

DRAFT

ZAMBIA COMPETITION COMMISSION

ANNUAL REPORT 1999

March 2000

Acronyms

Act	- Competition and Fair Trading Act
Board	- Board of Commissioners
Commission	- Zambia Competition Commission
COMESA	- Common Market for Eastern and Southern Africa
LCA	- Local Consumer Advisors
MBA	- Master of Business Administration
MCTI	- Ministry of Commerce, Trade and Industry
SIDA	- Swedish International Development
UNCTAD	- United Nations Conference on Trade and Development
ZABS	- Zambia Bureau of Standards
ZACCI	- Zambia Association of Chambers of Commerce and Industry
ZCC	- Zambia Competition Commission
ZRA	- Zambia Revenue Authority

Honourable William Harrington, MP
Minister of Commerce Trade and Industry
Lusaka

Hon. Minister,

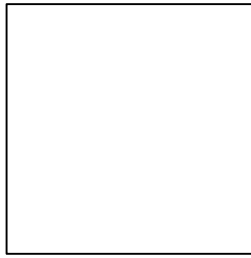
Under Regulation 14 of the First Schedule of the Competition and Fair Trading Act, the Commission is required to present to the Minister of Commerce Trade and Industry an Annual Report of the Activities of the Zambia Competition Commission.

I hereby submit to you the Annual Report together with the audited Balance Sheet and Statement of Income and Expenditure. The report covers the year 1999.

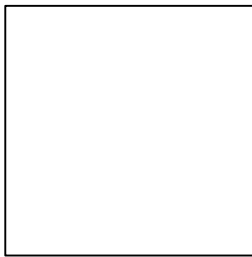
Yours Sincerely,

Nicholas J. Kwendakwema
Chairman

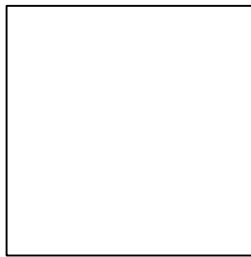
BOARD OF COMMISSIONERS



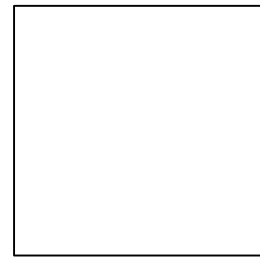
Dr. N J Kwendakwema
Board Chairman



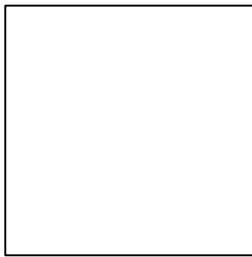
Mr. N Sipalo
Vice Chairman



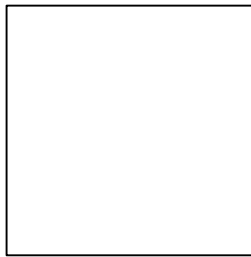
Mr. F Nyambe
Commissioner



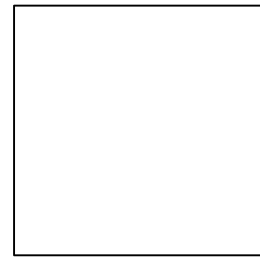
Mr. S Mwambazi
Commissioner



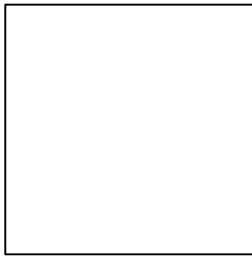
Mr. T B Chisambo
Commissioner



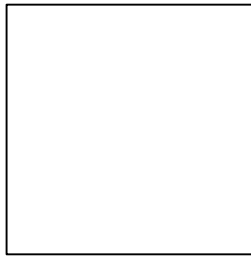
Mr. A M Sinyangwe
Commissioner



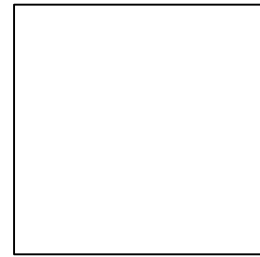
Mr. B N Chisanga
Commissioner



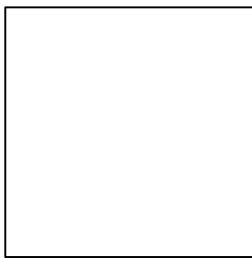
Mrs. A L Mtamboh
Commissioner



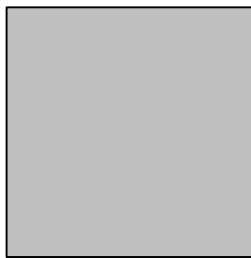
Mr. M Sampa
Commissioner



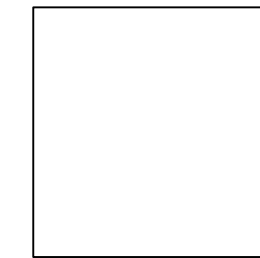
Ms A O Chifungula
Commissioner



Mr. S Tembo
Commissioner

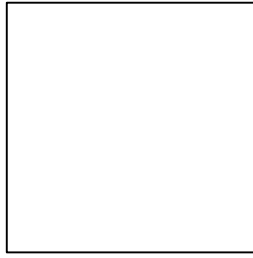


Law Association of
Zambia

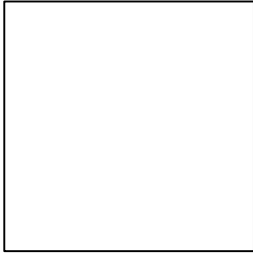


Ms M Mwendaweli
Commissioner

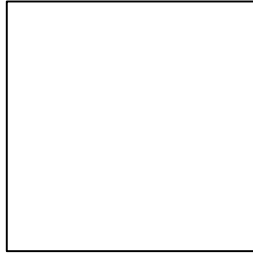
OFFICERS OF THE COMMISSION



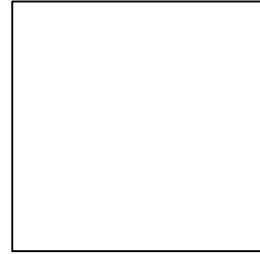
George K Lipimile
Executive Director



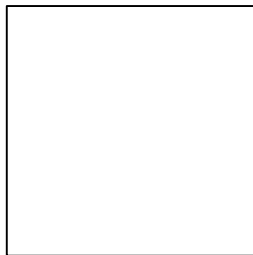
Frywell S Chirwa
Director Economics



In'utu B Lubasi
Director Finance and
Administration



Hapenga M Kabeta
Director Consumer
Welfare



Thulasoni G Kaira
Economist

1.0 Introduction

The Zambia Competition Commission was established under the Competition and Fair Trading Act, Section 4 of Chapter 417 of the Laws of Zambia to prevent anti-competitive and restrictive business practices and promote consumer welfare. The law came into force in February 1995. Zambia Competition Commission is an autonomous corporate body under the Ministry of Commerce, Trade and Industry.

1.1 Objectives

The aims and objectives of the Commission are:

- to encourage competition in the economy;
- to protect consumer welfare;
- to strengthen the efficiency of production and distribution of goods and services;
- to secure the best possible conditions for the freedom of trade; and
- to expand the base of entrepreneurship.

1.2 Functions

- to monitor, control and prohibit conduct likely to adversely affect competition and fair trading in Zambia;
- to prohibit anti-competitive trade practices;
- to regulate monopolies and concentrations of economic power;
- to authorise conducts not prohibited outrightly by the Act;
- to provide information for the guidance of consumers and business persons regarding their rights under the Act;
- to cooperate with and assist any association or body of persons to develop and promote the observance of standards of conduct for the purpose of ensuring compliance with the provisions of the Act.

2.0 Board of Commissioners and Officers at ZCC

2.1 Board of Commissioners

During 1999 the Board of Commissioners continued to represent a cross section of the business community. The composition of the Board of Commissioners during the period under review was as follows:

Name		Institution Represented
a) Dr. Kwendakwema Nicholas J	Chairman	Engineering Institute of Zambia
b) Mr. Sipalo Ngenda	Vice Chairman	Consumers Protective Association of Zambia
c) Ms. Chifungula Anna O.	Commissioner	Ministry of Finance and Economic Development
d) Mr. Chisambo Tyson B.	Commissioner	Zambia Federation of Employers
e) Mr. Chisanga Brian N.	Commissioner	Zambia Association of Manufacturers
f) Mrs. Mtamboh Anne L.	Commissioner	Ministry of Commerce, Trade and Industry
g) Mr. Mwambazi Samuel	Commissioner	Zambia Bureau of Standards
h) Mr. Nyambe Friday	Commissioner	Zambia Institute of Chartered Accountants
i) Mr. Sampa Martin	Commissioner	Consumer Protective Association of Zambia

j) Mr. Sinyangwe Andrew M	Commissioner	Zambia Association of Chambers of Commerce and Industry
k) Mr. Tembo Sylvester	Commissioner	Zambia Congress of Trade Unions
l) Ms Mwendaweli Mwambwa	Commissioner	Economics Association of Zambia.

