such Officer should have the powers to confiscate as given under the Public Health Order and should also be guided by the said Order.

16.0 DISPUTE RESOLUTION MECHANISMS

Without taking any sides, the relevant office may enter into mediation with the errant business and the consumer and where an amicable settlement cannot be arrived at, the matter shall be passed on to other dispute resolution mechanisms that the parties may agree upon. These will include Tribunal and the Courts of law.

16.1 Tribunal

The Government shall establish a Consumer Protection Tribunal (CPT), whose members shall be part-time, to deal with cases of violation of the consumer protection laws and/or rights that could not be solved within the department. The dispute shall not be taken to the tribunal unless it has been heard in the first instance by CPD.

16.2 Consumer Protection Tribunal shall be the last ministerial resort in an attempt to solve disputes between consumers and suppliers and any party that is not satisfied with the decision of the Tribunal shall have the right to appeal to the Commercial Court or any other court that may have poers to hear appeals emanating there from .