

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NIGERIAN TRADE AND COMPETITION COMMISSION AND FOR OTHER MATTERS CONNECTED THEREWITH

Sponsored by Senator Rafiu Adedayo Ibrahim

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART 1 - ESTABLISHMENT OF THE NIGERIAN TRADE AND
2 COMPETITION COMMISSION. ETC.

3 1.-(1) There is hereby established a body to be known as the
4 Nigerian Trade and Competition Commission (in this Act referred to as "the
5 Commission").

Establishment of
the Nigerian
Trade and
Competition
Commission

6 (2) The Commission:

7 (a) shall be a body corporate with perpetual succession and a
8 common seal;

9 (b) may sue and be sued in its corporate name; and

10 (c) may acquire, hold and dispose of property whether moveable or
11 immoveable.

12 (3) The headquarters of the Commission shall be situated in the
13 Federal Capital Territory, Abuja.

14 2.-(1) There is hereby established for the management of the
15 Commission a governing board (in this Act referred to as "the Board") which
16 shall consist of:

Establishment
and Membership
of the Board

17 (a) a part-time Chairman;

18 (b) a representative each of:

19 (i) the Federal Ministry of Commerce,

20 (ii) the Federal Ministry of Industry,

- 1 (iii) the Federal Ministry of Finance.
2 (iv) the Federal Ministry of Health,
3 (v) the Federal Ministry of Environment,
4 (vi) the Federal Ministry of Agriculture and Rural Development,
5 (vii) the Nigerian Customs Service;
6 (c) three persons who shall each have the requisite qualifications and
7 experience in economics, law, commerce, industry or public affairs;
8 (d) one person to represent the academia;
9 (e) one person to represent the civil society in Nigeria; and
10 (f) the Director-General of the Commission.

11 (2) The Chairman and members of the Board, other than the Director-
12 General, shall be part time members.

13 (3) The Chairman and the members of the Board shall each be:

- 14 (a) appointed by the President on the recommendation of the
15 Minister; and
16 (b) a person of proven integrity.

Schedule

17 (4) The supplementary provisions set out in the Schedule to this Act
18 shall have effect with respect to the proceedings of the Board and the other
19 matters contained therein.

Tenure of
Office

20 3. The Chairman and other members of the Board, other than ex-
21 officio members, shall each hold office:

22 (a) for a term of years in the first instance and may be re-appointed for
23 a further term of 4 years and no more; and

24 (b) on such terms and conditions as may be specified in his letter of
25 appointment.

Cessation of
Membership

26 4.-(1) Notwithstanding the provisions of section 3 of this Act, a
27 member of the Board shall cease to hold office as a member of the Board if:

28 (a) he resigns his appointment as a member of the Board by notice,
29 under his hand, addressed to the President;

30 (b) he becomes of unsound mind;

1 (c) he becomes bankrupt or makes a compromise with his
2 creditors;

3 (d) he is convicted of a felony or of any offence involving
4 dishonesty or corruption:

5 (e) he becomes incapable of carrying on the functions of his office
6 either arising from an infirmity of mind or body: or

7 (f) the President is satisfied that it is not in the interest of the
8 Commission or in the interest of the public for the person to continue in
9 office and the President removes him from office.

10 (2) Where a vacancy occurs in the membership of the Board, it
11 shall be filled by the appointment of a successor to hold office for the
12 remainder of the term of office of his predecessor, so however that the
13 successor shall represent the same interest as his predecessor.

14 5. The Chairman and members of the Board shall be paid such
15 emoluments, allowances and benefits as the Federal Government may from
16 time to time, approve.

Emoluments, etc
of members

17 6. The Board shall:

Functions of the
Board

18 (a) approve policies, strategies and procedures to be adopted by the
19 Commission for the achievement of its objectives.

20 (b) review, from time to time, the economic and trade impact of
21 domestic and external trade strategies on the Nigerian economy and make
22 recommendations to the Federal Government through the Minister;

23 (e) appoint, as and when necessary, technical committees
24 comprised of persons with requisite technical competence from the private
25 or public sector of the Nigerian economy to advise the Commission on such
26 matters as may be determined by the Board; and

27 (d) perform such other functions as may, from time to time, be
28 necessary to achieve the objectives of the Commission under this Act.

