SUMMARY OF

PAPUA NEW GUINEA’S

COMPETITION, CONSUMER PROTECTION AND PRICING LAWS

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Disclaimer

This publication is a plain language summary of the provisions of the laws that the ICCC administers. This summary has been prepared to give readers an understanding of the broad provisions of relevant laws and the responsibilities of the ICCC. If readers wish to gain a full understanding of the provisions they should consult the legislation.

This document will be updated from time-to-time with the emergence of decisions in the courts and through review of the ICCC Act and other legislation.

The Commission cannot and it is intended that this summary provide legal advice.
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1. THE ICCC

The Independent Consumer and Competition Commission (ICCC or Commission) is an independent statutory authority that administers the Independent Consumer and Competition Act 2002 (ICCC Act), the Prices Regulation Act (PRA) (Chapter 320 amended), Commercial Advertisement (Protection of the Public) Act (CA Act) and the Trade Measurement Act and various other pieces of legislation.

The ICCC is the only national body that has responsibility for enforcing this legislation.

The Commission is established under the ICCC Act. The primary objectives of the ICCC are to:

- enhance the welfare of the people of Papua New Guinea (PNG) through the promotion of competition, fair trading and the protection of consumers’ interests;
- promote economic efficiency in industry structure, investment and conduct; and
- protect the long term interests of the people of PNG with regard to price, quality and reliability of significant goods and services.

In doing so the Commission will having regard to:

- promotion and protection of the bona fide interests of consumers in regard to the fundamentals of price quality and reliability;
- ensuring that the community benefits from competition and efficiency;
- facilitating and promoting effective competition and market conduct;
- preventing misuse of market power;
- promoting and encouraging efficient industries and investment;
- health, safety, environmental and social implications; and
- promoting and encouraging fair trading practices and a fair market.

The functions of the ICCC are to:

- perform such function relating to price regulation, licencing, industry regulation and other matters conferred by the ICCC Act or any other Acts;
- promote and to protect the interests of consumers in relation to the supply and acquisitions of goods and services;
- make information available regarding matters affecting consumers;
- investigate and seek compliance with the laws it administers;
- make, monitor and review codes and rules regarding the operation of regulated entities;
- advise and make recommendations to the Minister in relation to any matter referred by the Minister or in connection with any matter connected with the laws administered by the Commission.
The Commission consists of one Commissioner and two Associate Commissioners, one of whom must have international experience and be a non-resident of PNG.

The ICCC Act specifically provides that the ICCC is not subject to direction or control of the Minister or any other person in the performance of its functions. (s. 23)

The organisational structure of the ICCC reflects its core activities – enforcement and compliance with competition and consumer protection provisions (strategies include education, information and monitoring the operation of the market place, adjudication and business acquisitions), price monitoring regulation, administering regulatory contracts, codes and pricing orders over regulated monopoly industries and sectors. The ICCC is organised into divisions, branches and program units. It consists of a head office (located in Port Morseby) and regional offices (located in Lae, Goroka and Kokopo).

Contact details for all Commission offices are at the end of this Summary.

2. OTHER INSTITUTIONS

2.1 Appeals Panel
The Appeals Panel considers applications for review of various decisions of the Commission. Further details are set out later in this summary.

2.2 Telecommunications Regulatory Authority (NICTA)
NICTA is the statutory authority responsible for the regulation of the ICT sector in PNG under the NICTA Act 2010. It administers sector specific legislation and has no links with the ICCC. The general competition provisions of the ICCC Act also apply to the ICT sector.

3. OUTLINE OF THE PROVISIONS OF THE ICCC ACT

3.1 Part III – Regulated entities, goods, services and contracts (s. 32 – 39)
This part provides a regime for declaring regulated industries, entities and goods and services including the regulation of prices and related service standards under regulatory contracts. Regulated industries are electricity, ports and harbours, postal and third party motor vehicle insurance. Telecommunications is also a regulated industry but regulation of that is industry and handled by NICTA.

