

# Federal Competition and Consumer Protection Bill



**The National Assembly recently passed the Federal Competition and Consumer Protection Bill which is aimed at promoting a competitive market and protecting consumer rights.**

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## Overview

The Bill applies to all businesses and all commercial activities within, or having effect within Nigeria and extends to undertakings in which the Federal, State or Local Government or any of their agencies have a controlling stake.

## Highlights

### **Establishment of the Commission and Tribunal**

The Bill establishes a Federal Competition and Consumer Protection Commission ("Competition Commission") to administer the Act and a Tribunal to handle issues and disputes arising from the operations of the Act.

### **Anti-Competition**

The Bill prohibits agreements made to restrain competition such as agreements for price fixing, price rigging, collusive tendering etc. (with specific exemptions for collective bargaining agreements, employment, etc.).

### **Merger Applications**

The Bill repeals the provisions of the Investment and Securities Act relating to mergers (effectively stripping the Securities and Exchange Commission of its power to approve mergers) and places the responsibility of approving merger transactions on the Competition Commission.

### **Payment from Other Regulators**

If passed into Law, the Competition Commission would be entitled to receive a percentage of all the fees chargeable by other regulators for license applications, processing and issuance.

### **Regulated Prices**

The Bill empowers Nigeria's President to regulate the prices of certain goods and services on the recommendation of the Competition Commission.

### **Tax, Fines and Penalties**

The Bill prescribes very stringent fines for non-compliance. A general fine imposed by this Bill for offences committed by companies is an amount up to 10% of the company's annual turnover in the preceding business year. There are also indications that the updated version of the Bill imposes a tax of 0.5% of after-tax profits on all companies in Nigeria payable to the Competition Commission.

### **Takeaway**

Some regulatory agencies have consumer protection oversight, and the ISA has provisions on competition, this Bill seeks to supersede such other regulations in Nigeria on the subject and will apply to all sectors of the economy.

The SEC and other agencies such as the Standards Organisation of Nigeria, the National Agency for Food, Drugs Administration and Control, which appear to have overlapping functions with the proposed Commission need to be carried along to ensure its smooth implementation if passed into law.

Given that anti-competition functions are currently being performed by various agencies, the existing source of funding should be redirected to the proposed Commission rather than imposing a new tax which will increase the cost of doing business.