

LAO FAKAANGAANGA (FAKATONUTONU) KI HE MALU'I 'O E KONISIUMA
2024

KO HA LAO FAKAANGAANGA KI HA LAO KE FAKATONUTONU 'A E LAO KI
HE MALU'I 'O E KONISIUMA

'OKU TU'UTU'UNI 'e he Tu'í mo e Fale Alea 'o Tonga 'i he Fakataha Alea 'o e Pule'angá
'o pehē:

1 Hingoa nounou

- 'E ui 'a e Lao ni ko e Lao (Fakatonutonu) ki he Malu'i 'o e Konisiuma 2024.
- 'I he Lao ni, ko e Lao ki he Malu'i 'o e Konisiuma (Vahe 17.04), 'i hono fakatonutonu, kuo pau ke ui ko e "Tefito'i Lao".

2 Fakahu atu 'a e kupu 29A fo'ou

'Oku fakatonutonu 'a e Tefito'i Lao 'aki hono fakahu atu 'a e kupu 29A fo'ou ko eni hili
pe 'a e kupu 29 –

"29A Tapui 'o e ngaue 'oku ne holoki 'a e fe'au'auhi

- Kuo pau ke 'ikai ke kau atu ha taha 'i ha ngaue 'oku ne holoki 'a e fe'au'auhi 'a ia 'oku 'i ai ha fakataumu'a pe 'oku ngalingali 'e hoko ia ke ne matu'aki holoki 'a e fe'au'auhi 'i ha maketi ki he ngaahi koloa pe ngaue, 'a ia ko ha maketi ko e taha fo'u koloa pe taha fefakatau'aki 'oku ne tuku atu ai ha ngaahi koloa pe ngaue.
- Ki he taumu'a 'o e Lao ni, 'oku kau atu ki he ngaue 'oku ne holoki 'a e fe'au'auhi ka 'oku 'ikai ke fakangatangata pe ki heni –
 - fengaue'aki ha ngaahi pisinisi pe ha ni'ihi ke kau atu 'i ha ngaahi ngaue 'oku ne holoki 'a e fe'au'auhi;
 - fo'u ha kulupu 'o fakataumu'a ke fokotu'u 'a e ngaahi totongi pe ngaahi maketi fakatau 'inasi pe ke pule'i 'a hono tuku atu 'o e ngaahi koloa mo e ngaue pe ko ha ngaahi fokotu'u 'ikai totonu ke ma'u ai ha malohi 'i ha talamahu'inga;
 - fo'u ha ngaahi fa'unga pule'i tafataha (monopolistic structures);
 - fakatau ke fokotu'unga e koloa pea puke 'a e ngaahi ngaue ke ne fakatupunga ha nounou ta'etotonu pea ke fakatupunga 'a e hiki hake 'a totongi;
 - fakataha'i pe ma'u mai 'o ha 'inasi pisinisi koe'uhi ke fakatupunga e pule'i tafataha (monopolies);

- (f) ko hono fokotu'u e ngaahi totongi ma'ulalo taha ke toe fakatau atu 'a e ngaahi koloa pe ngaue;
 - (g) ko hono fokotu'u 'o ha ngaahi totongi ma'olunga ta'etotonu;
 - (h) fakafaingata'a'ia'i 'a e founa fakahoko pisinisi 'o e kau konisiuma pe ko e taha fefakatau'aki;
 - (i) tuku atu fakamakatu'unga pe ko ha 'ikai tali ke tuku atu 'i ha ngaahi 'uhinga pau; pe
 - (j) ko ha toe ngaue pe to'onga 'oku ne holoki 'a e fe'au'auhi 'i ha maketi ki he ngaahi koloa pe ngaue.
- (3) Ko ha taha 'oku ne ngaue 'o maumau'i ai 'a e kupusi'i (1) 'oku ne fakahoko 'a e hia pea kuo pau ke ala mo'ua 'i ha'ane halaia ki he tautea ko ia 'oku tu'utu'uni 'i he kupu 30 'o e Lao ni.'.

3 Fakatonutonu 'a e kupu 30

'Oku fakatonutonu 'a e kupu 30(1) 'o e Tefito'i Lao –

- (a) 'i he palakalafi (a) –
 - (i) 'aki hono tamate'i 'a e fika "\$3,000" pea fetongi'aki 'a e "\$10,000";
 - (ii) 'aki hono tamate'i 'a e "ta'u 'e 1" pea fetongi'aki 'a e "ta'u 'e 3";
- (b) 'i he palakalafi (b) –
 - (i) 'aki hono tamate'i 'a e fika "\$7,000" pea fetongi'aki 'a e "\$50,000";
 - (ii) 'aki hono tamate'i 'a e "ta'u 'e 2" pea fetongi'aki 'a e "ta'u 'e 7".

