



**ENABLING RULE PC/REX.1/01/24 ON MANUALS OF THE PROCEDURES OF THE ECOWAS
REGIONAL COMPETITION AUTHORITY**

THE PRESIDENT OF THE COMMISSION,

MINDFUL of the new Articles 17, 18 and 19 of the ECOWAS Revised Treaty establishing the Commission, its composition and defining the powers of the President of the Commission;

MINDFUL of the Supplementary Act A/SA.1/12/08 adopting the Community Competition Rules and the modalities of their application within ECOWAS;

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

MINDFUL of Supplementary Act A/SA.3/12/21 relating to the amendment of Supplementary Act A/SA.2/12/08 on the establishment, functions, and operation of the ECOWAS Regional Competition Authority;

MINDFUL of Regulation C/REG.21/12/21 relating to the powers and composition of the Council of the ECOWAS Regional Competition Authority;

MINDFUL of Regulation C/REG.22/12/21 on the rules on leniency and immunity procedures in competition within ECOWAS;

MINDFUL of Regulation 23/12/21 on the rules of procedure for mergers and acquisitions within ECOWAS;

MINDFUL of Regulation C/REG.24/12/21 of the ERCA's rules of procedure in competition matters;

CONSIDERING that the ECOWAS Regional Competition Authority was established for the effective implementation of the Community Competition Rules;

RECOGNISING that the application of the Community Competition Rules has to be clarified and understood for the benefit of regulatory bodies and enterprises operating in the ECOWAS Common Market;

DESIROUS to adopt Manuals of Procedure to ensure certainty and effective application of the Community Competition Rules to foster market protection through free and fair competition and consumer welfare within the ECOWAS region;

UPON THE RECOMMENDATION of ERCA;

ENACTS:

ARTICLE 1: OBJECTIVE

This Enabling Rule, through the six (6) Manuals listed in Article 2 and annexed hereto, specifies the procedures for:

- (a) the efficient application of the Community Competition Rules (CCR) by ERCA; and
- (b) the governance of ERCA.

ARTICLE 2: LIST OF MANUALS

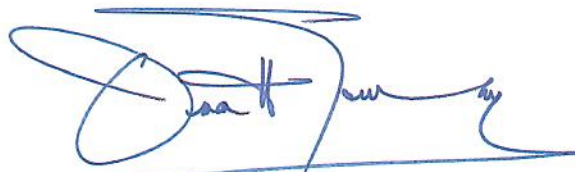
1. Procedures of the ERCA Council which sets out:
 - (a) the procedure for appointment of members of the ERCA Council; and
 - (b) the modalities for the operation of the ERCA Council.
2. Procedures for the Executive Directorate of the ERCA which sets out:
 - (a) the organization and functioning of the Executive Directorate of ERCA;
 - (b) the roles and responsibilities of the Executive Director of ERCA;
 - (c) the roles and responsibilities of the Directors and Heads of Divisions within ERCA;
and
 - (d) the decision-making procedure within the ERCA Executive Directorate.
3. Investigation Procedures and Notification for ERCA for;
 - (a) investigation into infringements of the CCR;
 - (b) notification for authorisation and exemption; and
 - (c) authorisation of mergers and acquisitions.
4. Procedures for Implementing the Leniency and Immunity Programme, which describes the types of Immunity and Leniency that may be granted by the ERCA Council to enterprises which are:
 - (a) engaged in anti-competitive behaviour, in particular cartels; and

- (b) who voluntarily disclose information to facilitate effective enforcement of the CCR
5. Threshold for Mergers and Acquisitions and threshold indicating a Dominant and Monopolistic Position specifies:
- (a) the threshold for Notification for Authorisation of Mergers and Acquisitions within the Common Market; and
- (b) the threshold for indicating a dominant or monopolistic position within the Common Market.
6. Scale of Fines and Compensation which sets out the basis and methodology for the imposition of financial penalties and compensation by the ERCA Council for;
- (a) infringements of the CCR;
- (b) persons who fail to comply with its decisions in a timely manner; and
- (c) persons who obstruct investigations and the performance of the functions of ERCA.

ARTICLE 3: ENTRY INTO FORCE AND PUBLICATION

1. This Enabling Rule **PC/REX.1/01/24** shall enter into force upon signature by the President of the Commission.
2. This Enabling Rule **PC/REX.1/01/24** shall be published in the Official Journal of the Community.

Done at Abuja, this..... day of January 2024.



Omar Alieu TOURAY, Ph.D.