The Minister for Treasury may declare an entity to be a ‘regulated entity’. This includes State owned entities. The Minister may also declare goods or services supplied by (or capable of supply of) by a regulated entity to be ‘regulated goods or services’. (s. 32)
If the ICCC is satisfied it is appropriate and an entity has a substantial degree of market power, it may declare an entity to be a regulated entity and goods or services supplied (or capable of being supplied by a regulated entity) to be regulated goods or services. The Commission may at any time (and with the consent of the regulated entity) revoke or but not vary the declaration. (s.33)

*Regulated contracts* – The consequence of declaring an entity to be a regulated entity is that a regulatory contract may be issued by the Treasurer (s.34) or Commission (s.35). A regulatory contract must:

- have a term not exceeding 10 years;
- regulate the supply price;
- specify the service standards and penalties that apply if there services are not met;
- specify the process to replace the regulatory contract at the end of the term;
- specify pricing policies and principles to be adopted in a subsequent regulatory contract;
- deal with any other matter that the Act requires; and
- specify any other conditions relating to price, provision of information, restriction or limitation of Commission powers (or the powers of any other statutory authority).

The Act sets out a process for the issue of a regulatory contract (s. 36).

A regulated entity must comply with the terms of any regulatory contract and the Commission must perform any functions that the regulatory contract imposes on the Commission (s.37). If the Commission believes an entity is not complying or may not comply with a regulatory contract the Commission may make an order requiring it to comply (s.38). Failure to comply with the order may result in a fine of up to K10,000,000.00 (s.39).

*Declared entities* – The following have been declared:

- PNG Power Limited,
- PNG Ports Corporation,
- Motor Vehicle Insurance Limited, and
- Post PNG Limited.

### 3.2 Part IV – Codes and rules (s. 40)

The Commission may make codes or rules relating to the conduct or operations of a regulated industry or contract (s. 40). A code or rule must be consistent with the terms of a regulatory contract.
3.3 Part V - Panel of experts, Appeals Panel and appeals (s. 41 – 43)

S. 41 provides for appointment of a panel of experts to review decisions of the Commission. The Minister or regulated entity may appeal (s.43). Such appeal may cover Commission decisions:

- to declare an entity to be a regulated entity;
- to declare goods or services to be regulated;
- as to the terms and conditions of any regulated contract;
- decisions made under a regulatory contract; or
- to issue an order to comply with a regulatory contract.

There is a ten day time limit to lodge an appeal and a six week time limit for the Appeals Panel to make a decision. The decision of the Commission may be deferred pending the outcome of the appeal. In determining the appeal the Appeals Panel must only have regard to the information that was available to the Commission. The Appeals Panel may affirm the decision of the Commission or return it to the Commission for reconsideration.

3.4 Part VI – Competitive market conduct (s. 44 – 102)

Provisions here prohibit certain anti-competitive conduct. The Act defines competition as workable or effective competition. It defines market as a reference to a market in PNG for goods or services that are, as a matter of fact and commercial common sense, substitutable and a reference to lessening of competition, to include a reference to hindering or preventing competition.

It requires the Commission to consider efficiency when it is required to consider whether conduct is or is likely to result in a benefit to the public for the purposes of authorization (s. 46). Authorization is considered later under this part.

This Part extends to the engaging in conduct outside PNG by any person resident or carrying on business in PNG to the extent that such conduct affects a market in PNG (s. 47).

The State is bound by the provisions of this Part to the extent that the State engages in trade (s. 48).

*Practices that substantially lessen competition* – The Act prohibits the entering or giving effect to any contract, arrangement or understanding or any covenant that has the purpose or has effect or is likely to have the effect of substantially lessening competition in a market (s. 50 and 51). It also prevents entering or giving effect to any contract, arrangement or understanding that contains an exclusionary provision. This is sometimes referred to as a primary boycott which is an arrangement between persons in competition with each other that excludes or
limits dealings with a particular supplier or customers or particular class of suppliers or customers.

Specifically, an exclusionary provision is a provision in a contract, arrangement or understanding between competitors that has the purpose of preventing, restricting or limiting:

- the supply of goods or services to; or
- the acquisition of goods or services from

particular persons or classes of persons who are in competition with one or more of the parties to the contract, arrangement or understanding. However, such conduct would not be caught by the Act if the persons engaging in the conduct could prove that it does not substantially lessen competition.