The seat on the Board for the Law Association of Zambia was not taken up during the year. During the year, Mr. Alec Chirwa and Stella Chibanda retired as Commissioner and were replaced by Mr. Sylvester Tembo and Anna Orlia Chifungula respectively.

2.2 Officers of the Commission

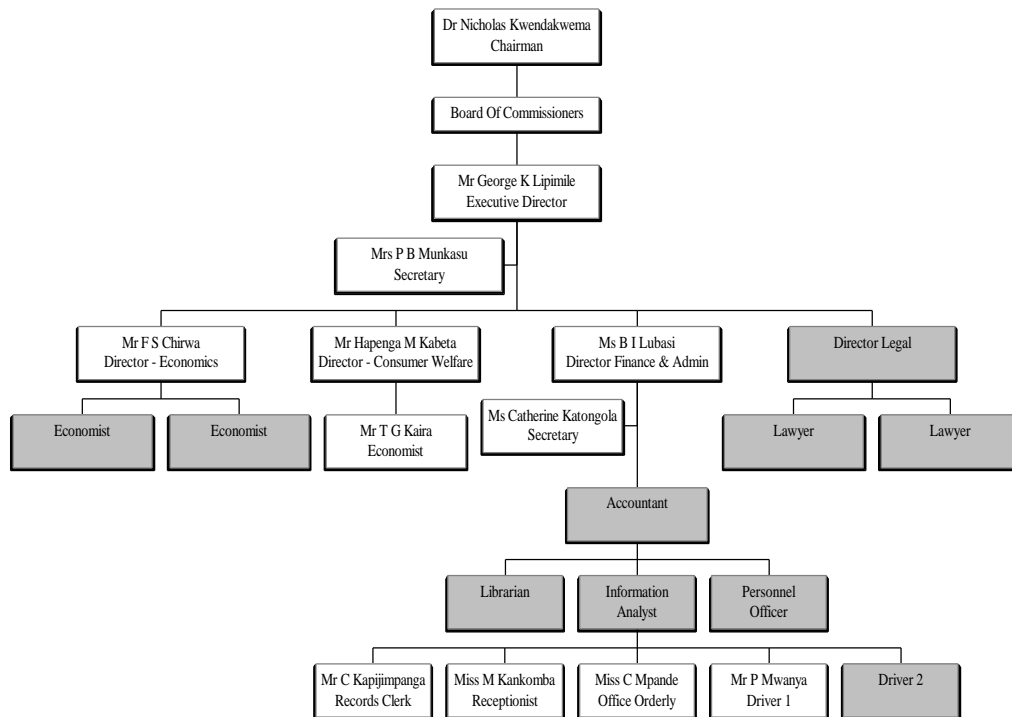
At the Zambia Competition Commission secretariat, Mr. George K. Lipimile was the Executive Director and other senior staff members include:

Frywell S. Chirwa	-	Director-Economics
Hapenga M. Kabeta	-	Director-Consumer Welfare
In'utu B. Lubasi	-	Director-Finance and Administration
Thulasoni G. Kaira	-	Economist

The staff establishment was not fully filled, six professional positions were vacant during the period under review. During the year, the Commission did not make any new staff appointments because of inadequate funding.

2.3 ZCC Management Structure

The Commission, since it became operational in April, 1997, has continued to make staff changes aimed at making the most effective use of its human resource. There have been a number of both structural and staff changes since we commenced operations and a need therefore to ensure appropriate systems are in place



KEY:

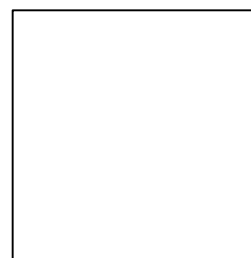
 *Vacant Positions*

 *Filled Positions*

3.0 The Chairman's Statement

Since the advent of economic and political liberalisation in Zambia dating from 1991, there has been considerable policy changes in the Zambian economy with increased reliance being placed on market forces.

A common aspiration underlying these reforms has been that the reduction of government's direct involvement or intervention in economic activity would, by providing enterprises with more freedom and stronger incentives, stimulate entrepreneurial activity, business efficiency, productive investment and economic growth, as well as enhance consumer welfare through improved quantity and quality of goods and services at prices determined by the market rather than administrative decision.



**Dr. Nicholas J Kwendakwema
Chairman**

It was further anticipated that the "free play" of supply and demand would, in the long run, determine market prices throughout the economy, allowing productive resources to be allocated in an efficient manner. Structural adjustment programs were adopted that included market oriented reforms, notably in the areas of deregulation of prices, including the reduction or elimination of subsidies, administrative allocation of key product inputs, privatisation of public enterprises and monopolies, as well as the liberalisation of trade policy and investment regimes.

However, it was also recognised that, the benefits of market oriented reforms are likely to be fully realised only if enterprises act under the spur of competition, so that consumer wishes and opinions are reflected in market performance. It was further recognised that, a country that has undertaken trade liberalisation measures has every interest in ensuring that the welfare and efficiency benefits arising from such measures are not lost due to anti-competitive practices by firms.

A well functioning market mechanism is essential in this respect, for example, price liberalisation in the market dominated by monopolies (former parastatal companies now privatised), unless specific efforts are made to ensure the existence of competition, will end up in monopolistic price rises without corresponding competitive price equilibrium.

In recognition of the major role of competition law and policy for the success of the policy reforms, the Zambian government enacted the Competition and Fair Trading Act of 1995.

The Zambia Competition Commission is a statutory body established under Section 4 of the Competition and Fair Trading Act, Chapter 417 of the Laws of Zambia. The Act has generally two principal aims:-

- (i) to prevent anti-competitive conduct thereby encouraging competition and efficiency in business, resulting in greater choice for consumers in price, quality and service; and
- (ii) to ensure the interests and welfare of consumers are adequately protected in their dealings with producers and sellers.

The Competition and Fair Trading Act came into force on 10th February, 1995 by Statutory Instrument Number 26 of 1995. There was a prolonged delay in the appointment of the Board of Commissioners to give way to the establishment of the Commission. The Board was eventually appointed in November, 1996, and the Executive Director of the Commission was appointed in April, 1997. The management team of the Commission has been identified, but due to serious budgetary constraints the Commission up to now has been unable to employ its full complement of staff.

The objective of the Zambia Competition Commission is primarily to establish conditions of free and effective competition in the economy, to ensure that the anti-competitive practices do not create barriers to trade or other forms of protectionism. The competition rules set down minimum standards and allows enterprises to penetrate market and establish themselves without barriers or restrictions thereby facilitating intra-market trade.

The effectiveness of Competition Law and Policy in addressing anti-competitive practices, including those which have a negative impact on trade with other countries, crucially hinges on the actual degree of enforcement capabilities and the actual strength of enforcement by the Competition Authority. It is in this regard, that the government should make both financial and human resources available to the Commission, for its full and effective establishment and enhance its capacities to effectively deal with anti competitive practices in the market.

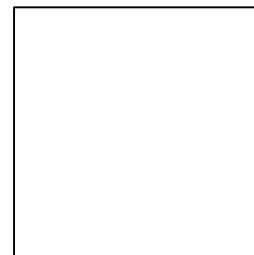
Until the enactment of the competition law, there has been no formal enforcement of competition rules and policy by any institution in Zambia. Consequently, the creation of the Zambia Competition Commission is the first attempt by the government to enforce the competition rules in various ways and it is hoped that it will eventually lead to their uniform interpretation and application, in view of the very different attitudes towards competition by the business community.

4.0 An operational review by the Executive Director

4.1 An over view

4.1.1 Application of the Act

- (a) The ZCC has over the last twelve months made approximately 81 decisions involving the Competition and Fair Trading Act. Of these 10 have concerned applications for negative clearance, or exemptions.



**George K Lipimile
Executive Director**

It is not unusual that companies change their agreements or mind while a case is being examined so that they fulfil the requirements for negative clearance or exemption.