PRESIDENT OF ECOWAS COMMISSION

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

COMUNIDADE DOS
ESTADOS DA AFRICA
OCIDENTAL



COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

ECOWAS REGIONAL COMPETITION AUTHORITY

**MANUAL OF PROCEDURE FOR THE EXECUTIVE
DIRECTORATE OF THE ECOWAS REGIONAL COMPETITION
AUTHORITY**

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LIST OF ACRONYMS

CCR	Community Competition Rules
CM	Case Manager
CT	Case Team
DAF	Director Administration and Finance
DILE	Director Investigation and Law Enforcement
DRPP	Director of Research, Planning and Policy
ED	Executive Director
HOD	Head of Division
HAHR	HOD Administration and Human Resource
HCER	HOD Competition and Economic Research
HCP	HOD Consumer Protection
HF	HOD Finance
HLICE	HOD Legal, Investigation, Compliance and Enforcement
HPP	HOD Planning and Policy
NCA	National Competition Authorities

CHAPTER I: OBJECTIVE AND FUNCTIONS OF ERCA

Article 1: Objective

1. This Manual sets out the organization and functioning of the Executive Directorate of ERCA.
2. It also sets out the following:
 - (a) the roles and responsibilities of the ED of ERCA;
 - (b) the roles and responsibilities of the Directors and HODs within ERCA; and
 - (c) the decision-making procedure within ERCA Executive Directorate.

Article 2: Legal Framework

The ECOWAS Competition Framework was established through the following:

- (a) Supplementary Act A/SA.1/12/08 adopting the Community Competition Rules and the modalities of their application within ECOWAS;
- (b) Supplementary Act A/SA.2/12/08 on the establishment, functions, and operation of the ECOWAS Regional Competition Authority;
- (c) Supplementary Act A/SA.3/12/21 relating to the amendment of Supplementary Act A/SA.2/12/08 on the establishment, functions, and operation of the ECOWAS Regional Competition Authority;
- (d) Regulation C/REG.21/12/21 on the Powers and Composition of the Council of the ECOWAS Regional Competition Authority;
- (e) Regulation C/REG.22/12/21 on the rules on leniency and immunity procedures in competition within ECOWAS;
- (f) Regulation C/REG.23/12/21 on the Rules of Procedures for Mergers and Acquisitions in ECOWAS; and
- (g) Regulation C/REG.24/12/21 of the ERCA's rules of procedure in competition matters.

Article 3: Functions of ERCA

In accordance with the provisions of Article 2 of the Supplementary Act A/SA.02/12/08, ERCA shall perform the following functions:

- (a) keep under review commercial activities in the Community Market with a view to ascertaining practices which may distort the efficient operation of the market or which may adversely affect the economic interests of consumers;
- (b) carry out on its own initiative or at the request of private persons or government officials from the Member States or of the Community Court of Justice, such investigations in relation to the conduct of business in the Common Market as will enable it to determine

whether any enterprise is engaging in business practices in contravention of the Supplementary Act adopting the Common Competition Rules.

- (c) preclude and eliminate anti-competitive practices amounting to an abuse of a dominant market position;
- (d) propose for adoption, through the ECOWAS Commission, to the Council of Ministers, the setting and periodic review of the schedule of fines and various levels of compensation to be applied within the framework of this Supplementary Act;
- (e) at the request of the executive and judicial authorities of Member States and Community institutions, issue advisory opinions regarding the interpretation and application of the Community Competition Rules;
- (f) co-operate with national and regional competition agencies in taking measures necessary to ensure implementation of the obligations arising from this Supplementary Act;
- (g) co-operate with and assist any association, intergovernmental organization, or body of persons in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the provisions of this Supplementary Act;
- (h) make available to persons engaged in business as well as to consumers, general information with respect to their rights and obligations under the Supplementary Act adopting the Community Competition Rules;
- (i) undertake studies and publish reports and information regarding matters affecting the interests of consumers in the implementation of the Supplementary Act adopting the Community Competition Rules;
- (j) as input into the activity report of the Community, prepare and transmit to the President of the ECOWAS Commission, an interim report and an annual report on the activities of the Authority;
- (k) contribute to the training of the staff of national competition structures and provide them with support notably in the management of investigations, creation of a competition-related data base, advocacy on competition and consumer protection.

CHAPTER II: COMPOSITION OF EXECUTIVE DIRECTORATE

Article 4: Composition

1. ERCA is headed by an Executive Director (ED) assisted by three (3) Directors and six (6) Heads of Divisions (HOD)).
2. The ED, Directors, HODs and other staff shall be recruited in accordance with the Staff Regulations of ECOWAS institutions.

