



**SIXTY-THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND
GOVERNMENT**

Bissau, 9 July 2023

DIRECTIVE A/DIR.2/07/23 RELATING TO ECOWAS CONSUMER PROTECTION

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty establishing the Authority and defining its composition and functions;

MINDFUL of Article 3 of the said Treaty, which provides for the harmonisation and coordination of national trade and quality policies as a means of maintaining and improving economic stability in the sub-region;

MINDFUL of the Supplementary Act A/SA.1/12/08 adopting the community competition rules and their modalities of application;

MINDFUL of the Supplementary Act A/SA.2/12/08 on the establishment, powers and functioning of the ECOWAS Regional Competition Authority (ERCA),

MINDFUL of the Supplementary Act A/SA.1/02/13 on the adoption of the ECOWAS Quality Policy (ECOQUAL);

MINDFUL of the Supplementary Act A/SA.3/12/21 on the establishment, powers and functioning of the ECOWAS Regional Competition Authority (ERCA), that amended Supplementary Act A/SA.2/12/08;

CONSIDERING that the objectives of the Community competition rules, as enshrined by Article 3 c) of the Supplementary Act A/SA.1/12/08 are, among others, to ensure the consumers' welfare and the protection of their interests;

RECALLING that in accordance with the provisions of Article 13 of the said Supplementary Act, as well as of Article 1 of the ECOWAS Regional Competition Authority Establishment Act, the ERCA shall be responsible for the implementation of the Community Rules on competition and consumer protection;

RECALLING ALSO that ERCA shall keep under review any commercial activity which may adversely affect the economic interests of consumers and undertake studies regarding matters affecting the interests of consumers;

CONSCIOUS of the need for Member States to put in place all the required mechanisms for consumer protection within the region;

CONVINCED of the need to promote a fair, accessible and sustainable marketplace for consumer products and services as well as consumer welfare;



DESIROUS of adopting guidelines for Member States to promote a harmonized framework of consumer protection within the region;

UPON THE OPINION of the Parliament at its First Ordinary Session held in Abuja, Nigeria from 08th to 26th of May 2023;

ON RECOMMENDATION of the Ninetieth Ordinary session of the Council of Ministers held in Abuja, Nigeria, from 6th to 7th July 2023.

PRESCRIBES:

**CHAPTER I
TITLE, OBJECTIVES, DEFINITION AND SCOPE**

ARTICLE 1: DEFINITIONS

For the purpose of this Directive the following documents shall apply:

“Advertisement” means any direct or indirect visual or oral communication transmitted by any medium, or any representation or reference written, inscribed, recorded, encoded upon or embedded within any medium through which a person seeks to bring to the attention of all or part of the public the existence, nature, availability, properties, supplies or advantages of any goods or services;

“Body or Bodies in charge of Consumer Protection” means authority, commission, institution, agency, entity or directorate in charge of consumer protection in Member States;

Collaboration Mechanism means any arrangement, activity, event, understanding or participation aimed at working together to achieve the objective of this Directive;

“Consumer” means as defined by Article 1 (h) of the Supplementary Act A/SA. 1/12/08, means a person, partnership or body corporate or incorporate acquiring goods or services;

“ERCA” means the ECOWAS Regional Competition Authority as established by Article 1 of the Supplementary Act A/SA. 2/12/08 on the establishment, powers and functioning of the Regional Competition Authority;

“Regional Framework” means the Harmonized Consumer Protection Framework within ECOWAS.

ARTICLE 2: OBJECTIVES

1. The overall objective of this Directive is to put in place a regional framework for the protection of consumers and promotion of consumers' rights and interests within the ECOWAS region.



2. The Directive also provides for a collaborative mechanism between ERCA, body/bodies responsible for consumer protection in Member states and stakeholders on consumer protection within the ECOWAS region.

ARTICLE 3: SCOPE

This Directive shall apply to all Member States on consumer protection matters, and cross-border economic activities as well as practices that affect consumers' interests within the region.

CHAPTER II HARMONIZED CONSUMER PROTECTION FRAMEWORK

ARTICLE 4: ESTABLISHMENT AND COMPOSITION

This Directive hereby establishes a harmonized consumer protection framework for the region. This harmonized framework comprises of an institutional framework and collaboration mechanisms to strengthen consumer protection in Member States.

ARTICLE 5. INSTITUTIONAL FRAMEWORK

The Institutional Framework shall comprise of:

1. ECOWAS Regional Competition Authority, ERCA
2. Body or Bodies put in place by Member States for the protection of consumers.