*Price fixing*–arrangements between persons that have the purpose, effect or likely effect of fixing, controlling or maintaining:

- the price for any good or service; or
- any discount, allowance, rebate or credit for any good or service

are deemed by s. 53 to substantially lessen competition and are a breach of s. 50 of the ICCC Act. S. 57 operates similarly in respect of covenants. *Price fixing includes cartel arrangements relating to price and collusive tendering.*

There are exceptions to s. 53. They are for:

- joint ventures – s. 54 – this applies to two or more parties, whether or not in partnership, entering into a joint trading activity or if a corporation carries out such an activity on behalf of two or more persons;
- recommendations as to prices, discounts, etc – s. 55 – this must include not less than 50 parties who supply or acquire goods or services in trade. *Note in this regard that the Commission takes the view that arrangements that purport to recommend prices but in fact fix prices are not caught by this exception;* and
- joint buying or advertising arrangements – s. 56 – this applies to the price of goods or services collectively acquired or for the joint advertising of the price of those goods and services for resupply.

A Commission brochure has been issued in respect of price fixing. It is available through the Commission’s website or by contacting its head office or regional offices. Contact details are shown at the end of this publication.
Taking advantage of market power – s. 58 prohibits a person that has a substantial degree of market power from taking advantage of that market power for the purpose of:

- restricting entry into that or any other market, or
- preventing or deterring person from engaging in competitive conduct in that or any other market, or
- eliminating a person from that or any other market.

For the purposes of s. 58 the ICCC takes the view that a reference to a person includes a reference to a competitor, a particular competitor or person or competitors or persons generally or to a class of persons or competitors.

A business has substantial market power when its activities are not significantly constrained by competitors, suppliers or customers. But it is not illegal to have market power. Only if the conduct is engaged in for an illegal purpose is there a contravention. The Commission takes the view that the illegal purpose needs not be the only purpose, nor even a dominant purpose. It is enough that it be one of the purposes and a substantial one.

Whether or not a business has a substantial degree of market power depends on the surrounding circumstances. The ICCC takes into account which activities of the business in the market are constrained by the conduct of their competitors or potential competitors or by the behaviour of those to whom it supplies or those who supply it.

Purpose may be inferred from business conduct and from any other relevant circumstance.

A business with a substantial degree of market power might misuse that market power in circumstances such as refusal to supply, refusal to buy, predatory pricing, exclusive dealing, or in exceeding a statutory, property or intellectual right.

The Commission cannot authorize (or exempt) the conduct of misuse of market power where as it can authorize other conduct that falls within this Part of the Act.

Resale price maintenance (rpm) – s. 59 prohibits this practice. This is where a supplier takes certain defined steps to ensure that a purchaser or potential purchaser of goods or services does not advertise or resell those goods or services at a price less than that specified by the supplier. It includes withholding supplies for specific reasons. The prohibition does not prevent
a supplier from recommending a price, provided it is a genuine recommendation and the supplier takes no action to influence or induce the reseller not to resell below that price (s.61).

S. 59 does not prevent a supplier from setting a maximum as opposed to a minimum resale price.

S. 60 prohibits a person from engaging or threatening to engage in conduct, either alone or in concert with other(s), that will hinder or prevent the supply of goods to or acquisition of goods or services from another person for the purposes of inducing that other person not to sell at less than a specified price.

The Commission has issued a brochure on resale price maintenance. It is available through the Commission’s website or by contacting its head office or regional offices. Contact details are shown at the end of this publication.

Statutory exceptions – under ss. 65 to 67 there are a number of exceptions, as follows:

- conduct specifically authorised by an Act or a regulation under an Act – this does not include an exception in legislation that is in non-specific terms;
- conduct relating to a partnership agreement;
- conduct related to work restrictions during or after termination of employment or contract for the provision of services;
- provision for the protection of the purchaser of a business for goodwill of that business;
- matters relating to product or service standards approved by a prescribed body or association;
- conduct related to remuneration, conditions of employment another employee matters;
- a provision in a contract relating solely to the export of goods;
- conduct in connection with a licence of a statutory intellectual property right but not for misuse of market power or rpm.