- (b) The ZCC has in 9 cases determined that there has been no restriction on competition and thus granted negative clearance. The Commission has dismissed 2 applications. The remaining applications have either been withdrawn or the files closed. The Commission has required enterprises to terminate an infringement of the Competition and Fair Trading Act in 14 cases. Interim authorizations have been made in two of these cases, one of which had not been finalised at the end of the period. No appeals were lodged with the High Court against any of the decisions made by the Commission. Section 7 in this report lists some of the major cases dealt with by this Commission.

4.1.2 Mergers

- (a) 1999 was another year of intense merger activity both in respect of the total number of cases considered and in their complexity. As at December 1999, the total number of cases considered was 21 up on the previous year which, itself, was 420% higher than in 1998.
- (b) By far the most complex case considered was the proposed takeover of Northern Breweries Limited by Zambian Breweries Plc, the takeover of National Breweries Limited by South African Breweries Plc, and the takeover of Cadbury Schweppes by The Coca-Cola Company. A significant amount of the Commission's resources were devoted to these cases and still continuing on the compliance programmes and implementation of undertakings at the time of writing.

4.1.3 International Contacts

- (a) The Commission continued to work closely with UNCTAD. The Executive Director was a key speaker at the "Pre-UNCTAD X Seminar on the role of Competition Policy for Development in Globalizing World Markets."
- (b) Bilateral discussions with counterparts from Sweden, Norway and the European Commission were held. However, the strongest impression from these discussions is how much all these modern economies have in common, in terms of the types of competition problems they face, the ways in which they are analyzed, and the kinds of solutions sought. It is evident that competition authorities can learn much and benefit from regular exchanges of views and experience. The business community will benefit from a growing international consensus.

4.1.4 Other International Liaison

- (a) A number of overseas visitors were received during the course of the year. Most visits were of one-day duration only, and involved meetings and presentations on the Commission's work. Among the visitors in 1999 were six officials from the Privatisation Agency of Zimbabwe. The key issues, problems and choices encountered when undertaking a privatisation program were discussed.
- (b) A visitor was received from the Swedish International Development Agency (SIDA) and an official from the Local European Commission office. The purpose of the visits were to open discussions on possible technical assistance to the ZCC.

4.1.5 Consumer Affairs

- (a) During 1999, the strategy for consumer affairs was reviewed. There is some accord on the general principles associated with consumer protection and various bodies, including the Zambia Bureau of Standards (ZABS), and the Local authorities, have put forward models. We believe that the aim of consumer affairs work both by this Commission and others, is to help maximize consumer welfare in the longer term, subject to protecting vulnerable consumers' interests. We also started the process of contacting and opening up dialogue with individual consumer associations.
- (b) The ZCC during the year did this through empowering consumers through information and enforcement, protecting them by preventing abuse, and promoting competitive and responsible supply.

- (c) Consumer education in its widest sense is of great importance. Informed consumers are in much better position to make good choices and protect themselves. Sellers of products, specialist magazines and general publications provide much of the material which consumers need, but there are gaps, which the Commission can fill - particularly in telling consumers about their rights or about trade practices which may harm them.
- (d) Despite our limited resources, we continued our work in this area in 1998 and started some new initiatives. Our main publication, was distributed widely through shopping centres and other agencies. Booklets have also been placed at the Reception Hall for free distribution.
- (e) We were not able to help individual consumers pursue their claims with traders, but many turn to the Commission for assistance. We received more than 452 requests during 1999, some in writing but mostly by visitation to the Commission. Some were referred to other agencies best suited to provide assistance and where appropriate, information was passed on to Legal Aid agencies.
- (f) Providing information to the consumers is expensive and the budget is small. We have been considering how we could access assistance in, say, printing or distribution from commercial sponsors, of course without compromising our independence in our various regulatory functions and also avoiding conflicts of interest.

4.1.6 Enforcement

- (a) The exercise of powers under Part III of the Act continues to be very difficult. When traders persistently neglect their responsibility under civil and criminal law, the Commission is obliged first to seek assurances about their future conduct. If they refuse to give assurances or subsequently break them (i.e. in the case of 'undertakings'), we can initiate proceedings against them. A number of assurances were received during the course of the year. However, far too many cases were not pursued because of lack of staff to prosecute competition cases.

4.1.7 Collaboration with others

- (a) Some of our work is done in partnership with others. The ZABS and the local authorities provide valuable information and assistance on large parts of our consumer affairs work. Without their help, we could not discharge our duties effectively.

- (b) During last year, the Commission entered into a pilot, service-level arrangement with all district authorities. The objective is to establish clear operational targets for tasks in which the Commission and local authorities depend upon one another for their effectiveness and to monitor compliance. There is need for this work, which is very much at the operational level, to be augmented by a broader statement of the requirements placed on local authorities in the regulation of fair trading.

4.1.8 Training

- (a) A regional seminar on Competition Law and Policy was organized by the ZCC in conjunction with UNCTAD. The overall objective of the seminar was to sensitize policy makers in COMESA member states on the need for deliberate policy on Competition Law and Policy as a vital tool for economic development. The seminar was attended by participants from Kenya, Malawi, Swaziland, Comoros, Congo D R, Djibouti, Egypt, Eritrea, Sudan, Uganda, and Zimbabwe.
- (b) Two officials of the Commission attended a two weeks inaugural Southern African Course on Competition Policy and Law from July 26-August 6, 1999 in Pretoria, South Africa.

4.1.9 Awareness Programmes and Dissemination Knowledge

- (a) The Commission during the year participated in various events of trade and professional associations. This was mostly by giving lectures to the associations at their annual general meeting. The Commission participated in the following seminars:
- Competition Law and Policy Seminars for the Chartered Institute of Secretaries and Administrators: February 1999.
 - Annual General Meeting of Insurance Brokers Association of Zambia: May 1999.
 - Marketing Seminar of the Insurance Brokers Association: July 1999.
- (b) The Commission actions and decisions in the country are subject to continuous monitoring by the mass media. During this period the mass media have shown great interest in the work of the Commission. The Commission has been mentioned in newspapers several times. The Commission has also on several occasions taken part in debates in the press.

- (c) Journalists have been invited to briefing meetings at the ZCC. Other groups have also visited the Commission to receive information. The Commission has had around 238 physical visitors in the last twelve months.
- (d) The staff of the Commission were much sought after as speakers or participants in different debates and have taken part in several externally arranged events. Many of our staff have also had external assignments as experts or specialists in around fifteen investigations and committees during the period.
- (e) The Commission staff participated in various workshops namely:
 - Law Association of Zambia Seminar on Alternative Disputes: August 1999.
 - National Symposium on Capacity Building programme for Good Governance.
 - Zambia Bureau of Standards Consumer Awareness Activities through Performing Art : September 1999.
 - Zambia Bureau of Standards Seminar on Quality Management: December 1999.

It is our hope that the year 2000 will be more challenging than 1999.

4.2 Highlights of Investigations of Cases Completed in 1999

4.2.1 Violations under Section 7 on Anti-Competitive Trade Practices.

Section 7(1) of the Act reads, *"Any category of agreements, decisions and concerted practices which have as their object the prevention, restriction or distortion of competition to an appreciable extent in Zambia or in any substantial part of it are declared anti-competitive trade practices and are hereby prohibited."*

(a) The Macmed and Sagiene Exclusive Distribution Arrangement

A complaint was lodged against Macmed Health Care (Z) Limited of exclusive distributorship arrangement. ZCC confirmed that Messrs Macmed Health Care (Z) had granted Sagiene Chemicals (Z) Limited a sole distributorship for all its environmental health products in Zambia. The Board observed that Macmed's conduct fell under allowable acts in that it is necessary for certain products to be sold through such arrangements to ensure their preservation in usage and /or to ensure their proper use. Further, Macmed's products were of

technical nature requiring suitably trained staff and appropriate sales environment. The products were inherently toxic, branded and needed protection, required capital and infrastructural investments for efficient distribution countrywide by both parties. Finally, it was observed that exclusive dealing was rife in the sector, that Macmed only controlled 25% of the relevant market and that effective competition existed in the relevant market. Accordingly, the Board found the arrangement to be pro-competitive and authorised it unconditionally in April 1999.

(b) Allegations of Predatory Pricing Practices against Nulaid Farms Limited

The Commission received a complaint from a competitor in the poultry industry against Nulaid Farms Limited of Chisamba of alleged predatory pricing practices for their broiler Day Old Chicks. Predatory pricing refers to the use of short-term price cutting in an effort to exclude rivals on a basis other than efficiency in order to gain or protect market power. The Commission's investigations found out that the Predator did not possess a substantial share of the market or a least the capacity to acquire such a share. It was further observed that the prices were fully justified in relation to costs and economic conditions. The Board considered the matter and closed the case.

