



Government of the Republic of
Trinidad and Tobago

NATIONAL CONSUMER POLICY

FOR TRINIDAD & TOBAGO
2018-2023



REPUBLIC OF TRINIDAD AND TOBAGO
MINISTRY OF TRADE
AND INDUSTRY

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EXECUTIVE SUMMARY

It is widely recognised that well-functioning competitive markets encourage economic growth by creating incentives for firms to become more efficient and innovative to compete for customers. However, with increased globalization, technological innovation and changes in consumers' consumption and behavior, there is an urgent need to provide an updated legislative and regulatory framework to protect consumers in Trinidad and Tobago. As a consequence, this new National Consumer Policy was developed to address the legal, institutional and administrative gaps identified by stakeholders in order to effectively address contemporary consumer issues in Trinidad and Tobago.

The methodology utilised by the Ministry of Trade and Industry (MTI) to formulate this Policy comprised the following activities:

- A review of the Reports and other documents relevant to Consumer Affairs prepared by the Consumer Affairs Division over the years;
- Desk research undertaken from surveys and policy documents prepared by various countries about consumerism and consumer protection;
- Review of previous Studies, Guidelines, and Papers prepared by international organisations and non-governmental organisations;
- Review of the Draft CARICOM Model Consumer Protection Bill; and
- Formal and informal consultations with key stakeholders.

The overall objective of the new Policy is to improve consumer's wellbeing through enhanced consumer empowerment and protection and enabling confident participation of consumers and suppliers in the market place taking into account regional and international commitments.

The new Policy utilises the following instruments in an effort to address the gaps currently affecting consumer protection in Trinidad and Tobago:

1. Establishment of new harmonized Consumer Protection Legislation;
2. Establishment of a Tribunal to effectively address consumer complaints and issues;
3. Execution of public country-wide consumer educational campaigns; and
4. Establishment of formal structures to enhance joint collaboration on consumer issues among agencies responsible for various areas of consumer protection.

The new Policy incorporates **relevant provisions** of the Model CARICOM Consumer Protection Bill. This is meant to guide the preparation of new legislation to replace the existing Consumer Protection and Safety Act of 1985, in accordance with Article 185 of the Revised Treaty of Chaguaramas which requires harmonized commitments regarding consumer protection by each CARICOM Member State.

The Policy also includes recommendations to enhance coordination among consumer protection agencies, the development and implementation of industry codes of practice as a means of co-regulation for specific standards and the establishment of Memoranda of Understanding (MOU) to augment regional/international cooperation in the fight against on-line and e-commerce fraud.

The National Consumer Policy for Trinidad and Tobago for the period 2018-2023 is therefore intended to contribute to developing efficient firms locally and enhancing the competitiveness of the economy, both of which will ultimately promote consumer well-being.

INTRODUCTION

The last major reform of the National Consumer Policy Framework was undertaken approximately twenty (20) years ago in 1996. Since then, the social and economic climate in Trinidad and Tobago has changed considerably. It is interesting to note that, while the National Consumer Policy of the 1990s was forward thinking for its time, consumer risks have increased significantly. These risks emanate from an upsurge in new forms and mechanisms in trading in goods and services which currently affect consumers' behaviour and consumption patterns. While increased global trade and the evolution of e-commerce have provided new opportunities for suppliers, it has also facilitated new forms of unfair and unethical business practices against consumers.

The aforementioned, together with the Government's responsibility to the citizenry, has motivated the Ministry of Trade and Industry (MTI) and its stakeholders to address the urgent need for a new National Consumer Policy. The new National Consumer Policy is intended to facilitate the following:

1. Establishment of modern harmonized Consumer Protection Legislation;
2. Establishment of a mechanism or system to effectively address consumer complaints and issues;
3. Execution of public country-wide consumer educational campaigns; and
4. Establishment of formal structures to enhance joint collaboration on consumer issues among agencies responsible for various areas of consumer protection.

This National Consumer Policy is applicable to all persons involved in trade and business through the purchase and sale of goods, services and digital content in Trinidad and Tobago. It shall be the overarching framework and guiding principles for the protection and empowerment of consumers in Trinidad and Tobago.

OBJECTIVES OF THE POLICY

The overall objective of the National Consumer Policy is to improve consumer wellbeing through enhanced consumer empowerment and protection, as well as, enabling confident participation of consumers and suppliers in the market place, taking into account regional and international commitments.