Article 5: The Executive Director

1. The ED is responsible for the general overall supervision and direction of all functions of ERCA and shall implement all orders, resolutions and policies developed and adopted by the statutory bodies of ECOWAS.
2. The ED is responsible for organising and coordinating all the activities of ERCA, including:
 - (a) directing and supervising the staff of ERCA in the framework of administrative and technical management;
 - (b) coordinating the implementation of ERCA's work programme and budget;
 - (c) coordinating and supervising the development of funding strategies;
 - (d) coordinating and supervising the mobilisation of resources with technical and financial partners;
 - (e) coordinating and supervising the management and maintenance of the assets placed at the disposal of ERCA;
 - (f) ensuring good visibility of ERCA through effective communication;
 - (g) reporting on all its technical and administrative activities to the relevant Departments of the Commission;
 - (h) dealing with the implementation of the CCR;
 - (i) submitting for adoption by the Council of Ministers an adjustment of ERCA's organisational chart and staffing in collaboration with the ECOWAS Commission;
 - (j) proposing to the President of the Commission any modification of the tasks and responsibilities of each Director, as well as the assignment of staff members of each Directorate;
 - (k) informing the Consultative Competition Committee on ERCA's activities;
 - (l) presenting investigation reports and recommendations to the ERCA Council for final decision;
 - (m) enforcing the reasoned decisions of the ERCA Council in accordance with the Community Rules on Enforcement;
 - (n) submitting requests for advisory opinions to the competent authorities of the Member States on the investigation procedure;
 - (o) proposing standards and protocols for cooperation with national and regional competition bodies.

Article 6: Director of Research, Planning and Policy

1. The Director of Research, Planning and Policy (DRPP) is responsible for leading the research, planning, and policy development activities of ERCA.

2. The DRPP provides leadership in directing the strategic planning activities of ERCA and conducting programs such as research and regional functions, new market initiatives, surveys, and workshops and technical meetings that meet the future needs of ECOWAS Member States, as well as coordinating program development within ERCA.
3. The DRPP's roles and responsibilities includes the following:
 - (a) Conducting research and analysis and provide input to inform ERCA's reports regarding matters affecting the interests of consumers in the Community;
 - (b) Developing and maintaining relationships with external stakeholders, including government agencies, industry groups, and the public;
 - (c) Coordinating with other Divisions within ERCA to ensure that the ERCA's policy positions are well-informed and well-reasoned;
 - (d) Conducting and publishing research on market structures, products, services and developments.
 - (e) Contributing to the development, publication and dissemination of publications and documents to the public within the framework of the CCR.
 - (f) Collaborating with the Registry to ensure that proper systems are implemented to track all data requests and requirements.
 - (g) Reviewing and evaluating ERCA's enforcement processes and developing key policies to improve ERCA activities;
 - (h) Leading coordination and integration of the work of other Directorates within ERCA to facilitate work flow and timely response to enquiries and applications;
 - (i) Representing ERCA in meetings and other public events with the permission, and as directed by the ED;
 - (j) Developing strategy for organisation growth and maximisation of ERCA outputs;
 - (k) Collaborating with other ERCA Directors in development of ERCA's performance goals and long-term operational plans.
4. The DRPP reports directly to the ED to ensure that ERCA's policy positions are consistent with its overall goals and objectives.
5. The DRPP oversees the activities of the HOD Competition and Economic Research (HCER) and the HOD Planning and Policy (HPP).

Article 7: Director Investigations and Law Enforcement

1. The Director of Investigations and Law Enforcement (DILE) is responsible for leading, and monitoring investigations on infringements of the CCR.
2. The DILE ensures that ERCA's processes and decisions comply with the relevant legislation and provides final legal clearance to ERCA's investigatory teams on matters including general

legal issues, competition law, merger applications, market studies and investigations and State Aid issues.

3. The DILE leads the ERCA competition enforcement to partner with other National Competition Authorities (NCA) to ensure compliance with the CCR across the ECOWAS Community Market.
4. The DILE also leads strategies and activities targeted at reducing the prevalence of anti-competitive activities within the ECOWAS Community Market.
5. The DILE also ensures confidentiality procedures in relation to the conduct of investigations are adhered to within the ERCA.
6. The DILE's roles and responsibilities includes the following:
 - (a) Overseeing investigations of complaints relating to infringements of CCR;
 - (b) Investigating potential cartel activity, and where appropriate, issuing recommendations to the ED;
 - (c) Development and implementation of procedures for reporting and investigating complaints of breaches of the CCR;
 - (d) Providing recommendations to the ED on matters related to investigations and law enforcement monitoring;
 - (e) Assisting the Director of Administration and Finance in developing and implementing training programs to educate staff on policies and procedures related to investigations and law enforcement monitoring;
 - (f) Providing operational assistance to investigative staff including tactical guidance on cases and operations;
 - (g) Engaging relevant stakeholders to collaborate and obtain information necessary to conduct a complete and thorough investigation;
 - (h) Analyzing details of cases and producing accurate and reports.
 - (i) Monitoring regulatory changes and emerging trends to revise, enhance, or further develop investigation approach;
 - (j) Developing intelligence gathering methodologies and market surveillance strategies for effective monitoring of CCR.
7. The DILE reports directly to the ED and provides regular reports on ERCA's investigations and compliance monitoring activities.
8. The DILE oversees the activities of the HOD Legal, Investigation & Compliance Enforcement (HLICE), and HOD Consumer Protection (HCP).