Business acquisitions – acquisitions of businesses or shares in a business are prohibited if the acquisition would have, or be likely to have, the effect of substantially lessening competition in a market in PNG (s.69). Anti-competitive provisions listed above do not apply to such acquisitions (s. 68).

In deciding if an acquisition is caught by the ICCC Act the following matters must be taken into account:

- actual and potential level of import competition in the market;
- nature and effect of barriers to entry in the market;
- the number of buyers and sellers in the market;
• the degree of countervailing power in the market;
• the likelihood that the acquisition would result in the acquirer being able to significantly and sustainably increase prices or profit margins;
• the extent to which substitutes are available, or are likely to be available in the market;
• the dynamic characteristics of the market including growth, innovation and product differentiation;
• the likelihood that the acquisition would result in the removal from the market of a sustainable, vigorous and effective competitor;
• the extent of vertical integration in the market.

Authorization – a person may apply for exemption from certain provisions of the ICCC Act (s. 70 to 80). However, this only applies to the following conduct:

• contracts, arrangements or understandings that would substantially lessen competition (s. 50);
• covenants that would have the purpose or effect of substantially lessening competition (s. 51);
• exclusionary provisions (primary boycotts) (s. 52); and
• resale price maintenance (ss. 59, 60).

On receipt of an application for authorization the Commission must inform all parties who have or are likely to have an interest in the subject matter of the application that the Commission will be considering the application. It will provide details of the application and invite interested parties to lodge a submission in relation to the application. A copy of the application, submissions and other relevant documents (subject to confidentiality) are placed on a public register.

In considering an application the Commission may only grant authorization if it is satisfied that in all the circumstances:

the conduct for which authorization is sought results, or is likely to result, in a benefit to the public and this benefit outweighs the lessening of competition that would result, or be likely to result or is deemed to result from the conduct.

A slightly different test applies to retail price maintenance and exclusionary provisions. Here the Commission must be satisfied, in all the circumstances, that the conduct results or is likely to result in a benefit to the public and that the conduct should be permitted.

Before deciding an application the Commission must issue a draft determination (including reasons for its proposed decision). This is sent to the applicant and all interested parties. The applicant or an interested party may request a conference with the Commission to discuss the
application within ten days from a date fixed by the Commission. The Commission may also decide to hold a conference.

Before finally deciding an application the Commission must take into account any information provided at the conference (if held) and any further submissions received. The Commission’s determination (with reasons) is sent to the applicant and interested parties. The determination may be issued subject to specified conditions.

The Commission has issued a brochure on authorization. It is available through the Commission’s website or by contacting its head office or regional offices. Contact details are shown at the end of this publication.

The Commission may only vary or revoke an authorization after giving the applicant the opportunity to respond to the Commission’s proposed variation or revocation (s. 80).

Business acquisitions – clearances and authorizations – Clearance (s. 81) is available. Authorization (under s. 82) is also available.

Time limits apply in determining both a clearance notice and an authorization application. The Commission has 20 days in relation to a clearance and 72 days for an authorization to give its decision. In both cases the time limit can be extended in certain circumstances.

The relevant test for clearance is that the acquisition would not have the effect of substantially lessening competition in the market. Clearance is automatically granted if a decision is not made by the Commission within the time limit (or any extension thereof).

The relevant test for authorization is that the acquisition will result, or be likely to result, in a benefit to the public that it should be permitted.

With an authorization application the Commission shall within the time limit:

1. clear the acquisition if it does not result in a substantial lessening of competition in the market; or
2. grant authorization if it is satisfied that the acquisition results, or is likely to result, in a benefit to the public that it should be permitted; or
3. decline to give clearance or grant authorization if it is not satisfied as to ‘1’ or ‘2’ above.

In granting authorization or clearance the Commission may accept a written undertaking to dispose of assets or shares given on behalf of the applicant (s. 85).

Before deciding a clearance or authorization the Commission may hold a conference with the applicant and interested parties to discuss the application or notice (s. 86).
The Commission has issued a brochure on authorization and clearance of business acquisitions. It is available through the Commission’s website or by contacting its head office or regional offices. Contact details are shown at the end of this publication.

