



**Your ref: NCC/GN/0001**

10 March 2011

Via email: [STleane@thedti.gov.za](mailto:STleane@thedti.gov.za)

The National Commissioner  
National Consumer Commission  
c/o Mr Siphon Tleane  
P O Box 30251  
Sunnyside  
Pretoria  
0132

Dear Sir

**COMMENTS BY THE LAW SOCIETY OF SOUTH AFRICA ON THE DRAFT GUIDELINES FOR THE NATIONAL CONSUMER COMMISSION: GOVERNMENT GAZETTE NO 34039 DATED 18 FEBRUARY 2011**

In Government Gazette 34039 “draft enforcement guidelines for the National Consumer Commission, in terms of the Consumer Protection Act” were published.

The Law Society of South Africa (LSSA) submits that, since no definition of “enforcement guidelines” appears in the Consumer Protection Act (CPA), it should have been indicated in terms of which provisions of the Act these guidelines were published.

Furthermore, the LSSA is of the view that this document is an internal document to be used by the Commission in order to regulate and arrange the administrative functions of the Commission and as such it was unnecessary for it to be published for public information and comment in its present form.

As an example we wish to point out that, on page 8 (footnote 4) it is stated that the National Consumer Commission (NCC) would have jurisdiction in terms of Section 5 of the CPA. However, that section does not establish the Commission or grant jurisdiction to the Commission. The establishment of the Commission and its functions and powers are dealt with further on in the Act, starting from Sections 71, 72 and 92.

The Law Society of South Africa brings together the Black Lawyers Association, the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces and the National Association of Democratic Lawyers in representing the attorneys' profession in South Africa.

None of these sections empowers the Commissioner to determine enforcement guidelines by notice in the Government Gazette.

It is therefore suggested that this document, even if finalised in its present form, would have no application outside the office of the Commission. Within the office of the Commission it would deal only with the daily administration of the Commission.

If it is intended that these enforcement guidelines should have the force of law, then the Minister should publish these enforcement guidelines in terms of the provisions of Section 120(1)(b) of the CPA.

Taking the above into consideration, the LSSA is of the view that it is not necessary to comment on the contents of the draft enforcement guidelines.

Yours faithfully



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