

**INDEPENDENT STATE OF PAPUA NEW GUINEA**  
**Independent Consumer and Competition Commission**

Act, Sec.70

Form 1

**APPLICATION FOR AUTHORISATION OF RESTRICTIVE TRADE PRACTICES**

- 1. FORM AND CONTENT:** In addition to providing a detailed submission in support of the application, the Applicant/s is required to complete the application form in full. The Independent Consumer & Competition Commission (the Commission) may reject any applications that have not been filled out fully and properly in accordance with Section 76 (4) (c) of the *Independent Consumer & Competition Commission Act of 2002* (the Act).
- 2. WHERE TO APPLY:** Applications should be lodged at the Commission office at Level 2 Garden City Building, Boroko, National Capital District or mailed to P.O. Box 6394, Boroko, National Capital District, Papua New Guinea. Supply one (1) hard copy and (1) soft copy of your application.
- 3. FEE:** The fee for processing of an application is K5, 000. This must be paid by a cheque made out to the Commission before any work is done on the application.
- 4. COLLECTION OF DETERMINATION:** It is the Commission's duty to inform an Applicant of its determination, in writing, in accordance with section 77 (1) of the Act.
- 5. LEGAL ADVICE:** Although it is not a requirement under the Act, the Commission encourages Applicants to seek independent legal advice before applying to the Commission for authorization.
- 6. PENALTIES:** It is not a legal requirement to apply for authorization under Section 70 of the Act; hence there is no penalty for not applying. However, it is advisable to apply and be protected from potential contravention of Sections 50, 51, 52, 59 and 60 of the Act. The penalties for such contraventions are up to K500, 000 for an individual and K10, 000 000 for a body corporate under Section 87 (3) of the Act.
- 7. CONFIDENTIALITY:** The consideration of applications for authorization is a public process. All documents provided to the Commission that was intended to form part of the application, will be placed on public record on the Commission's Public Register. The Commission may reject any claim for confidentiality if it considers that the disclosure is in the best interest of the public. If the Commission decides to disclose any information claimed to be confidential, the Applicant will be provided with an opportunity to withdraw the information. If confidential information have been withdrawn, they will not be considered in the assessment and determination of the application. Where the Applicant would like to apply for confidentiality, the Applicant must complete an Application for Confidentiality Form (*ICCC Form-4*). The Commission will consider, make a decision and inform the Applicant accordingly.

**PLEASE FOLLOW DIRECTIONS ON THE BACK OF THIS FORM**

Place a tick (✓) in the box(es) relevant to your application. All references made to provisions are to those contained in the ICCA Act of 2002.

Application for authorization, to <b>enter into a contract, arrangement or understanding</b> that may substantially lessen competition as defined under Section 50 of the Act, and making this application pursuant to Section 70 (1).	<input type="checkbox"/>
Application for authorization to <b>give effect to a provision of a contract, arrangement or understanding</b> that may substantially lessen competition as defined under Section 50 and making this application pursuant to Section 70 (2)	<input type="checkbox"/>
Application for authorization to <b>carry out or enforce a covenant</b> that may substantially lessen competition as defined under Section 51 and making this application pursuant to Section 70 (3)	<input type="checkbox"/>
Application for authorization to <b>require the giving of, or to give, a covenant</b> that may substantially lessen competition as defined under Section 51 and making this application pursuant to Section 70 (4)	<input type="checkbox"/>
Application for authorization to <b>enter into a contract, arrangement or understanding that may contain an exclusionary provision</b> as defined under Section 52, and making this application pursuant to Section 70 (5)	<input type="checkbox"/>
Application for authorization to <b>give effect to a contract, arrangement or understanding that may contain an exclusionary provision</b> as defined under Section 52, and making this application pursuant to Section 70 (6)	<input type="checkbox"/>
A supplier would like to <b>apply for authorization to engage in resale price maintenance conduct</b> as defined under Section 59 and making this application pursuant to Section 70 (7)	<input type="checkbox"/>
A third party would like to <b>engage in resale price maintenance conduct</b> as defined under Section 60 and is making this application pursuant to Section 70 (8)	<input type="checkbox"/>

**1. Applicant**

<p>Name of Applicant: (Refer to direction 1)</p> <p>_____</p> <p>_____</p>
<p>Address in PNG for service of documents:</p> <p>(a) Physical address:</p> <p>_____</p> <p>_____</p> <p>(b) Postal address:</p> <p>_____</p> <p>_____</p>
<p>List of all business activities carried on by the Applicant in PNG and overseas, if any.</p>

(Refer to direction 2)
List your customers in respect of each of the business activities listed above.

