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MANUAL

IN ACCORDANCE WITH

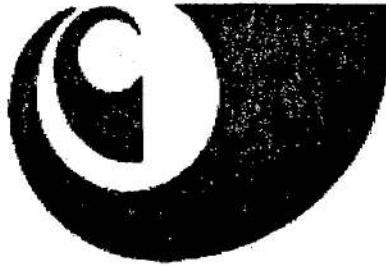
**THE PROMOTION OF ACCESS TO
INFORMATION ACT (NO. 2 OF 2000)**



AIDS HELPLINE 0800-0123-22 Prevention is the cure

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south africa

**MANUAL IN TERMS OF
SECTION 14 OF THE
PROMOTION OF ACCESS TO
INFORMATION
ACT 2/2000**

August 2005



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THE STRUCTURE AND FUNCTIONS OF THE COMPETITION COMMISSION OF SOUTH AFRICA (the Commission)

1. Overview

The Competition Commission was established in terms of the Act 89 of 1998, as amended. The Commission strives to achieve the objectives of the Act which are set out in section 2 of the Act as follows:

- To promote the efficiency, adaptability and development of the economy.
- To provide consumers with competitive prices and product choices.
- To promote employment and advance the social and economic welfare of South Africans
- To expand opportunities for South African participation in world markets and recognize the role of foreign competition in South Africa
- To ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy.
- To promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

2. Contact Details

Head of the Commission	Mr. Shan Ramburuth: Acting Commissioner
Physical Address:	Block C, the dti campus 77 Meintjies Street Sunnyside Pretoria, TSHWANE
Postal Address	Private Bag X 23 Lynnwood Ridge 0040
Telephone	+27 12 394 3200
Fax Number	+27 12 394 0166
Website Address	www.compcom.co.za
Email Address	ccsa@compcom.co.za
Enabling legislation	Competition Act 89 of 1998



2.1 Functions Of The Competition Commission

According to section 21(1) of the Competition Act 89 of 1998, as amended, the Competition Commission is responsible to: -

- Implement measures to increase market transparency.
- Implement measures to develop public awareness of the provisions of this Act.
- Investigate and evaluate alleged contraventions of Chapter 2.
- Grant or refuse applications for exemption in terms of Chapter 2.
- Authorise, with or without conditions, prohibit or refer mergers of which it receives notice in terms of Chapter 3.
- Negotiate and conclude consent orders in terms of section 49 D.
- Refer matters to the Competition Tribunal, and appear before the Tribunal, as required by this Act.
- Negotiate agreements with any regulatory authority to co-ordinate and harmonise the exercise of jurisdiction over competition matters within the relevant industry or sector, and to ensure the consistent application of the principles of this Act.
- Participate in the proceedings of any regulatory authority.
- Advise, and receive advice from, any regulatory authority.
- Over time, review legislation and public regulations, and report to the Minister concerning any provision that permits uncompetitive behaviour, and
- Deal with any other matter referred to it by the Tribunal.



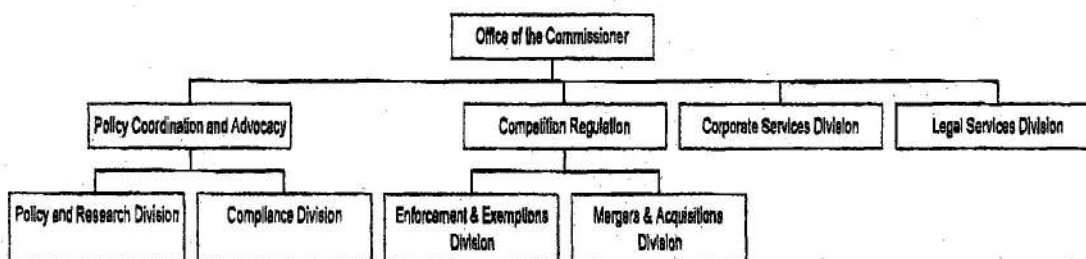
The Competition Commission may also: -

- Report to the Minister of Trade and Industry (the Minister) on any matter relating to the application of this Act.
- Enquire into and report to the Minister on any matter concerning the purposes of this Act, and
- Perform any other function assigned to it in terms of this or any other Act.