Article 8: Director Administration and Finance

1. The Director Administration and Finance (DAF) provides leadership and oversight in directing and managing finances, assets, procurement, human resource and administration to support ERCA's strategic goals.
2. The DAF translates ERCA's financial strategies into tactical plans, reporting requirements, procedures and processes.
3. The DAF's roles and responsibilities includes the following:
 - (a) financial Management: Develop and implement financial policies, procedures, and systems to ensure effective financial management of the organization's resources;
 - (b) budgeting and Reporting: Prepare and manage ERCA's budget and financial reports, including monthly and annual financial statements;
 - (c) administrative Management: Oversee administrative operations, including human resources, IT, and office management;
 - (d) direct the timely and accurate preparation and approval of all financial and administrative reports in respect to accounting, legal and contractual requirements;
 - (e) establish and maintain professional banking relations; plan and monitor cash needs ensuring cash flow requirements of ERCA are met;
 - (f) provide the ED with monthly Administrative and Financial Reports including overall budget status (Budget Tracker), work plan budgets status and ensuring potential issues are identified and addressed;
 - (g) perform internal audits and reviews, as required, to ensure compliance with internationally accepted accounting practices;
 - (h) work with the ED and other Directors to develop and implement strong systems of internal controls and ensure general management of risk and control environment;
 - (i) oversee the activities of the ERCA Registry;
 - (j) responsible for recruitment and staffing of ERCA, compensation and benefits administration;
 - (k) provide professional advice and support to employees on human resource issues and policies are properly implemented and ensure high achievement and maintenance of standards; and
 - (l) oversee the day-to-day administrative activities of ERCA.
4. The DAF reports directly to the ED and provides regular reports on ERCA's financial and administrative activities to the ED.
5. The DAF oversees the activities of the HOD Administration and Human Resources (HAHR) and HOD Finance (HF).

Article 9: Heads of Divisions

1. The Heads of Division (HOD) within ERCA listed below report directly to the Directors within the Executive Directorate.
2. HOD Planning and Policy
 - (a) The HPP is responsible for strategic planning and coordinating the internal policies of ERCA.
 - (b) The HPP also provides competition policy advice to ERCA investigation teams and be responsible for liaison with National Competition Authorities.
 - (c) The HPP shall also be responsible for collaboration with civil society and academic institutions on areas of research on competition related issues.
 - (d) The HPP's roles and responsibilities include the following:
 - i. developing, implementing and monitoring strategic plans, and programs, to achieve ERCA's goals, objectives and work standards;
 - ii. developing and implementing policy research and analysis;
 - iii. coordinating the implementation of ERCA's policies and guidelines;
 - iv. Establishing measurements of accountability for policy and programme implementation;
 - v. overseeing and participating in the development of policy documents, guidelines and reports; and
 - vi. providing expert advice on ERCA's policies and programmes.
 - (e) The HPP reports to the DRPP.
3. HOD Competition and Economic Research
 - (a) The HOD Competition and Economic Research (HCER) conducts a continuous assessment of quantitative and qualitative analysis of the ECOWAS market and reports on economic performance.
 - (b) The HCER is responsible for providing economic advice in investigations, notifications and merger applications.
 - (c) The HCER's roles and responsibilities include the following:
 - i. interpret and forecast the trends of the ECOWAS Common market by studying present and historical data;
 - ii. advise on solutions to economic issues relating to complaints and investigations;
 - iii. collect and analyse data by using relevant software, statistics and mathematical models;
 - iv. design and conduct surveys to assist ERCA's analysis and decision making;

- v. Prepare and present reports on market trends based on collected data and research.
 - (d) The HCER reports to the DRPP and oversees the activities of the Research & Market officer.
4. HOD Legal, Investigation, Compliance and Enforcement
- (a) The HOD Legal, Investigation, Compliance and Enforcement (HLICE) is responsible for ensuring the successful conduct of investigations by ERCA.
 - (b) The HLICE provides legal advice in relation to all applications to ERCA and ensures ERCA's processes and decisions comply with the relevant legislation.
 - (c) The HLICE provides legal advice to ERCA's investigatory teams on matters including general legal issues, competition law, merger applications, market studies and investigations and State Aid issues.
 - (d) The HLICE acts as a representative of ERCA and the principal negotiator when dealing with third parties, including lawyers.
 - (e) The HLICE's roles and responsibilities include the following:
 - i. providing assistance to the Case Manager (CM) or Case Teams (CT) to ensure effective conduct and outcome of investigations and notifications;
 - ii. conducting and overseeing internal reviews or audits of ERCA's investigative procedures periodically to ensure that compliance procedures are followed;
 - iii. conducting or directing the internal investigation of compliance issues;
 - iv. preparing appropriate compliance reports;
 - v. informing, educating, and training ERCA staff on best practice on legal and compliance issues; and
 - vi. ensuring and verifying that all regulatory policies and procedures have been documented, implemented, and communicated.
 - (f) The HLICE reports to the DILE and oversees the activities of:
 - i. Mergers and Acquisitions Officer;
 - ii. Investigation Officer;
 - iii. Enforcement Officer; and
 - iv. Compliance officer.
5. HOD Consumer Protection
- (a) The HOD Consumer Protection (HCP) is responsible for overseeing the development, implementation, and enforcement of policies and programs aimed at protecting consumers from unfair, deceptive, and fraudulent practices in the marketplace.
 - (b) The HCP has lead responsibility for implementation of the ECOWAS Consumer Protection Directive.