Na'e tali 'e he Fale Aleá 'i he 'aho ni 'o 2024.

LAO FAKAANGAANGA (FAKATONUTONU) KI HE MALU'I 'O E KONISIUMA
2024

FAKAMATALA FAKAMAHINO

(‘Oku ‘ikai hoko ‘a e ngaahi fakamatala ni ko ha kongá ‘o e Lao Fakaangaangá pea ‘oku fakataumu‘a pē ia ke fakamatala‘i ‘ene taumu‘á mo hono ngāue‘akí)

Ko e ngaahi ngaue ‘oku ne holoki ‘a e fe‘au‘auhi (anti-competitive behaviours) ‘oku ‘ikai ke faka‘uhinga‘i ‘i ha lao ‘i Tonga ni, pe ‘oku tuhu‘i pau mai pe ko e ha ‘a e ngaahi ngaue ko ia. Neongo eni, ‘oku ‘i ai e ngaahi ngaue ‘oku ne holoki ‘e fe‘au‘auhi ‘oku tapu‘i ‘i he ngaahi lao ‘o Tonga ni. Ko e Lao ki he Malu‘i ‘o e Konisiuma (ko e Tefito‘i Lao) ‘oku ne tapu‘i pea ‘oku ne tu‘utu‘uni ko e hia ‘a e ngaahi ngaue holoki fe‘au‘auhi ‘e ni‘ihi ‘a ia ko e fakatau ke fokotu‘unga (hoarding), mahu‘inga filifilimanako (price discrimination) mo e pule‘i tafataha (monopolisation). Ko e Lao ki he Ngaahi Koloa ‘a e Ngaahi Ngaue‘anga ‘oku ne tu‘utu‘uni ko e hia ha ngaue fe‘au‘auhi ‘oku ne fakafe‘atungia‘i ‘a e ngaue faitotonu ‘i he ngaahi ngaue‘anga. Ko e ngaahi Lao kehe, ko e Lao ki he Ngaahi Fetu‘utaki, Lao ki he Ngaue Fakapangike, mo e Lao ki he Ngaahi Kautaha Fakapa‘anga, ‘oku tu‘utu‘uni ki he kau ma‘umafai tu‘utu‘uni ke nau fakakaukau‘i ha tohi kole fekau‘aki mo ha kaveinga pau pe ‘oku ‘i ai ha ola ‘o ia te ne hanga ‘o matu‘aki holoki ‘a e fe‘au‘auhi kimu‘a pe nau toki fakahoko tu‘utu‘uni ki he tohi kole.

‘Oku toe ‘i ai mo e ngaahi ngaue kehe ange ‘oku lau ia ko e ngaahi ngaue ‘oku ne holoki ‘a e fe‘au‘auhi ka ‘oku ‘ikai ke tu‘utu‘uni pau ki ai ‘a e ngaahi lao ‘o Tonga. ‘Oku kau heni ka ‘oku ‘ikai ke fakangatangata ki he, ngaue felotoi ‘a e ngaahi pisinisi mo e fakataautaha, felotoi ki ha mahu‘inga, fakataha‘i pe ko ha fakakau mai ‘o ha ngaahi pisinisi, ngaahi aleapau ‘i he vaha‘a ‘o e ngaahi pisinisi fe‘au‘auhi. Koe‘uhi ke fakapapau‘i ‘oku ‘ikai ke ‘i ai ha tonounou ‘i he lao fekau‘aki mo e fe‘au‘auhi, ‘oku fokotu‘u atu ‘e he Lao Fakaangaanga (Fakatonutonu) ki he Malu‘i ‘o e Konisiuma 2024 ‘a e ngaahi kupu fo‘ou ki he Tefito‘i Lao ke tu‘utu‘uni ko e hia ‘a e ngaue ‘oku ne holoki ‘a e fe‘au‘auhi (anti-competitive conduct) ‘a ia te ne matu‘aki holoki ‘a e fe‘au‘auhi ‘i he maketi ki he ngaahi koloa. Ko e taumu‘a tefito ‘o e Lao Fakaangaanga ko eni ke fakasi‘isi‘i ‘a e ngaue ‘oku ne holoki ‘a e fe‘au‘auhi pea te ne fakapapau‘i ai ko e ngaahi maketi ki he ngaahi koloa ‘oku kei fe‘au‘auhi, fakalalakaka pea lelei foki ki he konisiuma.