**Enforcement and penalties** – where the National Court considers a person has:

- contravened any of the market conduct provisions outlined above; or
- aided and abetted, counselled or procured a contravention; or
- has been knowingly concerned in a contravention; or
- has conspired to contravene a provision

the Court may, on application by the Commission, order a pecuniary penalty (s. 87, s. 95) of up to K500,000.00 for an individual or K 10 million for a body corporate. In determining the amount of the pecuniary penalty the Court may have regard to the amount of gain arising from engaging in the conduct. Other remedies may also be applied.

In relation to price fixing (s. 53) a body corporate shall not indemnify directors, employees or agents in respect of any pecuniary penalty or costs associated with the action (s. 88). To do so may result in a pecuniary penalty that the Court considers appropriate (s. 89).

A Court may order a person involved in price fixing or a primary boycott not to be a director or promoter or otherwise involved in the management of a body corporate for up to five years (s. 90).

On application of the Commission or any other person the Court may order the grant of an injunction restraining a person from engaging in conduct that may constitute a contravention of any of the market conduct provisions or engaging in an ancillary offence (s.s 93, 96 and 98)

Ss. 94 and 97 provide for damages in relation to a contravention by a person of the market conduct rules and business acquisitions or conduct constituting an ancillary offence.

On application of the Commission the Court may, under s. 98, order disposal of assets or shares for a contravention of the business acquisition provisions (s. 69).

**3.5 Part VII – Consumer protection (s.103 – 121)**

Apart from consumer product safety, as outlined below, the ICCC Act only includes general consumer protection provisions. As part of that the ICCC Act at s.106 sets out the consumer protection functions of the Commission. They include:

- formulating and submitting to the Minister policies in the interests of consumers;
- liaising with other agencies of Government matters relating to consumer protection;
- receiving and considering complaints from consumers;
• making available consumer information;
• advising consumers of their rights;
• promoting and participating in consumer education;
• establishing appropriate systems whereby consumer claims can be considered and addressed;
• arranging consumer representation in court proceedings relating to consumer matters.

Consumer product safety – the provisions are contained in ss. 107 to 120 of the Act. The ICCC has specific wide ranging powers in relation to consumer product safety. It takes its responsibilities under these provisions seriously and will take immediate action when it becomes aware of a product that can affect the health or safety of consumers.

Failure to comply with these requirements may result in a heavy fine or imprisonment.

Under s.110 the Minister may declare product safety or information standards after consulting with the Commission. A supplier cannot supply goods that do not comply with a product safety standard that has been declared by the Minister under s 110s (s. 108). A product safety standard may specify performance, composition, contents methods of manufacture, processing, design, construction, finish or packaging, testing, or the form and content of markings, warnings or instructions accompanying the goods. Nor can a supplier supply goods that do not comply with a product information standard that has been declared by the Minister under s. 110 (s. 109). An information standard prescribes information to be given to consumers when they purchase the specified products.

Imposition of an ‘interim’ ban - The Commission may also declare, under s 108(5), a good unsafe by way of a notice in the National Gazette. Where the Commission is of the view that a good of a particular kind will or may cause injury and is unsafe it may effectively issue an ‘interim’ ban on the good and such a good cannot be supplied. After 18 months the interim ban may become a permanent ban unless revoked by the Commission or replaced by a consumer product safety standard.

The Commission may issue a warning notice informing the public that it is conducting an investigation in respect of goods that would or may cause injury to a person (s. 107). That notice can also set out the risks in using such goods. When the investigation is completed and subject to request for a conference by the supplier(s) (s. 114), the Commission shall as soon as possible announce the results of the investigation and it may at that time announce what action it proposes to take in respect of that good (s. 107). If it finds that the good will or may cause injury the Commission may declare the good unsafe. Effectively this is an interim ban of the good.
Should the Commission decide to declare the good unsafe a supplier shall not such supply good (s. 108).

After 18 months the Commission may declare a permanent ban on a good where there is an interim ban unless a consumer product safety standard has been prescribed in the meantime (s.108(7)). During the course of the 18 months the Commission may revoke the declaration (s. 108 (6)). Once a permanent ban is in place a supplier shall not supply the good.

