

**Template pursuant to Section 3 (a) of the
ICN Framework on Competition Agency Procedures**

[Agency name, Jurisdiction]

The following template is submitted by **[Bangladesh Competition Commission (BCC)]** pursuant to Section 3(a) of the ICN Framework on Competition Agency Procedures (“CAP”).

I. Introduction

Bangladesh Competition Commission (BCC) was formed in 2012 as per the Competition Act, 2012 (the Act.) enacted in the same year and began operational in 2016 with the appointment of the Chairperson and Members. BCC is a statutory body and discharge its duties independently.

Bangladesh Government enacted the Competition Act. 2012, to promote, ensure and sustain congenial atmosphere for the competition in trade and to prevent, control and eradicate collusion, monopoly and oligopoly, or abuse of dominant position or activities or combination adverse to the competition.

As a nascent organization some of the rules and regulations are yet to be finished. BCC is trying to accommodate the best practices around the world.

Web address: www.ccb.gov.bd

II. Laws, Regulations, and Policies relevant for the implementation of the CAP

For each CAP Principle below, please explain how your competition law investigation and enforcement procedures meet the Principle. Please highlight important features relevant for the implementation of the CAP and explain limitations, if applicable. Feel free to include links or other references to related materials such as relevant legislation, implementing rules and regulations, and guidelines where helpful and appropriate.

Please update your Template reflecting significant changes as they relate to the CAP, as needed.

b) Non-Discrimination

Each Participant will ensure that its investigation and enforcement policies and Procedural Rules afford Persons of another jurisdiction treatment no less favorable than Persons of its jurisdiction in like circumstances.

The Act. is applicable to all enterprises involved in purchase-sale, production, supply, distribution or storage of goods and services for commercial purposes except the goods or

services which are controlled by the government for the interest of national security and not open for private sector.

The Act. is applied equally for both its national and foreign entities.

c) Transparency and Predictability

- i. Each Participant will ensure that Competition Laws and regulations that apply to Investigations and Enforcement Proceedings in its jurisdiction are publicly available.*
- ii. Each Participant with the authority to adopt Procedural Rules will have in place such rules applicable to Investigations and Enforcement Proceedings in its jurisdiction.*
- iii. Each Participant will ensure that Procedural Rules that apply to Investigations and Enforcement Proceedings in its jurisdiction are publicly available.*
- iv. Each Participant will follow applicable Procedural Rules in conducting Investigations and in participating in Enforcement Proceedings in its jurisdiction. Each Participant is encouraged to have publicly available guidance or other statements, clarifying or explaining its Investigations and Enforcement Proceedings, as appropriate.*

- v. Law, rules and regulations are displayed in the website. The annual report published regularly.*
- vi. In Bangladesh no law is valid unless it has been published in official gazette.*
- vii. Annual report of BCC reflects important points and matters of disposed cases.*

d) Investigative Process

- i. Participants will inform any Person that is the subject of an Investigation as soon as practical and legally permissible of that Investigation, according to the status and specific needs (e.g., forensic considerations) of the Investigation. This information will include the legal basis for the Investigation and the conduct or action under Investigation.*
- ii. Participants will provide any Person that has been informed that it is the subject of an Investigation, or that has notified a merger or other transaction or conduct, with reasonable opportunities for meaningful and timely engagement on significant and relevant factual, legal, economic, and procedural issues, according to the status and specific needs of the Investigation.*
- iii. Participants will focus investigative requests on information that they deem may be relevant to the competition issues under review as part of the Investigation. Participants will provide reasonable time for Persons to respond to requests during Investigations, considering the needs to conduct informed Investigations and avoid unnecessary delay.*

- iv. Any person may, by himself or by a representative, produce his statement, allegation or opposition before the commission.*
- v. All investigations are public documents, anybody can peruse. Parties must be heard during the investigation period.*

e) Timing of Investigations and Enforcement Proceedings

Each Participant will endeavor to conclude its Investigations and aspects of Enforcement Proceedings under its control within a reasonable time period, taking into account the nature and complexity of the case.