(c) Allegations of Unfair Competition against BP (Z) Limited

Drum and Can (D&C) of Ndola lodged a complaint through the Ministry of Commerce, Trade and Industry (MCTI), that BP (Z) Limited, the company's largest customer stopped buying drums from the company citing poor quality of drums. BP instead imported its requirements from US in the form of intermediate drum sheets. D&C sought the intervention of the government and the Commission to compel BP to buy its requirements for drums from D&C. It was observed that the ultimate objective of competition law is the promotion of economic efficiency. Market forces should ensure that goods are produced that consumers want, in the quantities they want, using the most efficient production methods and are marketed and distributed to the consumers who wish to purchase them, in the most efficient means possible. The Board decided to close the case.

(d) Truckers Association of Zambia - Allegations against Foreign Truckers of Restrictive Business/Trade Practices

A businessman of Lusaka complained against South African and Zimbabwean Truckers that they were given preferential access to business in Zambia because they tended to set rates equivalent to below marginal cost of running a truck. The Commission investigations revealed that the allegations could not be substantiated by the complainant. The Board closed the case due to insufficient evidence.

(e) Alleged Predatory Pricing Practices of Geisha Toilet Soap by Lever Brothers.

This case was a complaint against Lever Brothers of alleged predatory pricing of Geisha toilet soap. Investigations revealed that the low prices of Geisha soap were influenced by the depreciation of the Zimbabwe Dollar and Lever Brothers merely passed on the benefits to the consumer. The Board closed the case.

(f) Exclusive Dealership Agreements of Oil Marketing Companies (OMC)

This case was an Exclusive Dealing Arrangement notification/application of Oil Marketing Companies (OMC) in their service station agreement. The OMC included in this notification were BP(Z) Limited, Caltex (Z) Limited and Total (Z) Limited. The Commission investigations revealed that the practice did not substantially affect competition, and it was further revealed that the government tax structure in the sector influenced the pricing system. The Commission also found that the OMC exchanged market statistical information.

The Board authorised the Exclusive Dealing Arrangements for a period of five years. The Board also directed that the exchange of statistical information by OMC further be stopped henceforth. The Board further resolved that the Commission should caution government on the continued practice of the Energy Regulation Board and Zambia National Oil Company (ZNOC) to set fuel prices in a liberalised economy.

(g) The Zambian Breweries Plc (ZBL) Exclusive Distributorship and Coolers Usage Agreements.

ZBL notified their exclusive distributorship and cooler usage arrangement with the Commission. ZCC determined that ZBL was a monopoly undertaking controlling 95% of the clear beer market in Zambia and that the object of the exclusive

arrangements were anti-competitive by foreclosing market access of competing products. The Board observed that certain clauses in the distributorship agreement forbade distributors from carrying competing products. Further it was observed that the placement of coolers in a retail outlet was on condition that competing brands were not placed in the coolers supplied by ZBL. The Board declared the exclusive distributorship anti-competitive and placed conditions in the placement of coolers in the retail outlets. These decisions were made part and parcel of ZBL undertakings concerning the takeover of Northern Breweries Plc to be monitored by ZCC through a compliance programme.

(h) Parmalat Zambia Limited's Exclusive Dealing Arrangements in the Dairy Sector.

Parmalat (Z) Limited notified its exclusive dealing arrangements with the Commission. The Commission determined that Parmalat had instituted an exclusive distributorship along with the supply of refrigerated containers/cold rooms on loan basis for its products. It was found that Parmalat was a monopoly undertaking as regards fresh milk/products at 60% market share and only 20% market share in fruit juices. Technically, fresh milk/products do not require exclusive dealership. However, the practice was found to be rife in the sector and that exclusivity did not include retail outlets who are free to carry competing products. The Board authorised the exclusive dealing arrangements by Parmalat because the arrangement did not disadvantage competitors.

(i) The Coca-Cola Company (TCCC)/Zambia Bottlers (ZB) Exclusive Dealing Arrangements.

ZB notified its exclusive dealing arrangements with ZCC. The Board observed that ZB had in place both distributorship and cooler hire contracts into the trade. It was also found that ZB owned the distribution containers the Strategic Sales Depots (SSDs) and appointed operators for public service after purchase of merchandise. ZB also had cooler hire contracts with retailers along with conditions not to sell competing products. The Board approved the Exclusive dealing arrangements in so far as the SSDs are owned by ZB, on condition that they are devoid of price fixing, abuse of dominant position and that the cost of cooler repairs be met by ZB since maintenance fees are being paid. These conditions have also been made part and parcel of the compliance programme regarding the takeover of Cadbury Schweppes (CS) brands by TCCC. The compliance programme will be monitored by ZCC.

4.2.2 Violations Under Section 9 on Trade Agreements

Section 9(1) of the Act reads, *"It shall be an offence for enterprises engaged on the market in rival or potentially rival activities to engage in the practices appearing in subsection (2) where such practices limit access to markets or otherwise unduly restrain competition." [In the absence of authorisation by the Commission]*

Provided that this sub-section shall not apply where enterprises are dealing with each other in the context of a common entity wherein they are under common control or where they are otherwise not able to Act independently of each other.

(a) Alleged Unfair Trade Practices of ZAMOX Plc (BOC Gases) in the Selling of Electrodes

Livingstone Chamber of Commerce and Industry lodged a complaint against Zamox Plc of alleged unfair trade practices in the selling of welding electrodes. It was alleged that Zamox Plc in collaboration with Afrox of South Africa were compelling Zambian traders to buy from Zamox Plc only and not from either South Africa or Zimbabwe. Investigations revealed that the complaint had no basis. The Board closed the case due to insufficient evidence.

(b) Price Fixing Allegations against Central Breweries Limited

This case was based on a newspaper advert by Central Breweries Limited calling on consumers of Chinika opaque beer to insist on the right price of K600 and K1000 of the half litre and one litre respectively. This was tantamount to price fixing. The Board closed the case since the company complied with the directive of the Commission to stop the practice.

(c) Price Fixing Allegations against Invesco Limited

This was a case of price fixing allegations against Invesco Limited in its pricing of Gold Spot drinks. The Board closed the case since the company complied with the directive of the Commission to stop the practice.

(d) Price Maintenance Allegations against Zamtel Limited

This is a case of an alleged retail price maintenance of pay phone tokens against Zamtel as per their advert in the print media. The advert advised customers to reject prices of dealers higher than those set by Zamtel. The company agreed to comply with the Commission's advice to stop the practice. The Board decided to close the case.

4.2.3 Cases of Unfair Trade Practices Under Section 12 (Consumer Welfare)

The Commission's consumer responsibilities are set out under Section 12 of the Competition and Fair Trading Act. The Consumer Directorate discharges the Commission's powers to promote and safeguard the economic interests of consumers in Zambia, with particular reference to prohibitions of practices such as hoarding goods with a view to increase prices, exclude liability for defective goods, conduct that mislead the public, and supply of a product that is likely to cause injury to health and physical harm to consumers, when properly used.

The Consumer Directorate carries out these aims by:

- Exercising the Commission's various statutory powers, including regulatory action against individual traders and firms, and advises the government on fair trading issues generally;
- Keeping the Zambian Market for goods and services under review in order to identify and investigate trading practices that appear to affect the economic interests of consumers adversely;
- Keeping in close touch with consumer associations generally and with the concerns of business about consumer issues, and seeks to ensure that government policy takes them properly into account;
- Providing information for consumers; and
- Developing proposals for legislative or regulatory changes (or proposals for self-regulation) where consumers' interests are affected.

(a) Allegations of Refusal to Accept Liability for Defective Goods against Telecel Limited

This case is based on a complaint of excluding liability for defective goods against Telecel. Telecel had refused to replace the defective cell phone handset sold to a customer. The matter was amicably resolved. The Board closed the case.

(b) Allegations of Misleading Advert of Custard Porridge Dessert against Speciality Foods

This case was based on a complaint against Speciality Foods for a misleading advert against Kandolo traditional food. The advert suggested that kandolo cannot be consumed as a dessert. The advert was terminated in compliance with the directive of the Commission. The Board closed the case.

(c) Allegations of Refusal to Accept Liability for Defective Goods against Automotive Equipment

This case was based on the allegations of refusal to accept liability against Automotive Equipment Limited (AEL), a spare parts dealer. AEL had earlier refused to replace defective engine pistons. The matter was amicably resolved upon intervention of the Commission. The Board decided to close the case.