Where, for a particular good, there is imminent risk of death or serious injury to the public the Commission may declare the good unsafe – effectively an interim ban - for the purposes of s.108(5) and a supplier shall not supply the good.

Compulsory product recall – if the Commission considers that a product supplied:

- will or may cause injury;
- does not comply with a prescribed consumer product safety standard;
- are covered by an interim or permanent ban, and

it appears to the Commission that the supplier has not taken satisfactory steps to prevent the goods causing harm the Commission may require any of the following:

- recall of the goods;
- disclosure to the public the nature of the defect, the circumstances in which it may be dangerous or procedures for disposal of the good;
- inform the public that the supplier undertakes to do one of the following: repair the goods, replace the good or provide a refund (s. 111).

A person shall not continue to supply a product the subject of a recall (s. 113).

Conference with the Commission - s. 114 provides the opportunity for suppliers of goods that are subject to an interim ban, permanent ban or compulsory product recall to call a conference with the Commission. As well as the supplier(s) the Minister (or his representative) and any person invited by the Commission may also attend.

After the conference the Commission will publish its decision (s. 115). That decision may be to affirm the Commission’s original decision, modify the original decision or to rescind its original decision.

Exception in the case of goods that constitute an imminent risk - in this case s.116 provides that the Commission does not need to afford an opportunity for a conference before banning the good. However, s. 117 provides for a conference after the good has been banned. After the
conference the Commission must decide if the ban should remain in force, be varied or be revoked.

*Voluntary recalls* – if a person voluntarily decides to recall a good the Commission must be informed of the details within two days.

**3.6 Part VIII – Enquiries and reports (s.122 -126)**
The Commission may undertake an enquiry if it considers it necessary or desirable for the purposes of carrying out its functions (s.122).

Under s. 123 the Minster or Parliament may direct the Commission to conduct an enquiry.

An enquiry may be conducted with or without a public hearing(s).

A final report must be delivered to the Minister and the Minister must table the report (subject to excluding confidential information) within 12 sitting days after receipt of the report.

**3.7 IX – General powers of the ICCC (s, 127 – 140)**

*Information gathering* – the Commission has power to:

- summons witnesses to give evidence to the Commission and to produce documents (s. 127);
- require a person to provide information to the Commission or to answer questions before the Commission (s. 128);
- enter and search premises to inspect any document or goods and to take documents or make copies of them (s. 129).

s. 130 provides the Commission with the power to require regulated entities to prepare and keep certain records for a specified period of time.

*Confidentiality* – any member or person employed by the Commission shall not disclose information designated ‘confidential’ (s.131).

*Enforcement and penalties* – The Commission may in consultation with and with the approval of the Public Prosecutor prosecute offences under the ICCC Act (s.132).

*General penalties* – unless otherwise specified the Act provides substantial penalties and imprisonment for an offence. In addition, the Court may order the forfeiture of any money or goods in respect of which an offence has been committed and other orders (s.134).
In the case of a conviction for an offence under the Act any person who was a director or officer of the corporation at the time shall also be deemed guilty unless he can prove it was committed without his knowledge or he used due diligence to prevent the commission of the offence.

4. OUTLINE OF THE PROVISIONS OF THE COMMERCIAL ADVERTISEMENT (PROTECTION OF THE PUBLIC) ACT (CA Act)

The purpose of the CA Act is to protect the public from untrue, inaccurate or misleading commercial advertisements. It is an offence under the CA Act to publish an unfair statement in any commercial advertisement.

An advertisement means every form of advertising in the country inviting the public to purchase the goods or services advertised or to do certain other things.

The CA Act recognises the need to protect the community because of the general lack of sophistication and educational standards of the people of PNG and the general tendency to rely on almost any form of advertising. The CA Act regulates the right to freedom of expression and publication granted under the Constitution (s. 1)

A commercial advertisement means any advertisement for gain or benefit of any kind to the advertiser or some other person, directly or indirectly, as a consequence of persons responding to the advertisement (s. 2). The Commission takes a very broad view as to what is a commercial advertisement.

An unfair statement means a statement or representation contained in an advertisement that is untrue or inaccurate or misleading or unreasonable in describing the size, quality, quantity or nature of goods or services in a manner particular or a material way (s. 2).