Period of investigation and enforcement is depends on according to the complexity, nature and situation of the case. It is expected to adopt the best practices of the world in this field.

f) Confidentiality

- i. Each Participant will have publicly available rules, policies, or guidance regarding the identification and treatment of confidential information.*
- ii. Each Participant will protect from unlawful disclosure all confidential information obtained or used by the Participant during Investigations and Enforcement Proceedings.*
- iii. Each Participant will take into consideration both the interests of the Persons concerned and of the public in fair, effective, and transparent enforcement regarding the disclosure of confidential information during an Enforcement Proceeding.*

iv. BCC maintained confidentiality in investigative procedure. Commission maintains the confidentiality if, any party request to maintain any record or documents.

g) Conflicts of Interest

Officials, including decision makers, of the Participants will be objective and impartial and will not have material personal or financial conflicts of interest in the Investigations and Enforcement Proceedings in which they participate or oversee. Each Participant is encouraged to have rules, policies, or guidelines regarding the identification and prevention or handling of such conflicts.

Chairperson and Members of the Commission shall not involve any commercial activities. Officials of BCC are also obliged to follow conduct rules. They cannot disclose any official's matters.

Moreover, the Chairperson and any members shall not, for a period of 1(one) year from the date on which he ceases to hold office, be employed, or connected with the administration or management of any enterprise which was or may be a party to a proceeding before the Commission under the Act.

h) Notice and Opportunity to Defend

- i. Each Participant will provide Persons subject to an Enforcement Proceeding timely notice of the alleged violations or claims against them, if not otherwise notified by another governmental entity. To allow for the preparation of an adequate defense, parties should be*

informed of facts and relevant legal and economic reasoning relied upon by the Participant to support such allegations or claims.

- ii. Each Participant will provide Persons subject to a contested Enforcement Proceeding with reasonable and timely access to the information related to the matter in the Participant's possession that is necessary to prepare an adequate defense, in accordance with the requirements of applicable administrative, civil, or criminal procedures and subject to applicable legal exceptions.*
- iii. Each Participant will provide Persons subject to an Administrative Proceeding with reasonable opportunities to defend, including the opportunity to be heard and to present, respond to, and challenge evidence.*

iv. No matter is settled without notifying and reasonable hearing of the parties.

i) Representation by Counsel and Privilege

- i. No Participant will deny, without due cause, the request of a Person to be represented by qualified legal counsel of its choosing.*
- ii. Each Participant will provide a Person a reasonable opportunity to present views regarding substantive and procedural issues via counsel in accordance with applicable law. Notwithstanding the foregoing, Persons may be required to provide direct evidence.*
- iii. Each Participant will recognize applicable privileges in accordance with legal norms in its jurisdiction governing legal privileges, including privileges for lawful confidential communications between Persons and their legal counsel relating to the solicitation or rendering of legal advice. Each Participant is encouraged to have rules, policies, or guidelines on the treatment of privileged information.*

- iv. Prevailing laws of Bangladesh ensure representation by counsel.*
- v. Article 33(1) of the Constitution of Bangladesh guaranteed the consultation and defense by a Counsel.*

j) Decisions in Writing

- i. Each Participant in charge of issuing decisions or orders will issue in writing its final decisions or orders in which it finds a violation of, or imposes a prohibition, remedy, or sanction under applicable Competition Laws. Such final decisions or orders will set out the findings of fact and conclusions of law on which they are based, as well as describe any remedies or sanctions. Each Participant will ensure that all final decisions are publicly available, subject to confidentiality rules and applicable legal exceptions.*
- ii. Each Participant will ensure that all commitments it accepts to resolve competition concerns are in writing. Subject to confidentiality rules and applicable legal exceptions, each Participant will (i) make public the commitments it accepts, and (1) describe the basis for the competition concerns or (2) reference public materials in which those concerns are expressed, or (ii) provide a summary explanation of the commitments and the reasons for them.*

All decisions of commission are written. No oral decision is allowed in the Commission.

k) Independent Review

No Participant will impose on a Person a prohibition, remedy, or sanction in a contested Enforcement Proceeding for violation of applicable Competition Laws unless there is an opportunity for the Person to seek review by an independent, impartial adjudicative body (e.g. court, tribunal, or appellate body).

As per Competition Act, 2012 of Bangladesh any aggrieved parson can apply to the Commission for review or he/she has the complete liberty to apply for appeal to the Government for remedy.

However, as per constitution of Bangladesh any aggrieved person may seek relief to the High Court of Supreme Court of Bangladesh.