1 PART II- OBJECTIVES AND FUNCTIONS OF THE COMMISSION

Objectives of
the Commission

- 2 7.-(1) The objectives of the Commission shall be to:
- 3 (a) promote the efficiency, adaptability and development of the
- 4 Nigerian economy;
- 5 (b) provide consumers with competitive prices and product choices;
- 6 (c) promote employment and advance the social and economic
- 7 welfare of Nigerians;
- 8 (d) ensure that small and medium enterprises have an equitable
- 9 opportunity to participate in the Nigerian economy; and
- 10 (e) protect Nigerian industries from unfair trade practices.

Functions of the
Commission

- 11 8. The Commission shall have the responsibility for:
- 12 (a) the formulation of measures to increase market transparency,
- 13 including weights and measures administration;
- 14 (b) the introduction of measures which restrain any trade or
- 15 commercial practice that seeks to or may undermine the competitive
- 16 environment in Nigeria;
- 17 (c) the formulation of measures to restrain and where possible,
- 18 eliminate all uncompetitive behaviour in trade activities;
- 19 (d) the formulation of measures to restrain and where possible,
- 20 eliminate misleading, unfair, deceptive or unconscionable marketing, trading
- 21 and business practices;
- 22 (e) the formulation of measures to create public awareness through
- 23 seminars, workshops, studies and other activities;
- 24 (f) the negotiation of agreements with any other regulatory authority
- 25 for the purposes of coordinating and harmonising the exercise of mandate over
- 26 consumer protection and competition matters within the relevant industry or
- 27 sector;
- 28 (g) making recommendations to the relevant ministries, Extra-
- 29 Ministerial Departments and agencies regarding relief for an industry seriously
- 30 injured by increased imports, if it makes an affirmative injury determination;

1 (h) the giving and receiving of advice from any regulatory
2 authority on all matters relating to trade;

3 (i) making, from time to time, recommendations to the Minister on
4 the review of relevant policies, legislation and subsidiary regulations. and
5 reporting to the Minister on matters concerning any provision that permits
6 unfair or uncompetitive trading behaviour; and

7 (j) perform such other duties which in the opinion of the
8 Commission are required for the effective performance of its functions
9 under this Act

10 **9.** The Commission shall have power to administer and implement
11 the provisions of:

Special powers
of the Commission

12 2005 No.....

13 (a) the Dumped and Subsidised Goods Act;

14 2005 No.....

15 (b) the Anti-Trust and Competition Act;

16 2005 No.....

17 (c) the Safeguards Act:

18 2005 No.....

19 (d) the Consumer Protection (Special Provisions) Act; and

20 2005 No.....

21 (e) the Weights and Measures Act.

22 **PART III- STRUCTURE, MANAGEMENT AND STAFF OF THE COMMISSION**

23 **10.-(1)** There shall be for the Commission, a Director-General,
24 who shall be appointed by the President on the recommendation of the
25 Minister.

Appointment of
the Director-
General

26 (2) The Director-General shall:

27 (a) have such qualifications and experience as are appropriate for a
28 person required to perform the functions of that office under this Act;

29 (b) hold office for a term of 4 years in the first instance and may be
30 re-appointed for another term of 4 years and no more;

1 (c) be responsible to the Commission for policy direction and the day-
2 to-day administration of the Commission; and

3 (d) hold office on terms and conditions as may be contained in his
4 letter of appointment.

Structure of the
Commission

5 11.-(1) The structure of the Commission shall include the following
6 departments, that is:

7 (a) Trade Defence;

8 (b) Antitrust and Competition;

9 (c) Consumer Protection;

10 (d) Legal Metrology;

11 (e) Legal Services; and

12 (f) Administration and Finance.