2.2 Structure of the Competition Commission

To fulfill its objectives, the Commission has structured itself as follows: -

COMPETITION COMMISSION ORGANOGRAM



3. SOUTH AFRICAN HUMAN RIGHTS COMMISSION GUIDE

In terms of Section 10 of the Act, the Human Rights Commission is required to compile a guide to the Act to assist people to exercise their rights under the Act. This guide will become available not later than August 2003. The Human Rights Commission may be contacted at:

Address: Private Bag 2700, Houghton, 2041

Telephone: (011) 484 8300

Facsimile: (011) 484 0582

Website: www.sahrc.org.za



4. COMMISSION RECORDS NOT AVAILABLE IN TERMS OF THE COMPETITION ACT 89 OF 1998

In terms of Section 45 of the Competition Act, a person who seeks access to information that is subject to a claim of confidentiality may apply to the Competition Tribunal, which will then determine whether or not the information is confidential or not; and if it finds that the information is confidential, make an appropriate order concerning access. The Competition Tribunal's contact details are: -

Physical Address:	Block C, 3rd Floor the dti campus 77 Meintjies Street Sunnyside Pretoria, TSHWANE
Postal Address	Private Bag X 23 Lynnwood Ridge 0040
Telephone	+27 12 394 3300
Fax Number	+27 12 394 0169
Website Address	www.comptrib.co.za
Email Address	ctsa@comptrib.co.za

5. DESCRIPTION OF RECORDS HELD BY THE COMMISSION

5.1 AUTOMATIC DISCLOSURES

TYPE	DESCRIPTION
Reports	<ul style="list-style-type: none"> • Annual Reports • List of finalized cases • Notice of referrals
Information to stakeholders	<ul style="list-style-type: none"> • Procedures • Service Standards • Case related Media releases
Publications	<ul style="list-style-type: none"> • News Letters • Brochures • Notices • Updates



5.2 INFORMATION AVAILABLE ON REQUEST

TYPE	DESCRIPTION
Case Related	<ul style="list-style-type: none"> • Merger Reports • Enforcement Reports • Exemption applications • Advisory Opinions
Research Papers	<ul style="list-style-type: none"> • Food Price Reports • Legal Opinions • Legal Research
Training and Workshops	<ul style="list-style-type: none"> • Compliance Workshops • Seminars • Conference papers/speeches
Financial Management	<ul style="list-style-type: none"> • Budgets • Annual Financial Statements • Financial Policies • Auditor General Reports • Audit Committee Minutes • Annual reports
Human Resources	<ul style="list-style-type: none"> • Employment Records • Equity Reports • Training Reports • HR policies
Procurement	<ul style="list-style-type: none"> • Asset Register • Tenders • Tender Committee Meeting minutes • Agreement with Service Providers
Commission Decisions	<ul style="list-style-type: none"> • Commission Minutes • EXCO Minutes • MOU/MOA - Tribunal and other Regulators • Union Agreements • International Agreements

6. PROCEDURES FOR THE REQUEST OF INFORMATION

A requester will be given access to a record of the Commission if the requester complies with the following:

- The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and
- Access to that record is not refused on any ground of refusal mentioned in the Act.



- The record is not classified as “confidential information” in terms of the Competition Act, or
- The Competition Tribunal has ordered access to the confidential record.

6.1 Nature of the request:

- A requester must use the form that has been printed in the Government Gazette (Govt. Notice R187 – 15 February 2002) (Form A) Please refer to Annexure A.
- The requester must also indicate if the request is for a copy of the record or if the requester wants to come in and look at the record at the offices of the public body. Alternatively if the record is not a document it can then be viewed in the requested form, where possible [s 29 (2)]
- If a person asks for access in a particular form then the requester should get access in the manner that has been asked for. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s 29 (3) and (4)].
- If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated [s 18 (2) (e)].
- If the requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [s 18 (2) (f)].
- If a requester is unable to read or write, or has a disability, then they can make the request for the record orally. The information officer must then fill in the form on behalf of such a requester and give them a copy [s 18 (3)].

6.2 Fees Payable

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee [s 22:]



A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.
- The request fee payable to public bodies is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request fee.
- After the information officer has made a decision on the request, the requester must be notified of such a decision in the way in which the requester wanted to be notified.
- If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

7. ACCESS TO INFORMATION

7.1 Access To Case related Information

- Any person may inspect or copy any Commission record on cases if it is not confidential information as stated in form CC7 or restricted information in terms of Rule 15 of the Commission Rules.
- All documents that contain an internal communication between officials of the Competition Commission, or between one or more such officials and their advisors cannot be accessed by the public.
- All opinions, advice, report or recommendation obtained or prepared by or for the Competition Commission; an account of a consultation, discussion or deliberation that has occurred, including, but not limited to, minutes of a meeting, for the



purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed on the Competition Commission by law are not accessible to the public.

- The public can only access information on competed or finalized cases unless the Competition Tribunal orders access or if the owner thereof consents in writing.
- Companies may request information from the Competition Commission pertaining to completed cases, which were handled by the Commission.