(d) Allegations of False Representation of Products against Rumspect Marketing Limited

This case was based on allegations of false representation of a product against Rumspect Marketing Limited, a spare parts dealer. The company advised the customer that the engine pistons would be suitable to the customer's requirements. The matter was amicably resolved. The Board decided to close the case.

(e) Allegations of Misleading Comparative Advert against Reckitt & Colman

This case was a complaint by Kiwi Brands Limited against Reckitt and Colman Limited alleging that the Nugget Shoe Polish advert was misleading and that its claim of superiority had not been proven. However, investigations revealed that the advert in question was not or was not likely to have the effect of restricting, distorting or preventing competition in connection with the production, supply or distribution of shoe polish in the relevant market. Therefore, the Board decided to reject the complaint since the advert did not frustrate or inhibit the effective working of the competitive process in the relevant market.

(f) Complaint of Refusal to Accept Liability for Defective Good against Zambian Breweries Plc

This case was a complaint against Zambian Breweries of refusal to accept liability for a defective product. A complainant bought Mosi Lager and found foreign particles in the bottle with beer. The Board decided to refer the matter to the Legal Resource Foundation to prosecute Zambian Breweries PLC. The matter is now before the courts.

(g) Complaint of Refusal to Accept Liability Against Chitoshi Enterprises

This matter was a complaint against Chitoshi Enterprises of excluding liability for defective goods. A customer bought a fan belt No. 8 from the company but could not fit on the car it was intended for. Management refused to deal with the customer citing their conditions of sale of “no refund, no exchange, no return or guarantee”. Chitoshi Enterprises agreed to refund after the intervention of the Commission. The Board decided to close the case and further decided to seek the legal opinion of the Attorney General on the validity of the above condition of sale.

(h) Complaint of Unfair Trade Practice against BMK (Z) Ltd.

This case was a complaint against BMK (Z) Limited of unfair trade practice. The complainant bought a liner kit to restore an engine which had a knock in his motor vehicle from BMK Limited. BMK sales personnel had recommended to him a Sub-Assembly Engine (SAE). After buying the SAE the complainant discovered that the cylinder head in his engine was not compatible with the SAE. He decided to return it for possible replacement or refund. BMK refused to replace it or refund the money. After the Commission’s intervention, BMK agreed to refund. The Board decided to close the case since BMK had agreed to refund the money.

4.2.4 Cases Under Section 8 on Merger Notification and Authorisation

Section 8(1) of the Act reads, *"Any persons who, in the absence of authority from the Commission, whether as a principal or agent and whether by himself or his agent, participates in effecting:*

- a) a merger between two or more independent enterprises engaged in manufacturing or distributing substantially similar goods or providing substantially similar services;*

b) a takeover of one or more such enterprises by another enterprise, or by a person who controls another such enterprise;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten million Kwacha or imprisonment not exceeding five years or to both."

**(a) The takeover of Northern Breweries (1995) Plc by the
Zambian Breweries Plc**

The takeover of Northern Breweries (1995) Plc by Zambian Breweries Plc was assessed and an interim authorization was granted to the Zambian Breweries Plc in December 1998. The Commission secured commitments from Zambian Breweries Plc through undertakings aimed at maintaining and enhancing market access by other clear beer suppliers in Zambia. Finally, the Board of Commissioners on the 28th January 1999 authorized the takeover of Northern Breweries (1995) Plc using the "failing company defence" to avoid a liquidation and other socio-economic adverse effects. A compliance programme was put in place to monitor and enforce the undertakings. The undertakings include the following:

1. That it, or any of its subsidiaries, will not in trade or commerce, carry out excessive advertisement of recommended prices with the effect of price fixing in relation to their goods and services.
2. The board of directors of Northern Breweries (1995) Plc should, in the majority, be separate and independent from those of Zambian Breweries Plc
3. To enhance the condition for separate management, the two companies are called upon to keep independent books of accounts.
4. The two companies should continue exercising their non-exclusive industrial property rights more especially as it relates to their brand names or trademarks. Further, it is important for both companies to refrain from obtaining any industrial property rights in the shape or design of the current Mosi beer bottle in use. However, both companies should make their respective beer brands popular and may add other products to the existing brands through licensing or other means.
5. The current exclusive dealership or distributorship arrangements or agreements between Zambian Breweries Plc and its retailers/wholesalers ceases to be applicable in

its present format. Any new distribution agreements shall lay out specific conditions as authorised by the Zambia Competition Commission for urban and rural distributors that shall uniformly apply to potential resellers and shall be applied in a non discriminatory fashion. The prior approval of Zambia Breweries Plc in respect of meeting the distributor requirements needs to be obtained by each potential applicant. The network shall be open to all applicants meeting the criteria. This may be reviewed at a later time depending on the future competitiveness of the market and the market performance of the acquired company. In this regard the company shall observe the following, though non-exhaustive:-

- (i) the company shall not discriminate between customers on either wholesale distribution or retail levels, other than handing commissions and or volume incentives which may be awarded to distributors based on achievement of specific volume targets and laid down standards;
 - (ii) the company shall not refuse to deal with wholesale distributors on the basis of territory, location or that they already have distribution at that level, so long as potential distributors meet the criteria set by the company.
 - (iii) the company shall not forbid distributors at any level from also trading in competing products;
 - (iv) the company shall not lay any contractual conditions on retail outlets regarding the positioning of its and competing brands in its outlets.
6. Both companies are respectively called upon to use their best efforts to expand their markets by penetrating the export markets.
 7. Zambia Breweries Plc will use their best endeavours to continue with the exemplary developmental approach to foster new and emerging local breweries. Initiatives will include, where appropriate, monitoring, quality enhancement and other support for SME's.
 8. There shall be no preclusions for entry into the Zambian clear beer market. The market forces should determine the individual courses of actions based on specific circumstances. Accordingly, persons or any other

enterprises should not be barred from entry or re-entry of the clear beer business in Zambia by way of an agreement with *Zambian Breweries Plc* or any other person, enterprises or institution.

(b) The Joint Venture between Walford Meadows and SAFCOR

The Commission observed through a press statement that *Walford Meadows/SAFCOR* had entered into a joint venture. Investigations were instituted by the Commission to determine the competitive concerns, if any. It was found that *Walford Meadows Zambia Limited* was not party to the transaction and the case was closed due to insufficient evidence at the time.

(c) The Merger of Macmed and Africa Health Care Zambia Limited

It was reported that *Macmed RSA* wanted to acquire 50% shares in *Africa Health Care Zambia Limited*. The Board observed that *Macmed* did not have prior business interests in Zambia, the transaction would therefore not eliminate competitors from the market and that the relevant market already had effective competition. Accordingly, the Board authorized the acquisition of 50% shares in *Africa Health Care Zambia Limited* by *Macmed* in April, 1999.

(d) The Takeover of National Breweries Plc by South African Breweries Plc (SAB)

SAB Plc notified with the Commission their intention to takeover *National Breweries Plc*, an opaque beer brewing company. The Commission determined that *SAB* had prior business interest in Zambia through its 45% shareholding in *Zambian Breweries Plc* which produces clear beer. In April 1999 the Board conditionally authorized the takeover of *National Breweries Plc* by *SAB*. *SAB* made commitments with *ZCC* to enhance competition in the sector including a voluntary divesture of 4 (four) plants to local entrepreneurs and the cessation of exclusive dealing arrangements with distributors.

(e) The International Merger of Rothmans International and British American Tobacco (BAT)

The Commission observed that *British American Tobacco* had announced the takeover of *Rothmans International* through a press statement. The Commission's investigations revealed that the parties to this transaction have been joint venture partners since 1970 through *Messrs Central Cigarette*

Manufacturers Limited and that they already controlled 98% market share. Accordingly, the international merger was not going to lead to the removal of an aggressive competitor from the relevant market here in Zambia. The concentration was likely to enhance competition as market offerings were likely to be enlarged in terms of brands. On the basis of the foregoing, the Board approved the merger in April 1999.

(f) Chilanga Cement Limited's bid to acquire Ndola Lime Company

A complaint was lodged with the Commission alleging that if ZPA allowed the takeover of Ndola Lime Company by Chilanga Cement Limited, a monopoly would be created in the construction sector in Zambia. ZCC intervened in the sale process on an advisory basis and Ndola Lime Company was to be offered to other bidders. A likely successful bid was from Socomer of Belgium, a firm without prior business interests in Zambia. However, a final sale agreement had not been signed. The Board accordingly approved closure of the case in September 1999.