13 (2) Notwithstanding the provisions of subsection (1) of this section,
14 the Commission shall with the approval of the Minister, have power to
15 establish such additional departments to assist it in the performance of its
16 duties and functions under this Act.

17 (3) The Board shall appoint Directors to head each department,
18 established pursuant to subsection (1) of this section. and each Director shall
19 have the requisite qualification and experience of not less than 20 years as may
20 be required for the effective implementation of the functions of their respective
21 departments and the Commission under this Act.

Appointment of
other staff of the
Commission

22 12.-(1) The Commission may, with the approval to the Board, appoint
23 such other staff or employees as, in the opinion of the Commission, may be
24 expedient and necessary for the proper and efficient performance of its
25 functions under this Act.

26 (2) The terms and conditions of service (including remuneration,
27 allowances, benefits and pensions) of the employees of the Commission shall
28 be as determined the Board.

29 (3) The Commission shall have power to appoint either on transfer or
30 on secondment from any public service in the Federation, such employees as

1 may, in the opinion of the Commission, be required to assist the Commission
2 in the discharge of any of its functions under this Act, and shall have power
3 to pay to persons so employed such remuneration (including allowances) as
4 the Board may, after consultation with the National Salaries and Wages
5 Commission, determine.

6 **13.-(1)** The Board may, subject to the provisions of this Act, make Staff Regulations
7 staff regulations relating generally to the conditions of service of the
8 employees of the Commission and without prejudice to the generality of the
9 foregoing, such regulations may provide for:

10 (a) the appointment, promotion and disciplinary control (including
11 dismissal) of employees of the Commission; and

12 (b) appeals by such employees against dismissal or other
13 disciplinary measures, and until such regulations are made, any instrument
14 relating to the conditions of service of officers in the public service of the
15 Federation shall be applicable.

16 (2) Staff regulations made under subsection (1) of this section shall
17 not have effect until approved by the Minister and when so approved they
18 need not be published in the Federal Gazette but the Commission shall cause
19 them to be brought to the notice of all affected persons in such manner as it
20 may, from time to time, determine.

21 ***14.-(1)** Service in the Commission shall be approved service for Pensions,
2004 No.2
22 the purposes of pensions and accordingly, the officers, staff or employees of
23 the Commission shall be entitled to pensions and other retirement benefits is
24 in accordance with the provisions of the Pension Reform Act.

25 PART IV - FINANCIAL PROVISIONS

26 **15.-(1)** The Commission shall establish and maintain a fund from Fund of the
Commission
27 which shall be defrayed all expenditure incurred by the Commission.

28 (2) There shall be paid and credited to the fund established
29 pursuant to subsection (1) of this section.

30 (a) the initial take-off grant from the Federal Government;

- 1 (b) annual budgetary subvention from the Federal Government;
- 2 (c) such moneys as may, from time to time, be granted to the
3 Commission by the Federal, a State Government or a local government;
- 4 (d) all fees, levies and charges statutorily chargeable by the
5 Commission for approvals, testings, licences, certification or any services, as
6 may be provided for by the Commission in the exercise of its powers under
7 section 9 of this Act; and
- 8 (e) all sums of money accruing to the Commission by way of grants-in
9 aid, gifts, testamentary dispositions and endowments and contributions from
10 any other sources whatsoever.
- 11 (3) The fund shall be managed in accordance with the rules made by
12 the Board and without prejudice to the generality of the power to make rules
13 under this subsection, the rules shall in particular contain provisions:
- 14 (a) specifying the manner in which the assets or the fund of the
15 Commission are to be held, and regulating the making of payments into and out
16 of the fund; and
- 17 (b) requiring the keeping of proper accounts and records for the
18 purpose of the fund in such form as may be specified in the rules.
- 19 **16.** The Commission shall apply the proceeds of the fund established
20 pursuant to section 15 of this Act to:
- 21 (a) the cost of administration of the Commission;
- 22 (b) the payment of salaries, fees, remuneration, allowances, pensions
23 and gratuities payable to the members of the Board and the employees of the
24 Commission, as the case may be;
- 25 (c) the payment for all consultancies, contracts, including
26 mobilization, fluctuations, variations, legal fees and cost on contract
27 administration;
- 28 (d) the payment for all purchases; and
- 29 (e) undertake such other activities as are connected with all or any of
30 the functions of the Commission under this Act.