Ko e ngaue ‘oku ne holoki ‘a e fe‘au‘auhi ‘i he maketi ki he ngaahi koloa ‘oku lau ia ‘oku fakatu‘utamaki koe‘uhi ‘e malava ke ne uesia tamaki ‘a e fe‘au‘auhi mo e fakakaukau fo‘ou mo e tu‘unga faka‘ekokonima fakalukufua ‘o e fonua. ‘Oku toe hoko foki ‘a e ngaue ‘oku ne holoki ‘a e fe‘au‘auhi ko ha palopalema koe‘uhi ‘oku ne fakasi‘isi‘i ‘a e ngaahi fili ‘e ma‘u ‘e he konisiuma, teke ke toe ma‘olunga ange ‘a e mahu‘inga ‘o e koloa, ‘ikai fe‘unga ‘a hono vahevahe ‘o e koloa, fakasi‘isi‘i ‘a e fakakaukau fo‘ou, fakafe‘atunga‘i ‘o e kau mai, holoki ‘a e tu‘unga ‘o e ngaahi pisinisi iiki, ‘ikai tatau ‘a e tu‘unga faka‘ekonomika mo e liliu ‘a e maketi. Ke ta‘ota‘ofi ‘a e ngaahi ngaue ‘oku ne holoki ‘a e fe‘au‘auhi, pea ke malu‘i ‘a e kau konisiuma mei he ngaahi ngaue ko eni, ‘oku toe fokotu‘u atu ‘e he Lao Fakaangaanga (Fakatonutonu) ki he Malu‘i ‘o e Konisiuma 2024 ke toe tuku hake ‘a e ngaahi tautea ‘o e ngaahi hia ‘i he malumalu ‘o e Lao ki he Malu‘i ‘o e Konisiuma.



Hon Dr Taniela Liku'ohihifo Fusimalohi

CONSUMER PROTECTION (AMENDMENT) BILL 2024

A BILL FOR AN ACT TO AMEND THE COMPETITION ACT

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short title

- (1) This Act may be cited as the Consumer Protection (Amendment) Act 2024.
- (2) In this Act, the Consumer Protection Act (Cap 17.04), as amended, shall be referred to as “the Principal Act”.

2 New section 29A inserted

The Principal Act is amended by inserting a new section 29A as follows –

“29A Prohibition of anti-competitive conduct

- (1) A person shall not engage in anti-competitive conduct that has the purpose or is likely to have the effect of substantially lessening competition in a market for goods or services, being a market in which the manufacturer or trader supplies goods or services.
- (2) For the purpose of this Act, anti-competitive conduct includes but is not limited to –
 - (a) collusion by businesses and individuals to engage in actions that lessen competition;
 - (b) formation of cartels with the intention to fix prices or share markets or control the output of goods and services or making dishonest arrangement to win bids;
 - (c) formation of monopolistic structures;
 - (d) hoarding of goods and withholding services to create artificial scarcity and consequently inflating prices;
 - (e) merging and acquisition of business interest to create monopolies;
 - (f) the setting of minimum prices for resale of goods and services;
 - (g) the setting of artificially high prices;
 - (h) restricting how customers or suppliers do business;
 - (i) conditional supply or refusing to supply for specified reasons; or
 - (j) any other conduct or behaviour that lessens competition in a market for goods or services.

CONSUMER PROTECTION (AMENDMENT) BILL 2024

EXPLANATORY NOTES

(These notes do not form part of the Bill and is only intended to explain its purpose and scope)

Anti-competitive behaviours are not defined by any of the laws in Tonga, as to what they exactly are. However, there are certain anti-competitive behaviours prohibited under Tonga's laws. The Consumer Protection Act (the Principal Act) prohibits and criminalises certain anti-competitive behaviours specifically hoarding, price discrimination, and monopolisation. The Industrial Property Act also criminalises acts of competition contrary to honest commercial practices. Other Acts, the Communications Act, the Banking Act and the Financial Institutions Act require decision-makers to consider whether an application specific to certain matters will have the effect of substantially lessening competition before deciding on the application.

There are several other conducts that are regarded as anti-competitive behaviour but are not specifically provided for in any of the laws in Tonga. These include but are not limited to, collusions by businesses and individuals, price fixing, merging and acquisition of businesses, agreements between competitors etc. To ensure that there is no gap in the legislation on anti-competition, the Consumer Protection (Amendment) Bill 2024 proposes to add new provisions to the Principal Act to criminalise any anti-competitive conduct that would substantially diminish competition in the market for goods. The main purpose of the Bill is to prevent anti-competitive conduct thereby ensuring that markets for goods remain competitive, innovative and beneficial to consumers.

Anti-competitive behaviour in the market for goods and services is considered dangerous because it can negatively impact competition, innovation and overall economic welfare. Anti-competitive behaviour is also a concern because it reduces consumer choice, drives prices of goods and services higher, inefficient allocation of resources, suppression of innovation, barriers to entry, weakens small businesses, economic inequality and market distortions. To prevent anti-competitive behaviours thereby ensuring that consumers are protected, the Consumer Protection (Amendment) Bill 2024 also proposes an increase in the penalties for the offences under the Consumer Protection Act.



Hon Dr Taniela Liku'ohihifo Fusimalohi

People's Representative for 'Eua 11