(c) The HCP's roles and responsibilities includes the following:

- i. lead investigation of complaints relating to consumer protection issues;
- ii. as directed by the ED, represent ERCA on consumer protection issues before stakeholders, government agencies, advocacy groups and the public to ensure that ECOWAS' consumer issues are considered in all relevant regulatory matters and that appropriate audiences are informed of same;
- iii. work with stakeholder groups to develop policies and procedures that satisfy diverse interests and enhance consumer protection in the ECOWAS Region;
- iv. supervise complaint investigations to ensure efficient resolution of consumer complaints;
- v. provide consumer protection technical assistance in the form of legal interpretations and guidance to stakeholders to improve customer service and compliance with relevant laws;
- vi. identify consumer issues that may draw or require media attention, public education or outreach work and advise ERCA on possible solutions or resolutions to such issues; and
- vii. review and analyse proposed legislation and guidelines related to consumer protection.

(d) The HCP reports to the DILE and oversees the activities of the Consumer Protection Officer.

6. HOD Administration and Human Resources

(a) The HOD Administration and Human Resource (HAHR) is responsible for human resources management and administration functions within ERCA.

(b) The HAHR ensures availability of support services and facilities necessary for the achievement of ERCA's mission;

(c) The HAHR deals with employment, human capital, performance appraisal and disciplinary issues of ERCA staff.

(d) The HAHR is responsible for procurement activities across ERCA and management of external supplier relations.

(e) The HAHR's roles and responsibilities includes the following:

- i. process ERCA recruitment procedures by preparing the job advertisement, short-listing, preparing evaluation sheets and appointment letters;
- ii. maintain and update record of personal files of all staff of ERCA with requisite documents/credentials along with the record of Annual Performance Review of each member of staff;
- iii. monitoring staff attendance;

- iv. check vehicle log books, leave records, courier bills/receipts, telephone bills and security related data on day to day basis;
 - v. allocate office space to new staff members;
 - vi. prepare a staff training and coaching plan and ensure all members of staff are adequately trained to perform their functions effectively;
 - vii. monitor inventory of office supplies and equipment and purchasing of new materials with attention to budgetary constraints;
 - viii. oversee facilities services, maintenance activities and vendors;
 - ix. organize and supervise other office activities including recycling, renovation, and event planning; and
 - x. Supervision and managing of outsourcing contactors like travel, hoteling etc.
- (f) The HAHR reports to the DAF and oversees activities of the:
- i. Registrar;
 - ii. Human Resource Officer; and
 - iii. Procurement & Administration Officer.

7. HOD Finance

- (a) The HOD Finance (HF) is responsible for the day-to-day finance functions of ERCA, including management reporting, audit support, budgeting, accounts payable and receivable, and payroll.
- (b) The HF provides an efficient and effective system with necessary checks and balances to ensure financially accountable administration within ERCA.
- (c) The HF's roles and responsibilities include the following:
- i. prepare budget/target setting, management, review against actual expenditure and the production of monthly management accounts (Income Statement, Balance Sheet and Cash Flow Statement) within 10 working days of the end of the calendar month;
 - ii. payroll services, maintenance of ERCA staff records and entitlements;
 - iii. ensure sufficient funds are available to meet ongoing operational and capital investment requirements;
 - iv. maintain and improve banking relationships;
 - v. ensure ERCA assets are appropriately valued and registered;
 - vi. foster a risk management culture ensuring identified risk is managed appropriately in accordance with its risk rating;
 - vii. monitor for irregularities and risk, and provide timely advice to the DAF on matters of concern that could adversely impact ERCA's operations;

- viii. ensure the finance team is adequately trained to facilitate an appropriate financial environment; and
 - ix. ensure all financial practices align with relevant laws, standards, regulations and guidelines.
- (d) The HF reports to the DAF and oversees the activities of the Accountant.

