

Consumer Council of Fiji

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14 May, 2018

Mr. Joel Abraham
The Chief Executive Officer
Fijian Competition and Consumer Commission
42 Gorrie Street
SUVA

Dear CEO,

RE: Submission – Review of Commerce (Price Control of Basic Foodstuffs, Pharmaceutical and Petroleum Products)

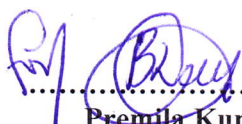
Greetings from the Consumer Council of Fiji.

Please find attached the Council's submission on the Review of Commerce (Price Control of Basic Foodstuffs, Pharmaceutical and Petroleum Products).

We sincerely hope the issues raised in the submission will be given a favourable response.

We would be happy to provide further clarifications should these be required.

Yours sincerely,


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Premila Kumar
Chief Executive Officer
Consumer Council of Fiji



CONSUMER COUNCIL OF FIJI

A Submission to the

Fiji Competition and Consumer Commission

Review of Commerce (Price Control of Basic Food
Stuffs, Pharmaceutical and Petroleum Products

May 2018

1.0 INTRODUCTION

1.1 Role of Consumer Council of Fiji

The Council has statutory obligations under *the Consumer Council of Fiji Act (Cap 235)* “to do all such acts and things which it may consider necessary or expedient to ensure that the interests of consumers of goods and services are promoted and protected.” The Council is also obliged to advise and make recommendations to the Minister responsible for consumer affairs in Fiji or any other Minister on issues affecting the interests of consumers. This work extends to providing advice and making submissions to regulatory agencies, policy makers, private sector or industry groups and international agencies.

The Council welcomes the Fijian Competition and Consumer Commission’s (FCCC) request for our submission on price control of basic food items, pharmaceutical and petroleum products in Fiji. The Council sincerely hopes that the issues it raises are given due consideration in the interests of consumer justice and fairness.

1.2 Our Submission

This Submission presents to the FCCC the concerns raised by consumers at the Council regarding the three regulated in the Price Control Order being reviewed.

2.0 Consumer issues and complaints

2.1 Number of Complaints

The Council has over the years received numerous complaints over these three groups of consumer goods and services. From 2015, number complaints received is noted in the table below:

No. of Registered Complaints				
Year	Food & Drinks	Pharmaceutical Products and Services	Fuel & Gas	TOTAL
2015	3	0	1	4
2016	91	19	18	128
2017	131	25	92	248
2018	45	7	23	75
TOTAL	270	51	134	455

These figures excludes the number of consumers who may have lodged the complaints with other authorities like the FCCC or have simply aired their frustration via public forum like newspapers, or directly to the companies concerned.

From the table it can be noted that complaints relating to Food and Drinks top the list at 270 complaints from 2015 to 2018. There were only 3 food and drinks related complaints in 2015, and it increased by 2933% the next year 2016.

There are two glaring facts that can be noted from the statistics given. Firstly, there has been a substantial increase in the number of complaints received for the 3 categories in 2017. Fuel and gas showed the most percentage increase at 411% during that year. Fuel is the second most demanded product on the list, and are also being taken advantage of by traders.

The complaints figures in 2018 is highly likely to increase as the statistics provided above is only till mid May 2018. Based on the complaints statistics, we note that consumers in the market still continue to face issues related to products that fall under the price regulation.

2.2 Nature of Complaints - Conduct of traders (importers/wholesalers/ distributors/ retailers)

The Council notes that non-compliance by traders has dropped compared to the PIB era and during the early years since the establishment and enforcement of the Commerce Commission Decree 2010, now referred to as FCCC Act 2010. Non-compliance has been more prominent for other items like fuel, bread, medicines, and food items. Issues identified are as follows:

2.2.1 Hoarding of Gas/Fuel

Hoarding is becoming common nowadays. Traders sensing an impending increase in price of a particular good, often hold back the supply of goods on the eve of the price increases. This is to allow them to sell it off the next day at a higher price. This happens mostly with fuel and gas, as their prices change more often. The Council continues to receive complaints of this nature, which becomes difficult to prove as these incidents usually occur during the night when the relevant authorities are closed for business. Consumers find themselves in difficult positions, as verbal claims on these situations are not investigated due to lack of evidence.