ARTICLE 6: ECOWAS REGIONAL COMPETITION AUTHORITY

1. ERCA is the regional body established by ECOWAS Authorities in line with Supplementary Act A/SA.2/12/08 and the amended Supplementary Act A/SA.3/12/21 and is in charge of competition and consumer protections matters within the region.
2. ERCA is mandated to encourage and support Member States to put in place necessary mechanisms for consumer protection as well as to resolve cross border consumer protection issues and to build the capacity of Member States on consumer protection.
3. ERCA, shall be responsible for the coordination, implementation and monitoring of this Directive in conjunction with the body or bodies in charge of consumer protection in Member States.

ARTICLE 7: BODY OR BODIES IN CHARGE OF CONSUMER PROTECTION

1. The Directive recognises the existence and importance of **Body or Bodies in charge of Consumer Protection** in the Member States, where non exist, Member States shall establish such body or bodies for the protection of consumers.



2. Member States shall put in place mechanisms to strengthen **Body or Bodies in charge of Consumer Protection**, redress consumer rights violations and establish collaborative measures with all stakeholders for the implementation of this Directive.

3. Member States shall designate the relevant body in charge of consumer protection as the focal point of ERCA for the implementation of this Directive.

ARTICLE 8: COLLABORATION MECHANISM

1. ERCA shall collaborate with body or bodies in charge of consumer protection in Member States for the implementation of the regional framework on consumer protection.

2. Member States with several bodies in charge of Consumer Protection shall put in place collaboration mechanisms to strengthen the advocacy and enforcement of consumer protection.

3. Member States shall encourage collaboration amongst all stakeholders on consumer protection and competition, particularly relevant state actors, private sector and civil society organisations.

4. To strengthen collaboration in advocacy and enforcement of the regional framework on consumer protection, amongst others body or bodies in charge of consumer protection in Member States shall share information, give opinion and make recommendations to ERCA on cross-border consumer protection matters.

CHAPTER III PROTECTION OF CONSUMER RIGHTS

ARTICLE 9: PROMOTION AND PROTECTION OF CONSUMER RIGHTS

ERCA in conjunction with Member States shall ensure the promotion and protection of consumer rights contained in this Directive in line with best practices on consumer protection.

ARTICLE 10: CONSUMER RIGHTS

These consumer rights referred to in Article 9 include but are not limited to:

1. Right of Equality in Consumer Market

A supplier of goods or services of Member States shall not unfairly discriminate against or exclude any person or category of persons from accessing any goods or services offered by the supplier.

2. Consumer's Right to Privacy

A consumer shall have the right not to have his/her personal matters disclosed or publicized without his/her consent and also the right to be free from unsolicited intrusion into their privacy.



3. Consumer's Right to Choose

A consumer shall have the right to be assured of a variety of quality goods and services at competitive prices.

4. Right to Disclosure and Information

A consumer shall have the right to adequate information to make informed decisions in their interests.

5. Right to Fair and Responsible Advertising and Marketing

A consumer shall have the right to marketing and advertisement that are not false, misleading or deceptive.

6. Right to Fair and Honest Dealing

A consumer shall have the right not to be forced, coerced, unduly influenced, harassed or any other similar conduct during business, commercial or socio-economic transactions.

7. Right to Fair, Just and Reasonable Terms and Conditions

A consumer has a right to enter into agreement for goods and services on terms that are fair, just and reasonable and with adequate and prior knowledge of the terms and conditions.

8. Right to Fair Value, Good Quality and Safety

A consumer shall have the right to demand safe and quality goods and services that are fit for intended purpose and usable within a reasonable period.

ARTICLE 11: GUIDING PRINCIPLES ON CONSUMER PROTECTION

Member States shall ensure the protection of consumer rights in line with the following international guiding principles on consumer protection amongst others:

1. The protection of consumers from hazards to their health and safety;
2. The protection of consumers against the effects of anticompetitive conducts and unfair business practices;
3. The promotion and protection of the economic and social interests of consumers;
4. Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs;
5. Consumer education, including education on the environmental, social and economic impacts of consumer choice;
6. Availability of effective consumer redress;



7. Freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision-making processes affecting them;
8. The promotion of sustainable consumption patterns.

CHAPTER IV RESPONSIBILITIES OF CONSUMERS AND OBLIGATIONS OF BUSINESSES

ARTICLE 12: RESPONSIBILITIES OF CONSUMERS

1. Member States shall educate and sensitize consumers on their responsibilities.
2. The responsibilities of consumers in Member States shall include but not limited to:
 - a. **Critical Awareness:** A Consumer has the responsibility to seek for all necessary information and facts available about a product or service, as well as, keep abreast of changes and innovations in the market. A Consumer also has the responsibility to be aware of their rights and redress mechanisms.
 - b. **Action:** A Consumer has the responsibility to complain and defend himself /herself when he/she has a just cause and must be assertive and act to ensure that his/her rights are respected.
 - c. **Social Responsibility:** A Consumer must be aware of the influence his/her behavior could have on the population, particularly with regards to the most vulnerable public.
 - d. **Ecological responsibility:** A consumer must be sensitive to the effect of his/her consumption on the environment.
 - e. **Solidarity:** A Consumer must be convinced of the need to act in union and collaboration with other consumers for the promotion and defense of their interests.