Article 10: The Registry

1. The Registry is headed by the Registrar.
2. The Registrar is responsible for receipt, control, and maintenance of ERCA's records in relation to Complaints, Notifications and Market Enquiries.
3. All Complaints and Notifications must be addressed in the first instance to the Registry, using the relevant templates.
4. Applications must be registered with the Registry either physically, electronically or by any other means as approved by ERCA.
5. The Registrar is responsible for checking that the relevant information is provided in support of any application.
6. The functions of the Registrar include:
 - (a) creating an effective indexing and internal referral system for all ERCA correspondence, Complaints, Notifications and Enquiries.
 - (b) establishing an up-to-date document repository of ERCA files and documents and ensuring quick and easy tracking of information and documents in the care of the Registry.
 - (c) receiving and recording all ERCA Complaints, Notification for Decisions, Mergers and Acquisitions Notifications and other official inquires.
 - (d) ensuring all relevant documents are attached to correspondence and that Notifications and Complaints contain sufficient and necessary information for an initial assessment.
 - (e) acknowledging receipt of Complaints, Notifications and Enquiries in writing within three (3) days of the date of receipt.
 - (f) referring Notifications, Complaints and Enquiries through the DAF to the ED for allocation to the relevant ERCA Directorate within two (2) calendar days.
 - (g) Establishing an internal project management system in conjunction with relevant ERCA Directorates and Case Teams to keep track of deadlines and milestones to ensure compliance with ERCA's statutory decision-making deadlines.
 - (h) Conducting internal periodic follow-up of Applications submitted to ERCA and providing work-in-progress feedback to Applicants.

- (i) Recording and arranging for prompt and efficient dispatch of all correspondence relating to Complaints, Notifications, and Market Enquiries produced by the ED and relevant ERCA officials.

CHAPTER III: COMPLAINTS HANDLING

Article 11: Procedure

1. The procedure for handling complaints and the responsibilities indicated below show the various stages taken from receipt of the complaint to the point of decision-making.
2. Role of the Registry
 - (a) A person aggrieved by the conduct or action of a person who violates the CCR may submit a Complaint to the Registry using the Complaint Form available on ERCA's website.
 - (b) The Complaint shall contain sufficient and necessary information for a preliminary assessment of the case by ERCA.
 - (c) This information shall include a detailed description of the practice considered to infringe the CCR, the geographical location and any supporting documentation.
 - (d) The Registrar shall acknowledge the complaint by issuing an acknowledgement letter to the Complainant within five (5) days from the date the complaint was lodged.
 - (e) The Registrar shall open a file for each case of all relevant documents pertaining to an investigation and refer the complaint through the DAF to the ED.
3. Role of the Director of Investigations and Law Enforcement
 - (a) The ED shall forward the complaint to the DILE who shall undertake a preliminary assessment to ascertain whether ERCA has jurisdiction over the complaint and whether it merits an investigation.
 - (b) Where the complaint is deemed to warrant an investigation, the DILE shall make a recommendation to the ED who shall review the DILE's recommendation and direct the Registrar to issue a letter to the complainant about ERCA's decision to commence an investigation.
 - (c) Where the DILE determines that the complaint does not merit an investigation, the DILE shall recommend to the ED who, following a review of the DILE's recommendation, instruct the Registrar to issue a letter to the Complainant.
 - (d) Following completion of the investigation by the Case Team and submission of the Case Manager's (CM) the DILE shall review and forward the recommendations of the CM to the ED.
4. Appointment of Case Manager
 - (a) Where the complaint warrants an investigation, the ED in collaboration with the DILE shall appoint a CM to serve as the co-ordinator of the CT.

- (b) The CM shall coordinate the activities of the CT during the investigation and ensure that the investigation is completed within the stipulated timeframe.
- (c) The CM shall be selected from the Heads of Division within ERCA.
- (d) In appointing the CM, the ED and the DILE shall take into account the nature of the complaint and the relevant experience required to address the complaint.
- (e) At the end of the investigation, the CM shall present the recommendations of the CT to the DILE for review.

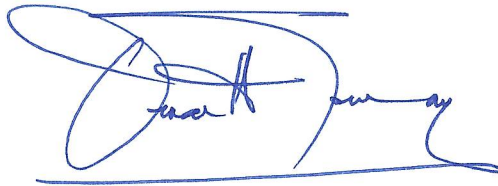
5. Appointment of Case Team

- (a) The ED in consultation with the DILE shall constitute a CT depending on the nature of the complaint and the experience required.
- (b) The CT shall comply with the timelines and the procedures set out in ERCA's Investigative Procedures Manual.

6. Role of the Executive Director

- (a) Following the review of the CM's recommendations, the DILE shall submit the Investigation Report together with the DILE's final recommendations to the ED.
- (b) ED may seek the opinion of relevant stakeholders, such as the Competition Consultative Committee on the DILE's recommendations.
- (c) In accordance with ERCA's Rules of Procedure, the ED may take the decision to close the investigation for lack of grounds for further action.
- (d) Where the ED considers that there has been an infringement of the CCR he will forward the File containing the Investigation Report to the ERCA Council which will examine it and take a reasoned decision.
- (e) The decision to forward the File to the ERCA Council must be communicated by the Registry to the parties involved in the investigation within ten (10) days of the referral.
- (f) The Investigation Report shall include the following information to enable the ERCA Council conduct an assessment of the case:
 - i. name of the complainant or applicant;
 - ii. the facts of the investigation;
 - iii. evidence gathered;
 - iv. ERCA's legal and economic assessment of the conduct or behaviour;
 - v. justification for ERCA's recommendation that there has been an infringement of the CCR; and
 - vi. ERCA's recommendation on the nature of penalty to be imposed.