Specifically, the Policy's key objectives are:

- I To harmonize and modernize the existing legal and regulatory framework for consumer protection;
- II To ensure consumers are sufficiently well-informed and empowered;
- III To enhance and provide accessible and efficient redress systems for consumer protection issues; and
- IV To eliminate and discourage unfair business practices.

EXPECTED POLICY OUTCOMES AND IMPACT

- I Better protection of consumers' interests and rights;
- II Single harmonised and effective Consumer Protection Legislation;
- III More informed and empowered consumers; and
- IV Enhanced and effective institutional arrangements to address consumer issues.

SITUATIONAL ANALYSIS

EXISTING LEGISLATIVE FRAMEWORK

The current consumer protection legislative framework is outdated and consists of non-harmonized legal provisions in the following Trinidad and Tobago laws.

- Consumer Protection and Safety Act, Chap 82:34
- Hire Purchase Act, Chap. 82: 33
- Misrepresentation Act, Chap. 82:35
- Sale of Goods Act, Chap. 82:30
- Trade Description Act, Chap. 82:04
- Unfair Contract Terms Act, Chap. 82:37
- Customs Act, Chap 78:01
- Environment Management Authority Act, Chap 35:01
- Food and Drugs Act, Chap 30:01
- Pesticides and Toxic Chemicals Act, Chap. 30:03
- Pharmacy Board Act, Chap. 29:52
- Public Health Ordinance, Chap. 12 No. 4
- Standards Act, Chap 82:03
- Water and Sewerage Act, Chap. 54:40
- Metrology Act,
- Fair Trading Act, Chap. 81:13

While the current consumer protection legislative framework provides some protection to consumers, it does not adequately address several emerging and important issues, such as protection for services and digital content transactions. As such, the current Consumer Protection legislative framework is outdated and not fit for purpose. In addition, the existing Consumer Protection Act is not in keeping with the CARICOM Model Bill on Consumer Protection.

Moreover, in the current environment, there is the general perception among consumers and other stakeholders that the redress mechanism in the public sector is inefficient. The inefficiencies and fragmentation of the current consumer protection framework therefore provide the impetus to design and implement a more effective and cohesive consumer protection environment in Trinidad and Tobago.

DEVELOPMENTS AT THE REGIONAL LEVEL

Article 185 of the Revised Treaty of Chaguaramas requires that Member States in CARICOM enact harmonised legislation to protect consumer interests within the Community. At the Fortieth Meeting of the Council for Trade and Economic Development (COTED) held in Georgetown, Guyana during 20-24 April 2015, a Draft Consumer Protection Bill was submitted for adoption as the Model CARICOM Consumer Protection Bill for implementation by Member States.

Subsequently, at the Forty Second COTED meeting held during 21-22 April 2016, in Georgetown Guyana, COTED expressed support for convening a meeting of the Council of Finance and Planning (COFAP) for consideration of sections of the revised Model Consumer Protection Bill pertaining to financial services, as well as, the review of draft policies in respect of deposit protection and credit information sharing. In addition, COTED expressed support for a meeting of the Legal Affairs Committee (LAC) of CARICOM for the finalisation/adoption of the Protocols/Agreements and model legislation including those related to Consumer Protection.

As such, despite the fact that the CARICOM Consumer Protection Model Bill has not yet been finalized; through COTED, Trinidad and Tobago has accepted the content of the Model Bill. In addition, several member states such as Saint Lucia; have already adopted relevant provisions of the Model Bill. Therefore, it is recommended that the existing Consumer Protection and Safety Act of 1985 be repealed and replaced in main, with the relevant provisions of the CARICOM Model Consumer Protection Bill.

Consumer Awareness and Information Provision

The main responsibility for consumer protection in Trinidad and Tobago resides with the Consumer Affairs Division where consumer complaints are received, recorded and addressed. When a consumer makes a complaint, a Consumer Advocate undertakes an assessment to determine whether the complaint is valid or not. Only if the complaint is deemed valid, will it be recorded in a Complaints Database system, where specific action is taken accordingly.

Additionally, the Consumer Affairs Division develops and conducts countrywide consumer education and awareness activities through mass media and outreach programmes such as: Consumer Public Dialogues, Radio Talk shows, School Lectures and Social Media.