S. 3 provide that it is an offence to publicise any unfair statement in any commercial advertisement.

It is a defence for the advertiser to have believed on reasonable grounds that the statement complained of was not unfair or that it was not likely to deceive or mislead the complainant.

5. OUTLINE OF THE PROVISION OF THE PRICES REGULATION ACT (PRA)

Under s. 10 and s. 32A the Minister for Treasury may declare certain goods or services to be regulated and hence subject to some form of price control by the ICCC. The Minister may also declare goods or services to be monitored and hence have their price and/or volumes monitored by the ICCC. Those that have been declared are set out at Annexure 1 to this Summary.
The Commission has general powers to summons witnesses (s. 11), to obtain information generally (s. 12), for production of accounting records (s. 13) and for entry and search (s. 16).

The Commission may require returns (s. 14) furnishing specified information and may also require securities to secure compliance (s. 15).

A person selling declared good may be required to exhibit particulars relating to the declared goods and services (s. 18).

*Declaration of maximum prices* - if the Commission intends to fix a maximum price at which goods may be sold it must publish a notice of such in the daily newspapers at least 30 days before making the order (s. 20A). The notice will set out the details and invite interested parties to make submissions. Prior to making an order the Commission must consider submissions received. It must publish a statement of reasons for any order it publishes. An order declaring the maximum price at which the goods or services may be sold (s.21(1)) can be of different forms. The Commission may set a different maximum price according to differences in quality or description or in the quantity of goods sold or the value supplied or sold or in respect of different forms, modes, conditions, terms or localities of trade, commerce, sale or supply, etc. (s.21(2)).

When making an order s. 21(2A) sets out what factors the Commission must take into account. They include:

- the need to protect consumers and users of declared goods or services from misuse of market power;
- the cost of making, producing or supplying the declared goods or services;
- the desirability of encouraging greater efficiency;
- the need to ensure an appropriate rate of return on investment;
- existing standards of quality, reliability and safety;
- the effect of any proposed order on general price inflation over the medium term;
- the economic and social impact of any proposed order.

The Head of State may request the Commission to consider further any matter dealt with by an order under s. 21 or part of such order. In this case the Commission shall report to the Minister within 28 days of the request and may suspend the operation of any order. The Commission shall then report to the Minister on the suspension and may amend, vary or revoke the suspended order.

*Review of price control* – at any time after a price control order is made the Minister or a supplier of the declared goods or services may apply to the Commission for the order to be
reviewed (s.25A). The Commission must review the price if it has been at least 12 months since
the last review.

The Commission will have 90 days in which to review the maximum price and this period may
be extended by the Commission (s. 25A). If the review is not completed the order will be varied
in the manner proposed by the applicant (s.25c). Under s. 25B the Commission is required to
invite submissions of interested parties in conducting a review and take those submissions into
account.

_Evasion of prices regulation – _s. 27 allows the Commission to take action to prevent a person
from evading price regulation._

_Control of sales by auction – _s. 29 allows the Commission to make orders where declared goods
are sold or offered for sale by auction._

_Requisition of declared goods – _s.29 provides that following a report by the Commission the
Minister may require a person to hold the goods or to set aside a specified quantity of goods on
behalf of the State._

_Speculating in declared goods, cornering and restricting circulation for declared goods – _only a
bona fide wholesaler or retail trader or bona fide consumer or user may purchase declared
goods (s. 31). Similarly cornering the market or buying up or storing declared goods to restrict a
trade is an offence and the Court may order the whole of the goods or such quantity that the
Court orders to be forfeited to the State (s. 32)._}

_Declared monitored goods and services – _the Minister may (under s. 32A) declare goods or
services to be monitored upon the recommendation of the Commission. This could include
monitoring of prices or matters connected to prices._

The Commission must monitor prices and report to the Minister the prices of such goods or
services. It may also report on the desirability of those goods or services being declared for
price control.

_General offences under the PRA – _the PRA lists a number of general offences including:_

- selling or supply of goods or services at prices above the maximum declared (s.33). This
  also applies to substantially identical goods or services.
- A person who offers to pay in excess of the maximum price is also guilty of an offence (s.
  36);
- refusal to sell at declared price (s. 37);
- refusal to supply at a fixed price (s. 37);
- delivery of less or inferior goods (s.38);
• lowering quality of declared goods (s. 39)
• falsely advertising that prices have been approved by the Commission or otherwise subsidised (s. 40).