Expenditure of
the Commission

1 (a) it is commenced within 3 months next after the act, neglect or
2 default complained; or

3 (b) in the case of a continuation of damage or injury, within 6 months
4 next after the cessation thereof.

5 (3) No suit shall be commenced against a member of the Board, the
6 Director-General, officer or employee of the Commission before the expiration
7 of a period of one month after written notice of intention to commence the suit
8 shall have been served upon the Commission by the intending plaintiff or his
9 agent.

10 (4) The notice referred to in subsection (3) of this section shall clearly
11 and explicitly state:

12 (a) the cause of action;

13 (b) the particulars of the claim;

14 (c) the name and place of abode of the intending plaintiff; and

15 (d) the relief which he claims.

Notices

16 21. A notice, summons or other documents required or authorised to
17 be served upon the Commission under the provisions of this Act or any other
18 law or enactment may be served by delivering it to the Director-General or by
19 sending it by registered post and addressed to the Director-General at the
20 principal office of the Commission.

Power to make
Regulations

21 22. The Minister may, on the recommendation of the Commission,
22 make regulations generally for the effective implementation and operation of
23 this Act, and in particular for:

24 (a) trading standards and rules;

25 (b) penalties, fees, charges or levies and such other related matters;

26 (c) forms and returns required:

27 (d) time periods;

28 (e) information required and the method for obtaining such
29 information;

30 (f) access to confidential information; and

1 (g) procedures generally.

2 **23. In this Act, unless the context otherwise requires:**

Interpretation

3 "Board" means the Governing Board of the Nigerian Trade and Competition
4 Commission established under section 2 of the Act;

5 "Chairman" means the Chairman of the Nigerian Trade and Competition
6 Commission Governing Board appointed pursuant to section 2 (I) of this
7 Act;

8 "Commission" means the Nigerian Trade and Competition Commission
9 established under section 1 of this Act; "member" means a member of the
10 Nigerian Trade and Competition Governing Board appointed pursuant
11 section 2 (1) of this Act and includes the Chairman;

12 "Minister" means the Minister charged with responsibility for matters
13 relating to commerce.

14 **24. This Act shall be cited as the Nigerian Trade and Competition**
15 **Commission (Establishment, etc.) Bill, 2016.**

Short Title

16 **SCHEDULE**

17 *Section 2(4)*

18 **SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.**

19 *Proceedings of the Board*

20 **1.-(1) Subject to this Act and section 27 of the Interpretation Act,**
21 **the Board may make standing orders regulating its proceedings or those of**
22 **any of its committees.**

23 **(2) The quorum of the Board shall be the Chairman, or the person**
24 **presiding at the meeting and 4 other members of the Board, and the quorum**
25 **of any committee of the Board shall be determined by the Board.**

26 **2.-(1) The Board shall meet not less than four times in each year**
27 **and subject thereto, the Board shall meet whenever it is summoned by the**
28 **Chairman and if the Chairman is required to do so by notice given to him by**
29 **not less than 4 other members, he shall summon a meeting of the Board to be**
30 **held within 28 days from the date on which the notice is given.**

1 (b) a defect in the appointment of a member of the Board or
2 committee; or

3 (c) reason that a person not entitled to do so took part in the
4 proceedings of the Board or committee.

5 6. Any member of the Board and any person sitting on the Board
6 or committee, who has a personal interest in any contract, arrangement or
7 matter to be considered by the Board or committee thereof shall forthwith
8 disclose his interest to the Board or committee and shall not vote on any
9 question relating to the contract, arrangement or matter. .

EXPLANATORY MEMORANDUM

The Bill seeks to establish the Nigerian Trade and Competition Commission which shall be responsible, among other things, for the implementation of specified trade related legislation for the promotion of efficiency, adaptability and sustainable development of the Nigerian economy.