**2. Contract, arrangement or understanding**

(a)	Description of the contract, arrangement, agreement or understanding that will be given effect to: <i>(Refer to direction 3)</i>
(b)	Description of the provisions of the contract, arrangement or understanding described in 2(a): <i>(Refer to direction 3)</i>
(c)	Description of the goods or services to which the contract, arrangement or understanding relates:

**3. Parties to the proposed agreement**

(a)	Names, addresses and description of businesses carried on by other party(ies) to the proposed contract, arrangement or understanding:
(b)	Names, addresses and description of businesses carried on by other parties to the proposed contract, arrangement or understanding, on whose behalf this application is being made: <i>(Refer to direction 4)</i>

**4. Public benefits claim**

(a)	List the benefits likely to result from the proposed contract, arrangement, or understanding to which this application relates: <i>(Refer to direction 5)</i>
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(b)	In light of the list of likely benefits listed above, please provide facts and evidence relied upon in support of each claims:
(c)	List the beneficiaries of each of the likely benefits listed in (a) above.

**5. Market definition**

(a)	Description of the goods or services to which the contract, arrangement or understanding relates. <i>(Refer to direction 6)</i>
(b)	Full list and description of other business activities of the other party/ies to this application that are not part of this proposed contract, arrangement, or understanding.
(c)	What is/are the market share/s of the Applicant in each of the areas of its business activity/ies listed above?
(d)	What is/are the market share/s of the other parties to the contract, arrangement, or understanding, subject of this application which the application relates?

**6. Public detriments**

(a)	Outline any detriments likely to result from the contract, arrangement or understanding for which authorization is sought, particularly the likely effect on the prices of goods or services described in 2(c) and the prices of goods or services in other affected markets: <i>(Refer to direction 7)</i>
(b)	Facts and evidence relied upon in support of the above claims:

**7. Contracts, arrangements or understandings made in similar terms**

(a)	Indicate yes or no, if this application for authorization may also be expressed to be made in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the abovementioned contract, arrangement or understanding. <i>(Refer to directions 8)</i>
(b)	<p>If answered yes to 7(a), the following information must be furnished:</p> <p>(i) A description of any variation between the contract arrangement or understanding for which authorization is sought and those contracts, arrangements or understandings that are stated to be in similar terms.</p> <p>(ii) Where the parties to the similar contracts are known - names, addresses and description of businesses carried on by those other parties to the proposed contract, arrangement or understanding:</p> <p>(iii) Where the parties to the similar contracts are not known – description of the class of business carried on by those possible parties:</p>

**8. Declaration**

The undersigned declare that, to the best of their knowledge and belief, the information given in response to the questions in this form is true and correct and complete, that complete copies of documents required by this form have been supplied, and that all estimates are identified as such and are their best estimates of the underlying facts and that all the opinions expressed are sincere.

The undersigned are aware of section 128(4)(b) of the ICCA Act, in that it is an offence to give information or provide an answer that is false in any particular

\_\_\_\_\_  
Signature of authorized person

\_\_\_\_\_  
Signature of authorized person

\_\_\_\_\_  
Office held

\_\_\_\_\_  
Office held

\_\_\_\_\_  
(Print) Name of authorized person

\_\_\_\_\_  
(Print) Name of authorized person

This \_\_\_\_ day of \_\_\_\_\_ 20\_\_

## DIRECTIONS

1. If you are an individual making this application on behalf of a company, please state the name of the company. Note that the application must only be signed by persons authorized in writing by the company to do so and relevant correspondence confirming that these individuals have been authorized to sign on behalf of the company.

If the space on this form is insufficient to provide all the information required, the information must be provided on separate sheets of paper, numbered consecutively and signed by or on behalf of the applicant.

The Commission welcomes any other additional information that the applicant deems relevant in support of the application.

2. Only describe the part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in which authorization is sought.
3. Provide details of the contract, arrangement or understanding (whether actual or proposed) in respect of which authorization is being sought. The applicant must provide details of the actual provisions in the contract, arrangement or understanding that are or would likely be exclusionary pursuant to section 52 or cartel like pursuant to section 50 and 51.

In providing these details, the applicant must also provide a true copy of the contract, arrangement or understanding.

4. Where authorization is sought on behalf of a party, provide details of those parties (including names, addresses, business activities) relating to the matter of the authorization, and evidence if that party's consent to authorization being sought on their behalf.
5. Provide a detailed argument outlining the public benefits claimed to result from the proposed contract, arrangement or understanding.
6. Provide details of the market(s) (the business activity and area of operations) likely to be affected by the contract, arrangement or understanding particularly in relation to the goods and services that may be the substitutes for the good or service that is the subject matter of the application for authorization.
7. Provide details of the detriments to the public, including those resulting from any lessening of competition, as a result of the contract, arrangement or understanding.
8. Where the application is made also in respect of other contracts, arrangements or understandings which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application, details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangement or understanding referred to in item 2.