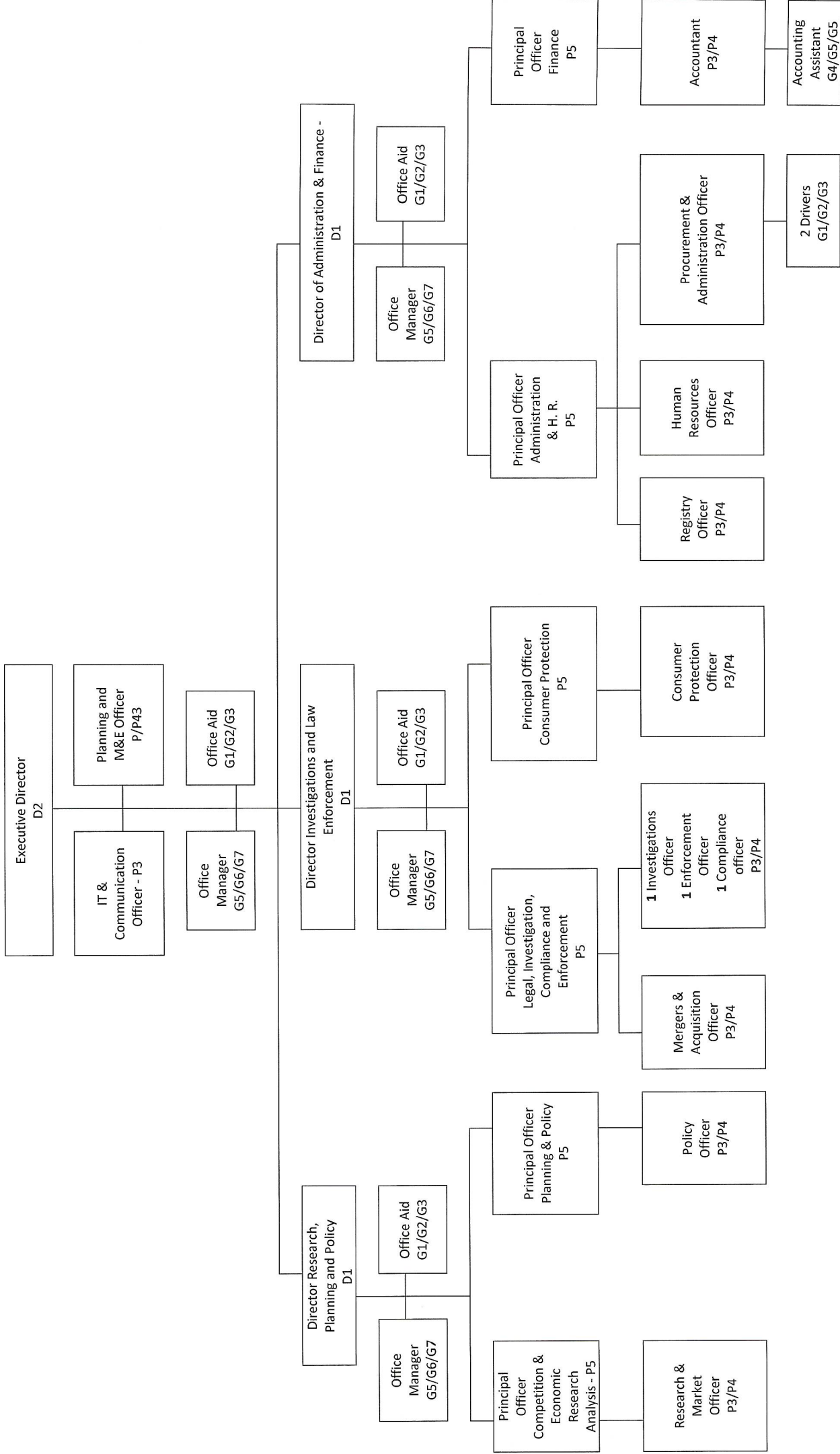
Done at Abuja on the of January 2024



Dr. Omar Alieu TOURAY

PRESIDENT OF THE ECOWAS COMMISSION

ANNEX 1. ERCA ORGANISATIONAL CHART



ANNEX 2. STAFFING AND GRADING OF ERCA STAFF

Position	Number	Grade	Classification
Executive Director	1	D2	Senior Director
Director Research, Planning and Policy	1	D1	Director
Director, Investigations and Law Enforcement	1	D1	Director
Director Administration and Finance	1	D1	Director
HOD Planning and Policy	1	P5	Manager
HOD Competition and Economic Research	1	P5	Manager
HOD Legal, Investigation Compliance and Enforcement	1	P5	Manager
HOD Consumer Protection	1	P5	Manager
HOD, Administration and HR	1	P5	Manager
HOD, Finance	1	P5	Manager
IT & Communications Officer	1	P3/P4	Professional/Senior Professional
Planning and M&E Officer	1	P3/P4	Professional/Senior Professional
Research & Market Officer	1	P3/P4	Professional/Senior Professional
Policy Officer	1	P3/P4	Professional/Senior Professional
Mergers & Acquisition Officer	1	P3/P4	Professional/Senior Professional
Investigation Officer	1	P3/P4	Professional/Senior Professional
Enforcement Officer	1	P3/P4	Professional/Senior Professional
Compliance Officer	1	P3/P4	Professional/Senior Professional
Consumer Protection Officer	1	P3/P4	Professional/Senior Professional
Registry Officer/ Registrar	1	P3/P4	Professional/Senior Professional
Human Resource Officer	1	P3/P4	Professional/Senior Professional
Procurement & Administration Officer	1	P3/P4	Professional/Senior Professional
Office Manager	4	G5/G6/G7	Supervising Assistant I/II/III
Accounting Assistant	1	G4/G5/G5	Assistant III/Supervising Assistant
Office Aid	4	G1/G1/G3	Junior Assistant/Assistant II
Driver	2	G1/G2/G3	Junior Assistant/Assistant I/II

ANNEX 3: DECISION TO OPEN INVESTIGATION

[ERCA Letterhead]

STRICTLY PRIVATE & CONFIDENTIAL
[Recipients name and address]

Dear [Title / Surname],

DECISION TO OPEN AN INVESTIGATION

Your complaint dated [xxx] and our acknowledgement letter with reference [xxxx, dated xxxx] refers.

Following ERCA's initial consideration, ERCA has decided to commence an investigation of your complaint.

The investigation will be completed within 180 calendar days from the date of the letter informing the complainant of the commencement of an investigation.

Where necessary, this period may be extended by an additional 90 days which will be notified to you in writing.

Please note that you may be contacted in the event further evidence and interviews are required during the investigation process.

In the meantime, please do not hesitate to contact ERCA should you require any further information or support.