8. PRESCRIBED FEES

PART II OF NOTICE 187 IN THE GOVERNMENT GAZETTE OF THE 15 FEBRUARY 2002 FEES IN RESPECT OF PUBLIC BODIES

1. The fee for a copy of this manual as contemplated in regulation 5 (c) is R0, 60 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 7 (1) are as follows:

TYPE OF REPRODUCTION	FEE
a) For every photocopy of an A4-size page or part thereof	R0.60
b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form.	R0.40
For a copy in a computer-readable form on-	
i. stiffy disc	R5,00
ii. compact disc	R40,00
c) (i) For a transcription of visual images, for an A4-size page or part thereof	R22,00
(ii) For a copy of visual images	
d) (i) For a transcription of an audio record, for an A4-size page or part thereof	R12,00
(ii) For a copy of an audio record	R17,00



3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7 (2) is R35,00.
4. The access fees payable by a requester referred to in regulation 7 (3) are as follows:

(1)

TYPE OF REPRODUCTION	FEE
a) For every photocopy of an A4-size page or part thereof	R0,60
b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0,40
c) For a copy in a computer-readable form on –	
(i) stiffy disc	R5,00
(ii) compact disc	R40,00
d) (i) For a transcription of visual images, for an A4-size page or part thereof	R22,00
(ii) For a copy of visual images	R60,00
e) (i) For a transcription of an audio record, for an A4-size page or part thereof	R12,00
f) To search for and prepare the record for disclosure, R15,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	

- (2) For purpose of section 22 (2) of the Act, the following applies:
 - a) Six hours as the hours to be exceeded before a deposit is payable; and
 - b) one third of the access fee is payable as a deposit by the requester.
- (3) The actual postage is payable when a copy of a record must be posted to a requester.



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9. HOW TO GAIN ACCESS TO THESE SERVICES

To gain access to the services at the Competition Commission, requests must be made to the Commissioner or designated persons of the Commission.

Head of the Commission's Registry Department	Mr. Samson Mamba: HOD - Registry
Physical Address:	Block C, the dti campus 77 Meintjies Street Sunnyside Pretoria, TSHWANE
Postal Address	Private Bag X23 Lynnwood Ridge 0040
Telephone	+27 12 394 3200
Fax Number	+27 12 394 0166
Website Address	www.compcom.co.za
Email Address	ccsa@compcom.co.za

10. UPDATING OF THE MANUAL

The manual will be made available at the offices of the South African Human Rights Commission, at the Competition Commission Head Office, and on the Competition Commission website.



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FORM A
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18 (1) of the Promotion of Access to Information Act, 2000 (Act No.2 of 2000)

[Regulation 2]

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank, name and surname of information officer/deputy information officer) on (date) at (place).

Request fee (if any): R

Deposit (if any) R

Access fee: R

SIGNATURE OF HEAD OF REGISTRY:

A. Particulars of person requesting access to the record

(a) The particulars of the person who requests access to the record must be recorded below.

(b) Furnish an address and/or fax number in the Republic to which information must be sent.

© Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

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south africa

E-mail address:

Capacity in which request is made, when made on behalf of another person:

B. Particulars of person on whose behalf request is made

This section must be completed only if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

C. Particulars of record

(a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.

(b) If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:
2. Reference number, if available:
3. Any further particulars of record:

D. Fees

(a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.

(b) You will be notified of the amount required to be paid as the request fee.

© The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.

(d) If you qualify for exemption of the payment of any fee, please state the reason therefore.



Reason for exemption from payment of fees:

.....

.....

E. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:		Form in which record is required:	
<p>Mark the appropriate box with an "X".</p> <p>NOTES:</p> <p>(a) Your indication as to the required form of access depends on the form in which the record is available.</p> <p>(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.</p> <p>(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</p>			
1. If the record is in written or printed form -			
Copy of record*		Inspection of record	
2. If record consists of visual images -			
(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)			
View the images	Copy of the images*	Transcription of the images*	
3. If record consists of recorded words or information which can be reproduced in sound -			



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	Listen to the soundtrack (audio cassette)		Transcription of sound track* (written or printed document)
4. If record is held on computer or in an electronic or machine-readable form -			
	Printed copy of record*		Printed copy of information derived from the record*
			Copy in computer readable form* (stiffy or compact disk)
* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? A postal fee is payable		YES	NO
Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.			
In which language would you prefer the record? (Please tick the relevant box)			
		<u>Zulu</u>	<input type="checkbox"/>
		<u>N. Sotho</u>	<input type="checkbox"/>
		<u>English</u>	<input type="checkbox"/>



Particulars Of Record

Provide full particulars of the record to which access is requested, including the reference number/case number, to enable the record to be allocated. If the provided space is inadequate please continue on a separate folio and attach it to this form.

Reference number, if available:

Any further particulars of record:

Notice Of Decision Regarding Request For Access

You will be notified in writing whether your request has been approved/or refused.

If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

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Classification Of Information Accessible To Public

Upon receipt of case information, Registry Staff must review any confidentiality claims. All documents, which are confidential must clearly be stamped with a red ink (confidentiality stamp) when filing the case documents, the confidential pages will be bound together with the CC7 form. The order or sequence of pages should not be changed, rather rubber band or clips be used to facilitate making information available upon request.

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