(g) The Takeover of National Milling Company Limited by Messrs SeaBoard Corporation of the USA

It was reported in newspapers that SeaBoard Corporation of the USA had taken over National Milling Company Limited. The SeaBoard Corporation did not have prior business interests in Zambia. The takeover was justified to avoid liquidation of National Milling, and that effective competition was prevalent in the sector. On this basis the Board authorised the takeover unconditionally.

(h) Merger of Dalal Naik & Phiri and Other Local Accounting Firms and trade as Moores Rowland International

The Commission observed the concentration as being that of small firms wishing to enhance their competitive stature in the relevant market which was dominated by strong international firms. Further, it was observed that competitive edge was enhanced through affiliations to international accounting firms as in this case. The Board approved the merger as being pro-competition aimed at strengthening the capacity of the new firm to compete effectively.

(i) The Takeover of Duncan Gilbey & Matheson (DGM) by Douglas Morgan (DM)

This was a reported takeover of DGM by DM. Investigations revealed that there were several transactions involved: the privatisation, and two shareholder sale of shares to DM. ZCC drew the attention of the Zambia Privatisation Agency (ZPA) on the likely collusive tendering at privatisation level through use of pre-emptive rights. However, the assessment found out that besides DGM having a market share of less than 10%, DM did not have any business interests in Zambia or in the relevant market prior to the takeover. The transaction was therefore not likely to adversely affect the competitive processes in the relevant market in Zambia. The takeover was merely a Boardroom transaction acceptable to the parties. On this basis, the Commission authorised the acquisition of DGM by DM since the transaction did not raise any major competition concerns.

(j) The Acquisition of Maamba Collieries Limited (MCL) by Benicon Earthworks and Mining Services of RSA.

At the request of the Zambia Privatisation Agency (ZPA), ZCC advised on the prospective privatisation of the 80% shares in MCL. Under Section 3 (f) of the Act, privatisation of GRZ assets are exempt from the application of the Act. However, ZCC studied the transaction and advised that the sale should not include the green fields, did not include the coal related/ancillary businesses in the face of prospective retrenchments and asset redundancies. The Board advised that the ZPA should liaise with Zambia Investment Centre (ZIC) so that new investors are sourced for new coal and ancillary business in and around MCL so as to take advantage of both the asset and human resource redundancies to rise from MCL. In order to not foreclose the market, ZCC got ZPA's undertaking that the asset sale to Benicon does not include the new/green fields and therefore limited to the existing MCL licenses. This will allow potential new investors in the geographical area. The Board approved the transaction as qualified.

(k) The Takeover of Drum and Can Limited (D&C) by Crown Cork (Z) Limited.

Crown Cork (Z) Limited and Drum and Can made a joint notification of the intention of the former to take over the latter. The Board observed that this concentration would not have an adverse effect on competition in the relevant market. Further, that the ability of the new company to set prices was limited in light of the interchangeability in use between metal and plastic

containers. Customers being mainly intermediate users of the concentrations' products, they exercised considerable countervailing power such that unilateral anti-competitive conduct would be minimal. Accordingly, the Board approved the transaction in November 1999.

(l) The Takeover of Ackermans Zambia Limited by Fashion Africa of RSA

This case was a notification for the takeover of Ackermans Limited by Fashion Africa. The Board observed that Ackermans Zambia Limited was a failing firm purely because of wrong merchandising strategy in the market. Its demise was imminent. The coming in of Fashion Africa was observed to be likely to enhance competition in the clothing retail sub-sector. Further, the takeover was observed to be socially positive as all the employees would be retained into the new company.

Accordingly, the Board authorized the takeover of Ackermans Zambia Limited.

(m) The Acquisition of Vitretex Paints Limited by Investment Holdings

Investment Holdings applied to the Commission for authorisation of the takeover of Vitretex Paints Limited which took place in 1996 before the Commission was established. Investment Holdings also owns Titanium Paints Limited. The Board observed that the two companies had two different managements and different market segments. It was however observed that the Board of Directors of two companies were interlocking which should not be the case. Since Investment Holdings had agreed to reduce the number of interlocking Directorship, the Board authorised the takeover.

The Commissioners also examined carefully the R & D activities of the two companies, noting that the merger would result in a significant combined R & D potential. However, it was observed that there were many other companies actively involved in this field.

(n) The Acquisition of Industrial Gases Limited by BOC Gases Limited

BOC Gases had lodged a notification with the Commission for the takeover of Industrial Gases Limited. The Commission observed that BOC Gases Limited controlled approximately 80% share of the industrial gases market in Zambia in 1999. Industrial Gases Limited on the other hand had approximately

19% market share and 1% market share was controlled by the major consumers of industrial gases such as ZCCM, Nitrogen Chemicals and Tazara. An acquisition of Industrial Gases Limited by BOC Gases Limited was going to eliminate a competitor and create a market concentration of 99% of the market where the customer choice would be eliminated. The Board carefully considered the application and declined to authorise the proposed takeover. The Commission considered that in this market the acquisition would create a monopolistic supply situation, since combined market shares would be almost 100%.

(o) Merger Notification of Group 3 Security Limited

This was a merger notification of Anderson Security System Midlands Limited, Mayvan Enterprises Midlands Limited and Bastion Surveillance and Protection Limited. The Board observed that Anderson Security and Mayvan Enterprises were under common ownership. It was noted that the merging companies did not have any significant market shares before and after the merger. The Board authorised the merger.

(p) The Takeover Notification of National Air Charters by ZEGA Limited

National Air Charters (NAC) was a subsidiary of Zambia Airways (in liquidation). In 1994, National Air Charters came under the liquidator of Zambia Airways, Messrs Pricewaterhouse Coopers (PWC). By way of public tender, Zambia Export Growers Association Limited (ZEGA) won the bid to acquire NAC subject to approval of the sale by Zambia Competition Commission.

In the Commissioners' view, the acquisition of NAC by ZEGA would have further entrenched ZEGA's existing dominant position of market power. Authorisation of such an acquisition would have been in violation of the Competition and Fair Trading Act Sections 7, 8 and 11. The competition which would have existed, actually or potentially prior to the takeover, would in practice have been eliminated for the services in question in a substantial part of the market. The Commissioners invited the parties to present the acquisition in a modified form or revise the deal taking into consideration its anti-competitive effects. However, ZEGA withdrew its notification and PCW was advised to look for other bidders.

(q) The Takeover of Cadbury Schweppes by The Coca-Cola Company (TCCC)

The Coca-Cola Company (TCCC) lodged a notification to acquire, at the International level, soft drink brands of Cadbury Schweppes outside the USA, France and South Africa. Brands involved were Crush Orange, Canada Dry, Whiskey Black, Whiskey Cool, Sport Cola, Schweppes Lemonade, Tonic Soda, Ginger Ale, Schweppes Jolly Juice, Mazoe, Supacrush, Supa Syrup and Dr Pepper to be part of the Coca-Cola international brand portfolio. The Board considered the proposed takeover of Cadbury Schweppes beverages brands and Trademarks by the Coca-Cola Company. The Commissioners observed that the takeover would create a dominant position on the Zambian market for the carbonated soft drinks, which would have the effect of forcing existing small competitors out of the market and of discouraging potential market entrants.

The Board invited the parties to present the acquisition in a modified form, and acknowledged that mergers, particularly where they are of international nature, can be instrumental in the development of the carbonated soft drinks sector to their full potential.

The Commissioners requested TCCC to make a number of undertakings aimed at enhancing competition, including the obligation on TCCC to notify its exclusive dealing arrangements, restrictive territorial allocation agreements and stop price fixing arrangements. The Commission conditionally authorised the takeover in November 1999 after TCCC agreed to the Undertakings and a Compliance Programme whose implementation will be monitored by ZCC.

4.2.5 Cases Referred to Government and other Bodies

- (a) Cases referred to other government departments were those complaints where the Commission could do nothing to stop the alleged malpractice because such cases arose from government policy decisions or that other regulatory bodies were better equipped to deal with them.*
- (b) The rationale behind such referrals emanates from the universal difficulty in many countries on whether the Competition Authority is responsible enough for cases which concern specific regulated sectors of the market. The common approaches have been to either let the Competition Authorities come in when asked or to let the regulatory bodies or regulator handle only the*

technical aspects of the sectors, i.e. leaving out all the matters to do with markets and marketing with the Competition Authorities.

(a) Allegations of Dumping by ZACCI against Downing Bakery of Zimbabwe

The Livingstone Chamber of Commerce and Industry lodged a complaint against Downing Bakery of Victoria Falls Town of Zimbabwe over its practices of selling its bread to the Livingstone residents. It was alleged that Downing Bakery crossed the border everyday using their delivery trucks and sold bread at prices below the local prices. The Commission's investigations could not prove the violation. However, the Commission referred the matter to ZRA to regulate the traffic through collection of relevant taxes. The Board approved the referral of the matter to ZRA.