Yours faithfully,

Name: xxxxx

Executive Director ERCA

CC. Director, Investigations and Law Enforcement

ANNEX 4: DECISION NOT TO OPEN INVESTIGATION

[ERCA Letterhead]

STRICTLY PRIVATE & CONFIDENTIAL

[Recipients name and address]

Dear [Title / Surname],

DECISION NOT TO COMMENCE INVESTIGATION

Your complaint dated [xxx] and our acknowledgement letter dated [xxx] refers.

Following the ERCA's initial consideration of your complaint, ERCA has decided not to commence an investigation because your complaint does not fall within ERCA's jurisdiction.

However, ERCA may re-open its file if new facts justify its reopening.

Thank you for taking time to contact ERCA, please do not hesitate to contact us for any further information on ERCA's investigation procedures or support.

Yours faithfully,

Name: xxxxx

Executive Director ERCA

CC: Director, Investigations and Law Enforcement

ANNEX 5: ACKNOWLEDGEMENT LETTER

[ERCA Letterhead]

STRICTLY PRIVATE & CONFIDENTIAL

[Recipients name and address]

Dear [Title / Surname],

ERCA hereby acknowledges receipt of your complaint about [Brief outline of complaint] dated [xxx].

Your complaint has been referred to the Executive Director for initial consideration.

Please note that ERCA may decide to commence an investigation of your complaint if it falls within its mandate.

ERCA's decision on whether or not an investigation is required will be communicated to you within 30days from the date of this letter. This period may be extended by an additional 15 days where necessary. You will be notified at the end of the 30days if an extension is required.

In the meantime, please do not hesitate to contact ERCA should you require any further information or support.

Yours faithfully,

Name: xxxxx

Executive Director

CC. Director, Investigations and Law Enforcement

ANNEX 6: DECISION TO CLOSE INVESTIGATION

[ERCA Letterhead]

STRICTLY PRIVATE & CONFIDENTIAL
[Recipients name and address]

Dear [Title / Surname],

DECISION TO CLOSE INVESTIGATION

Your complaint dated [xxx] and our letter dated [xxx] notifying you of our intention to commence an investigation of your complaint refers.

Following our investigation, ERCA considers that there are no grounds for conclusion that the Community Competition Rules have been infringed at this time.

ERCA will therefore close its file on your complaint. However, ERCA may re-open its file if new facts justify its reopening.

Thank you for taking time to contact ERCA, ERCA for any further information on ERCA's investigation procedures or support.

Yours faithfully,

Name: xxxxx

Executive Director

CC. Director, Investigations and Law Enforcement