ARTICLE 13: OBLIGATIONS OF BUSINESSES

1. Member States shall educate and sensitize businesses on their obligations.
2. Businesses in Member States have the following obligations among others:
 - a. To put on the market goods and services which are in conformity with the defined standards in Member States;
 - b. To provide necessary and accurate information about goods and services and where necessary to notify consumers of any imminent public hazard in their products; and withdraw such products from the market and
 - c. To indulge in fair trade practices and not engage in deceptive and misleading business practices to exploit consumers.



CHAPTER V IMPLEMENTATION

ARTICLE 14: DIVISION OF CONSUMER PROTECTION AT ERCA

The ECOWAS Commission shall take appropriate measures to create a Division in charge of consumer protection in ERCA for the implementation of this Directive and the provisions of the Supplementary Act A/SA. 3/12/21 on Consumer Protection.

ARTICLE 15: IMPLEMENTATION

1. Member States shall adopt the necessary legislative, regulatory and administrative provisions in order to comply with this Directive not later than 31st December 2028.
2. Member States shall inform ERCA of the measures or provisions taken to adopt and comply with this Directive.
3. Member States shall notify ERCA of their challenges to implement this Directive. ERCA shall report, through the President of the Commission, such challenges at the following session of the Council of Ministers.

CHAPTER VI FINAL PROVISIONS

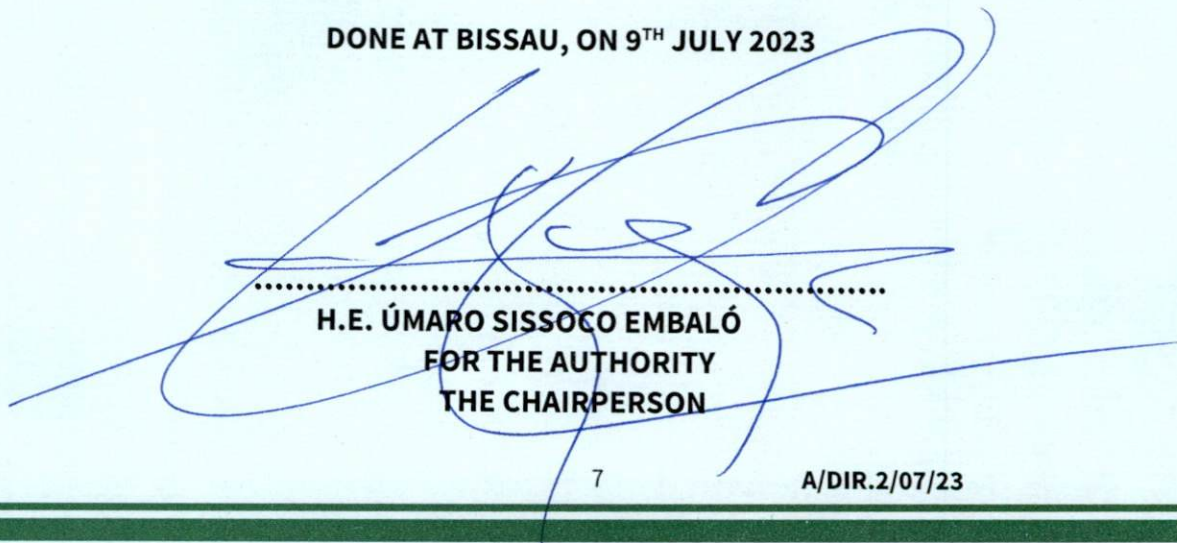
ARTICLE 19: PUBLICATION

1. This **DIRECTIVE A/DIR.2/07/23** shall be published by the Commission in the ECOWAS Official Journal within thirty (30) days of the date of signature by the Authority of Heads of State and Government.
2. It shall also be published by each Member State in its Official Gazette within thirty (30) days, after notification by the ECOWAS Commission.

ARTICLE 20: ENTRY INTO FORCE

This **DIRECTIVE A/DIR.2/07/23** shall enter into force upon its publication.

DONE AT BISSAU, ON 9TH JULY 2023


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H.E. ÚMARO SISSOCO EMBALÓ
FOR THE AUTHORITY
THE CHAIRPERSON