(b) Allegations of Unfair Trade Practices against Dallas International Limited

This case is based on a complaint from Lusaka based second-hand dealers (in shoes) against Dallas International Limited over its alleged unfair trade practices. The Board decided to refer the matter to the Consumer Protective Association of Zambia for prosecution.

(c) Allegations of Smuggling of Second-hand Tyres

This case was a matter of smuggling of second-hand tyres from the UK. Investigations revealed that the parties to the transaction had violated the Customs and Excise Duty Act by avoiding to pay customs duty on the imported tyres. The Board observed that the matter did not directly violate the Act. It was further found out that the matter was already before the High Court of Zambia. The Board decided to refer the matter to ZRA.

(d) Consumer Complaint on "Toy Drinks" and PVC Bottles

This was a consumer complaint over the influx of unbranded and poor quality beverages sold by street vendors and the potential harmful effects of beverages bottled in PVC bottles. The Board observed that the matter was beyond the mandate of the Commission and decided to refer the matter to the Zambia Bureau of Standards.

(e) **Allegations of Unfair Trading Practices in Advertising of Safe Plan - A Prescription Medicine**

A complaint was received against Society for Family Health of unethical trading practices for publicly advertising Safe Plan, a prescription medicine. Prescription medicine requires a physician to prescribe before use. Advertising Safe Plan created undue pressure on the consumer to use Safe Plan. The advertising of Safe Plan violated Section 12(b) and 12(c) of the Competition and Fair Trading Act and Ministry of Health Statutory Instrument No. 47 of 1993.

The Board decided to refer the matter to Pharmacy, Medicines and Poisons Board, the sector regulator. The Board in referring the case observed that the government, while supporting reproductive health matters, should be mindful of its responsibilities in protecting the welfare of consumers in case of complaints.

(f) **Complaint against the Heating Effect of Zamwasha Washing Powder, a Product of Lever Brothers (Z) Limited**

A complaint was lodged against Lever Brothers alleging that its product Zamwasha Washing Detergent Powder had a heating effect on hands when put in water. Investigations revealed that the temperature rise was the result of the dissolution of organic salts which generate mild heat and that it was not harmful to the hands. The temperature rose to 10 degrees celsius and fell to room temperature within seconds.

The Board decided to refer the matter to Zambia Bureau of Standards (ZABS) as a body with effective enforcement provisions and for continuous monitoring of the product. ZABS has the legal mandate to test the safety of products.

(g) **Complaint against Boom Detergent Paste, a Product of Trade Kings**

A complaint against Trade Kings was lodged alleging that Boom Detergent Paste had a peeling off effect on the hands after use. Investigations revealed that Boom Detergent Paste was safe to use and was within the parameters of quality of the national standards set by the Zambia Bureau of Standards (ZABS). The Board decided to refer the matter to ZABS as a body with effective enforcement provisions and for further monitoring. ZABS has the legal mandate to test the safety of products.

4.3 Cases Carried Forward to the year 2000

- 4.3.1 Agip (Zambia) Limited exclusive dealing arrangement
- 4.3.2 Mobil (Zambia) Limited exclusive dealing arrangement
- 4.3.3 Zambia Sugar Plc: Allegation of discriminatory pricing practices
- 4.3.4 BOC Gases notification of Sale Agreement
- 4.3.5 GS One and La Patisserie Bakery: Complaint against stale bread
- 4.3.6 Takeover of Tamba Chicks Limited by Livestock Services Cooperative Society
- 4.3.7 Modern Insurance Brokers takeover by Pace Insurance Brokers Limited
- 4.3.8 ZENECA and Astra Pharmaceuticals Merger Notification
- 4.3.9 Consumer Complaint against ZESCO Limited
- 4.3.10 Takeover of National Air Charters (NAC) Limited by E & G Company
- 4.3.11 Takeover of Anglo Leasing by Highveld Investments Limited
- 4.3.12 Takeover of Chinza (1967) Limited by Mr. Mbita Kabalika
- 4.3.13 Takeover of Holiday Inn by Southern Sun Hotels
- 4.3.14 Merger of Total and Petrofina
- 4.3.15 Merger of Mobil and Exxon
- 4.3.16 Invesco Vs The Coca-Cola Company (TCCC)
- 4.3.17 Best Beef Company (BBC) Vs Kembe Cold Storage Corporation (KCSC)
- 4.3.18 Grand Insurance Limited, unfair trade complaint against Stanbic Financial services
- 4.3.19 Hybrid Poultry Farms (Z) Limited, exclusive dealing arrangements
- 4.3.20 Swedish (Volvo) trucks takeover of Scania Trucks.

5.0 Public Awareness, Capacity Building and International Cooperation

- (a) **Regional and National Seminar:** A Regional and National Seminar on Competition Law and Policy was organized in 31st May to 4th June 1999 by ZCC in conjunction with the United Nations Conference a Trade and Development (UNCTAD) and the Common Market for Eastern and Southern Africa (COMESA). The overall objective of the seminar was to sensitize policy makers in COMESA member states on the need for a deliberate common Competition Law and Policy as a vital tool for economic development. The seminar was attended by participants from Kenya, Malawi, Swaziland, Comoros, Congo D R, Djibouti, Egypt, Eritrea, Sudan, Uganda, and Zimbabwe.
- (b) Resource persons at the seminar included Mr Hassan Qaqaya, Chief, Competition Law and Policy Section, UNCTAD; Mr Dhanji of UNCTAD; Ms Geraldine Foster, Special Advisor to the Caribbean Common Market (CARICOM) and former Executive Director of the Jamaican Competition Commission; Mr Jim Mathis, Law Professor, Amsterdam Law School; Mr Mark A. Warner of the Organisation for European Co-operation and Development (OECD); Mr Swithin J. Munyantwali, Executive Director of the International Law Institute, Uganda and; Mr S. Karangizi, Director Legal, COMESA. Other resource persons were Prof. Oliver Saasa, Director, Institute of Economic and Social Research, University of Zambia and; Mr Meebelo Mutukwa, a representative from Zambia Association of Chambers of Commerce and Industry (ZACCI).
- (c) Among other things, the participants agreed that Competition Law and Policy was an essential component of the policy measures required for the success of economic reforms and trade liberalisation process put in place by COMESA member states. It was also resolved that regional trade integration measures should be consistent with overall trade liberalisation commitments of member countries. In this context, coherent national competition policies should be put in place. The conference recognised that Article 55 of the COMESA Treaty provided an advanced regional policy on competition, which should be used as a starting point for further developing the regional competition policy.

5.1 Executive Director

- (i) Key speaker at the Pre-UNCTAD X Seminar on the Role of Competition Policy for Development in Globalising World Markets in Geneva in June, 1998.

- (ii) Guest of Honour at the Competition Law and Policy Seminar for the Chartered Institute of Secretaries and Administrators in February, 1999.
- (iii) Presented a paper at the Annual General Meeting of Insurance Brokers Association of Zambia in May, 1999.
- (iv) Presented a Paper at the National Marketing Conference organised by the Zambia Institute of Marketing in December, 1999.
- (v) Addressed Copperbelt University MBA and undergraduate business students
- (vi) Addressed University of Zambia Economics, Philosophy and Law undergraduate students.
- (vii) He also attended several local and international meetings where he was speaker.

5.2 Directorate of Economics

5.2.1 Training Seminars

- (i) Attended a training seminar under the auspices of UNCTAD. The seminar which was national and for COMESA countries was aimed at preparing ground for a possible regional authority in the advent of the free trade area in the year 2000. The seminar ran from 31st May to 2nd June 1999.
- (ii) Attended Part A of an inaugural training seminar under the auspices of the Competition Commission, South Africa. The seminar ran from 15th June to 25th June 1999 in Pretoria. It was an induction type seminar for the newly legislated and constituted (late 1998) Competition Commission in South Africa. It drew participants from the SADC member countries.

5.2.2 Special Group Meetings/Seminars attended

- (i) Attended a seminar organised by the Institute of Chartered Secretaries and Administrators on the 5th February, 1999. The seminar was aimed at gaining a better understanding of the competition Act and the role of the ZCC in a liberalized market.
- (ii) Attended the 2nd National Convention on revitalizing the Zambian economy under the auspices of the MCTI.