The Commission has the power to prosecute in respect of the abovementioned offences.

6. MORE INFORMATION ABOUT THE COMMISSION

For more information about the ICCC refer to its website www.iccc.gov.pg or contact the ICCC offices

<table>
<thead>
<tr>
<th>1st Floor, Garden City, Angau Drive</th>
<th>Highlands Regional Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>P. O. Box 6394, Boroko, NCD</td>
<td>PNG Tonner &amp; Ink Supplies Building</td>
</tr>
<tr>
<td>Telephone: (675) 325 2144</td>
<td>P. O. Box 1070, Goroka, Eastern Highlands Province</td>
</tr>
<tr>
<td>Fax: (675) 325 3980</td>
<td>Telephone: (675) 732 1077</td>
</tr>
<tr>
<td>Toll Free No. 180 3333</td>
<td>Fax: (675) 732 1414</td>
</tr>
<tr>
<td>Email: <a href="mailto:infor@iccc.gov.pg">infor@iccc.gov.pg</a></td>
<td>Email: <a href="mailto:highlands@iccc.gov.pg">highlands@iccc.gov.pg</a></td>
</tr>
<tr>
<td>Website: <a href="http://www.iccc.gov.pg">www.iccc.gov.pg</a></td>
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<tr>
<th>Momase Regional Office</th>
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<tbody>
<tr>
<td>Micro Bank Building</td>
</tr>
<tr>
<td>P. O. Box 448, Lae, Morobe Province</td>
</tr>
<tr>
<td>Telephone: (675) 472 2859 / 6188</td>
</tr>
<tr>
<td>Fax: (675) 472 6122</td>
</tr>
<tr>
<td>Email: <a href="mailto:momase@iccc.gov.pg">momase@iccc.gov.pg</a></td>
</tr>
<tr>
<td>Website: <a href="http://www.iccc.gov.pg">www.iccc.gov.pg</a></td>
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<tr>
<th>Islands Regional Office</th>
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<tbody>
<tr>
<td>1st Floor, William Kaputin Building</td>
</tr>
<tr>
<td>P. O. Box 461, Rabaul, East New Britain Province</td>
</tr>
<tr>
<td>Telephone: (675) 982 9711</td>
</tr>
<tr>
<td>Fax: (675) 982 9712</td>
</tr>
<tr>
<td>Email: <a href="mailto:islands@iccc.gov.pg">islands@iccc.gov.pg</a></td>
</tr>
<tr>
<td>Website: <a href="http://www.iccc.gov.pg">www.iccc.gov.pg</a></td>
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# DECLARED GOODS AND SERVICES

## Annexure 1

<table>
<thead>
<tr>
<th>DECLRED GOODS</th>
<th>Form of Price Regulation</th>
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<tbody>
<tr>
<td><strong>Rice</strong></td>
<td>• Price Monitoring of Roots rice products only (Quarterly)</td>
</tr>
<tr>
<td><strong>Flour</strong></td>
<td>• Price Monitoring (Quarterly)</td>
</tr>
<tr>
<td><strong>Sugar</strong></td>
<td>• Price Monitoring (Monthly) of Ramu Sugar only</td>
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## DECLARED SERVICES

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<tr>
<th></th>
<th>Form of Price Regulation</th>
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<tr>
<td><strong>Stevedoring and Handling</strong></td>
<td>• Price Monitoring (Quarterly)</td>
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| **PMV & Taxi Fares**     | • Price Control (annually)                                            |
| **Petroleum Products (Petrol, Diesel and Kerosene & Jet A1 and Avgas)** | • Monthly Price Monitoring of the IPP for Petrol Diesel and Kerosene; |
|                        | • Price Control of the Wholesale, Retail and Drum Filling Margins (annually); and |
|                        | • Monthly Price Monitoring of Aviation Gasoline and Jet A1 of Landed costs and volumes. (InterOil & Mobil only) |

| **Water & Sewerage**     | • Price Control (annually)                                            |