2.2.2 Price Gouging during Natural disasters or Festive occasions

Consumers often notice a sudden hike in prices of certain essential goods during periods of heavy demand. For example, prices of batteries and candles suddenly increase when there is a looming cyclone. Bottled water being the most vital, highly demanded and purchased item during any natural disaster are often found to be sold at increased price compared to its normal price. Further to this, prices of ghee increase dramatically during any Hindu festival because traders know that devotees will be using it a lot in their rituals.

2.2.3 Mismatch Prices

A problematic area that the Council regularly comes across during its market surveillance is where shelf or displayed prices of both price-control and non-price control food items often do not match POS prices.

This is also usually common during the time of sale or promotion held by the traders. During the period of sale, stores are flooded with consumers and cashier counters are lined up with

individuals cashing their items. In the haste of getting out of the crowded store, consumers fail to analyse that they have been charged more on their purchases. In a case of doing grocery shopping in a supermarket, consumers normally shop for a number of items for their household. Based on the sale price tagged on the shelf they usually pick the item and finally at the cashier counter they realise that the POS price is higher than the displayed price.

2.2.4 Overcharging Prices

At the top of the list of complaints is overcharging. Majority of the complaints had to do with unfair pricing of those goods and services, even when such items complained about is under price control. Previously, before the establishment of the National Consumer Helpline, which is a toll free service, consumers were reluctant to seek the Council's assistance as the cost of doing so would be in most instances greater than the monetary value of the complaint.

2.2.5 Non-disclosure of Prices

Consumers have complained of prices of goods not being displayed or marked on the items. Traders are then seen dictating prices, and even giving different prices every time.

For example, during one of the Council's routine Market Surveillances the following was noted: i) Missing price tag: *Rewa Butter* 500g, ii) *Rewa Full Cream Milk Blue Packet* 1 Litre, iii) *Sugars of Fiji* 2kg.

Another surveillance noted missing price tags of: i) *Drypers Baby wipes* 40s and 100s; ii) *Basmati Select* 5kg; iii) *FMF Sungrown Calrose Rice* 10kg. Other issues also noted were the hidden price tag of mixed vegetables, and overlapping price labels.

This lack of access to information could be a cause for price manipulation.

2.2.6 Disclosure of information on to consumers on difference between generic and branded medicines

The Council continues to receive complains concerning the lack of clarity in different medication types. There is a lack of understanding amongst consumers on which medicines are generic and which ones are originators. Most consumers are unable to make appropriate choices due to the uncertainties. All relevant stakeholders need to team up and create awareness on the type of medication that are available in the market for consumers to make informed decisions before making any purchases. The Council firmly believes that the initial role must be taken by the pharmacists themselves when they are interacting with their customers on a daily basis in order to educate them the difference between generic and originator types of medication.

3.0 Competition in the Market

3.1 Competition in the Food Supply Industry

While there are hundreds of retail traders around for food items in Fiji, there are very limited wholesalers and distributors. Only the major supermarket chains and a limited number distributors such as – CJ Patel and Ashabhai have market powers to buy in large quantities or

import and distribute most of the food items. Therefore, they have greater control in the prices of those goods.

There is competition in terms of numbers, but not in terms of market power. Smaller traders will never be able to set prices that are more competitive or lower than the Supermarket chains because they buy from them. It will be natural for them to want to charge a mark-up, and even if the supermarkets or distributors give it to them at reduced rates, it is highly likely that the retail prices may only go as low as to match their prices, but never below.

While there is a huge number of convenience stores scattered all over the suburbs, the huge price differentials give consumers very little choice but to buy from the big traders. It is for this reason that the Council reiterates the call for FCCC to look into compliance by canteens and small traders in rural and island communities particularly in the displaying of price tags for PCO items. These traders serve vulnerable and often less literate consumers who may be unaware of which items are on price control or can easily be misinformed by unscrupulous traders.

In light of the above, there is a need to maintain Price Control for the basic food items. Perhaps, more essential items can be included.

3.2 Competition in the Pharmaceutical Products market

The market situation in the pharmaceutical industry is almost the same as in the food industry. There are a few major manufacturers, importers and distributors, compared to the pharmacy stores. In some regions, there are numerous pharmacy stores with different names, but owned by the same proprietor.