5.3 Directorate of Consumer Welfare

5.3.1 Local Seminars attended

- (i) Competition Law and Policy Seminar for the Chartered Institute of Secretaries and Administrators - February 1999.
- (ii) Annual General Meeting of Insurance Brokers Association of Zambia at Pamodzi Hotel, where the Executive Director presented a paper - May 1999
- (iii) Marketing Seminar of the Insurance Brokers Association where the Director Consumer Welfare presented a paper - July 1999
- (iv) Attended a Law Association of Zambia Seminar on Alternative Resolution of Commercial Disputes at Mulungushi International Conference Centre in Lusaka - August 1999
- (v) National Symposium on Capacity Building programme for Good Governance at Pamodzi Hotel - September 1999
- (vi) Zambia Bureau of Standards Consumer Awareness Activities through performing art, attended by the Economist - September 1999
- (vii) Zambia Bureau of Standards Executive Seminar on Quality Management held in December 1999 and was attended by the Economist.

5.3.2 International Seminars

Attended Part B of the two weeks inaugural Southern African Course on Competition Policy and Law from July 26 - August 6, 1999 in Pretoria, South Africa.

5.4 Technical Operations

During the year, voluntary Local Consumer Advisors (LCA) in all district councils of Zambia were appointed to maintain a presence of the Commission throughout Zambia. LCA are voluntary staff employed at local authorities requested to receive and resolve consumer complaints at the local level.

6.0 Inquiries and Visitations to the Commission

The Commission received approximately 450 inquiries from the public on the operations of the Commission and others lodged in complaints of trade and consumer rights violations. An educational tour comprising Copperbelt University MBA Students was conducted and the students were given first hand information on the role of the Commission in general and Consumer Welfare matters in particular.

Summary of Inquiries per Month for 1999

Month 1999	By Telephone	Physical Visits	Letters	TOTAL
January	06	17	7	30
February	17	19	10	46
March	13	15	05	33
April	19	14	15	48
May	09	11	13	33
June	5	15	10	30
July	8	21	7	36
August	7	22	5	34
September	10	21	0	31
October	10	18	4	32
November	-	30	10	40
December	12	35	12	59
TOTAL	116	238	98	452

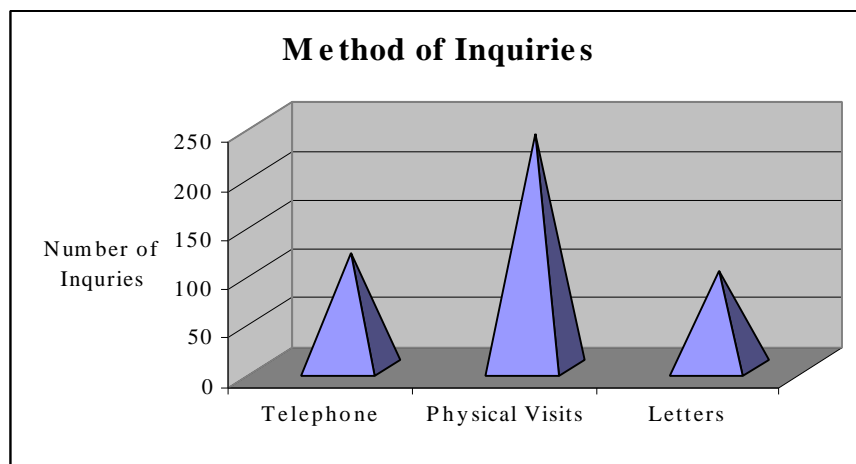
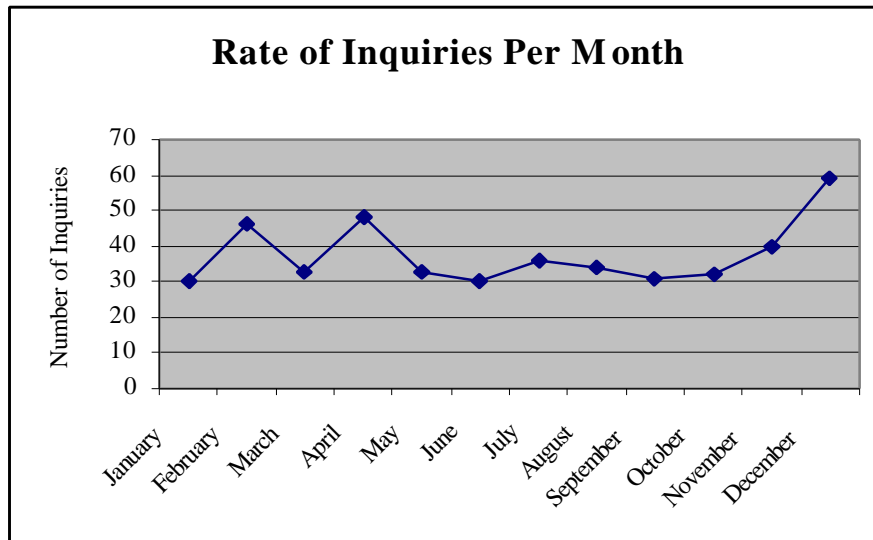
Key

Inquiries received by:

1. Telephone/Physical visits are a fast track complaint resolution process through the Complaints Desk established at the reception. Cases resolved under this desk are not investigated.
2. Letters include inquiries from other Competition Authorities in the region (positive comity).

3. Some of these inquiries have led to new cases being opened that are in contravention of various Sections of the Act.

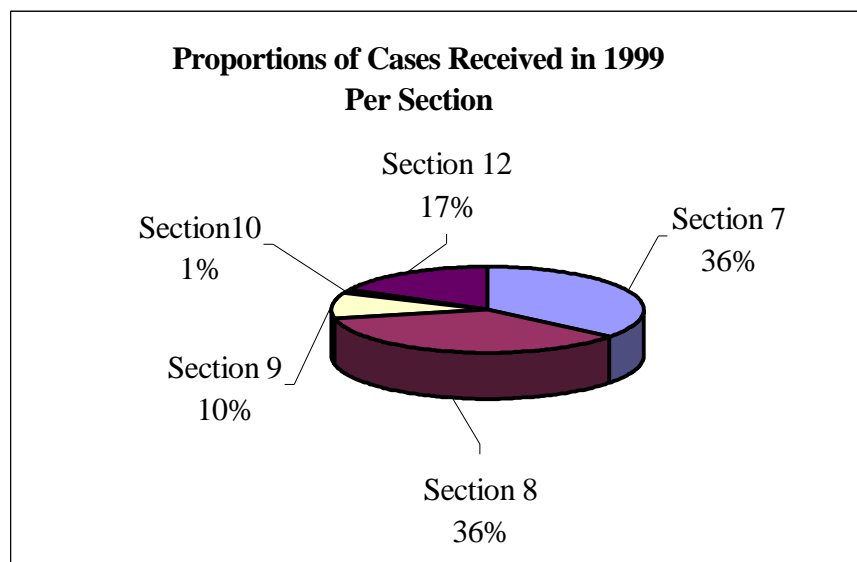
4. **Graphical Illustrations of Inquiries:**

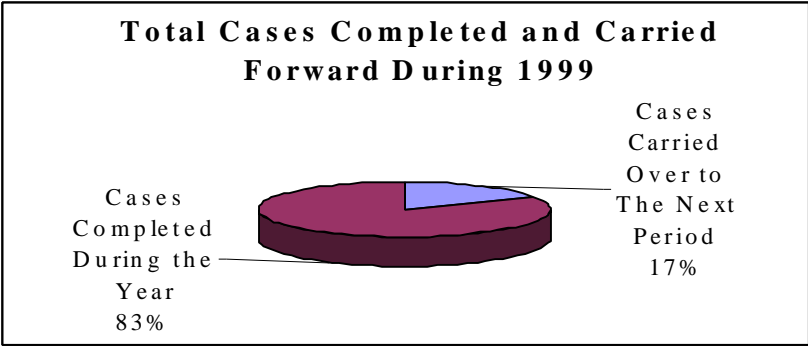


Summary of Commission Activities during 1999

Details	Cases completed during the year	Cases referred to other Bodies	Cases carried over to the next period	Total cases Received during the year
Violations Under Section 7 (Restrictive Trade practices)	21	4	4	29
Investigations Under Section 8 (Mergers and Acquisitions)	21	0	8	29
Investigations Under Section 9 (Trade Agreements)	8	0	0	8
Investigations Under Section 10 (Anti-competitive Trade Practices by Associations)	1	0	0	1
Investigations Under Section 12 (Unfair Trade Practices)	12	0	2	14
Consumer Rights	0	0	0	0
Total	63	4	14	81

Pie-Chart Illustrations of Cases Investigated





Bar Chart Illustrations