In a minor research conducted by the Council for one of the vital medicines - *Coversyl*, the Council found out that in Suva alone, for those pharmacies with the same proprietor there were varying prices, with huge mark-ups ranging from 355.33% to 890.29%. The 355% was accounted only when the Council intervened in the case. Prior to that, the lowest mark-up was 394.42%, and that the 355% was reduced by 100% from 710.15% - (Refer to Attachment).

The exorbitant mark-ups applied by these entities clearly shows the tendency to exploit the market in the absence of any regulation. The fact that such medicine are not listed under the Price Controlled order list for essential medicines should not be used as an opportunity to profiteer, in the process exploiting the market at the expense of the dying.

The market is manipulated by the few pharmaceutical businesses who are price setters, taking control of the market. Consumers have very little choice but to buy at high prices from pharmacies near them or travel to a distant one and buy at a slightly lower price where the cost of travelling almost offsets the price differences.

Many times it had been observed that consumers have limited knowledge on price changes made to regulated pharmaceutical medications. Despite having the price list on display, traders still tend to abuse their market power.

In this regard, the FCCC should consider regulating not only the prices of essential medicine, but make it mandatory for the regulated prices to be clearly displayed in all pharmacies.

3.3 Competition in the Petroleum Products market

The market situation in the petroleum products industry in Fiji is much similar to the other two product lines already stated above. It may be even tighter than the two, with only 3 major suppliers importing from overseas and distributing locally, which are Total, Mobil, and Pacific Energy.

According to the Council's price surveys over the years, prices were quite volatile and fluctuated frequently from 2006 to the period before the introduction of Price Control in 2012. For Kerosene alone, the prices changed 50 times from 2006 to 2012, rising a total of 30 times and falling only 20 times – (Refer to Attachment 2). This shows that traders are more interested to transfer prices in the international market to local consumers quickly in times of increases, but very slow to do the same when the prices decrease.

Failure of having an Order in place resulted in consumers paying more whilst trader abused their market power. Now that this current sector is regulated, consumers are informed on the expected timeframe for changes and have a means to take action against unscrupulous traders who exploit the market.

Even when the Price Control Order is in place, the Council continues to receive complaints against traders selling petroleum at higher prices. These are then investigated and facts established before it is forwarded to FCCC for enforcement action.

The Council had received a complaint against Pacific Energy (respondent) on 16.10.17. The nature of the complaint was that despite the gas being under price control, Mr. Niu was charged \$37.70 for a 12kg gas cylinder whereas he should have been charged \$33.78. The Council had raised this issue with the Director of Pacific Energy and with Fijian Competition and Consumer Commission for enforcement. The matter was further investigated whereby the respondent has been caution interviewed by FCCC Officers and also warned for prosecution.

3.4 Price Determinations

The Council notes that price determinations on the essential items on the list are done on an ad hoc basis. This affects consumers who also have to budget and plan their household incomes for food and other essentials. The current system creates price shocks for consumers who are constantly left in the dark and inconvenienced by sudden price changes. It is more of a benefit to traders, particularly importers and wholesalers who apply for price changes due to changes in cost.

The Council maintains that price determinations and prices for commodities that are greatly affected by world price changes should be done quarterly similar to the price review on fuel/gas, which is done quarterly. This should assist consumers to prepare for any impending price hikes. Needless to say it will also benefit small traders who need some predictability in how they purchase stock.

4.0 Conclusion

Several inferences are made from the above. Market power in the three sectors of which the Price Control Order is concentrated in the hands of only a few giant traders. Those traders have substantial market powers, and easily have influence over the mass market and dictate the terms or prices at which goods and services are exchanged.

The market behaviour of firms in these sectors with and without regulation is not optimised to reflect effective competition. Prices vary with a lot of differences from store to store. Without price control or regulation, consumers suffer from exploitation by profit hungry traders.

The implementation of price control protects the vulnerable consumers in several ways. The public announcements of change in prices makes consumers aware of the prevailing regulated prices, helping them know the right prices they should be charged for those goods. It will also alert them if their rights are being violated in terms of unfair prices, and they can know when to seek redress.

5.0 Recommendation

The **market condition and behaviour of traders requires some form of controls to be in place**. Therefore, the Council suggests that **the Order be extended** until such time when there is real competition in the market that will automatically even out anti-competitive behaviour.