The Consumer Affairs Division's educational programmes are premised on the United Nations eight (8) basic Consumer Rights, which are as follows:

1. The right to the satisfaction of basic needs
2. The right to safety
3. The right to be informed
4. The right to choose
5. The right to be heard
6. The right to redress
7. The right to consumer education
8. The right to a healthy environment

INDUSTRY STANDARDS ISSUES

The Consumer Affairs Division does not currently have an active role in the development and enforcement of industry codes of practice. Industry organisations are expected to develop and implement compliance activities among their members. Despite this, several stakeholders note that this practice has not sufficiently developed locally; this invariably affects the economic interests of consumers.

It has therefore been recommended that this revised Consumer Protection legislation must include a detailed framework for the development and use of both mandatory and voluntary codes of practice.

INSTITUTIONAL FRAMEWORK

Other underlying weaknesses of the current consumer protection regime are the absence of an effective institutional framework, an inadequate redress system and the general lack of awareness of consumers on their rights and responsibilities.

Currently, there exists no formal mechanism in place for joint collaboration among the Consumer Affairs Division and other agencies on consumer protection issues and remedies, such as joint work programs or integrated projects. , Discussions towards Memoranda of Understanding (MOU) have commenced but not yet finalized with the following institutions:

1. Chemistry Food and Drugs Division (CFDD);
2. Trinidad and Tobago Bureau of Standards (TTBS); and
3. Tobago House of Assembly (THA).

Accordingly, issues affecting consumers such as the impact of international scams, resolution of complaints, effective information dissemination and dispute resolution mechanisms, are not being adequately addressed.

ADMINISTRATIVE ISSUES

Over the years, the functions of the Consumer Affairs Division have increased. However, there currently exist a number of administrative limitations which hamper the efficiency of the Division.

In order to achieve greater levels of efficiencies for consumer protection, administration and governance, there is need for additional and adequately trained human resources.

Currently, consumer-oriented issues such as legal compliance, consumer confidence, consumer complaints and prices are monitored using outdated tools and techniques. For example, the Complaints Database System, which is utilized to record consumer complaints, is currently outdated and limited in scope.

NEW POLICY FRAMEWORK

It is proposed that the existing Consumer Protection and Safety Act, Chapter 82:34 of the Laws of Trinidad and Tobago be repealed and replaced in main (not exclusively), with the provisions of the CARICOM Model Consumer Protection Legislation as mentioned in Section 5.2 above.

The new Consumer Protection and Empowerment Act will prescribe specific duties which all suppliers of goods and services must discharge, as well as, statutory rights for consumers in keeping with best practice in other jurisdictions such as the United Kingdom which has recently enacted a new Consumer Rights Act of 2015.

STRUCTURE OF THE NEW CONSUMER PROTECTION LEGISLATION

The new legislation shall inter alia include provisions which will:

- ensure consumers of services and digital content receive similar protection as consumers of goods by enshrining equitable rights;
- address unfair business practices, unfair contract terms and industry codes of practice;
- strengthen the powers and expand the duties of the Officers within the Consumer Affairs Division;
- expand the powers of the Minister with responsibility for Consumer Affairs;
- deal with consumer guarantees to include guarantees for goods, services and digital content;
- improve protection for consumers purchasing goods or services from a distance;
- address consumer safety issues to include safety for services;
- establish a Tribunal for quick resolution of disputes between consumers and suppliers; and
- Provide new enforcement options, sanctions and remedies.

LEGISLATIVE PROPOSAL TO ADDRESS LEGAL GAPS IN CURRENT LEGISLATION

The specific policy parameters which will form the basis for the drafting of the new legislation are detailed at Appendix B.

POLICY MEASURES TO ADDRESS CONSUMER AWARENESS AND EDUCATIONAL ISSUES

In an effort to empower consumers by informing them of their rights and responsibilities, integrated educational programmes will be implemented aggressively at the community and national levels with the assistance of various stakeholders including Educational Institutions and NGOs. These initiatives will also be promoted by the Government through:

- an on-line Consumer Affairs Portal managed by the Consumer Affairs Division;
- public meetings and lectures to consumers and suppliers about unfair trade practices and unfair contract terms etc.;
- greater use of social media channels;
- media advertising campaigns on scams, e-commerce issues, telemarketing; and
- consumer tips columns or sections in the print and electronic media.

POLICY MEASURES TO ADDRESS STANDARDS ISSUES

The Consumer Affairs Division will promote the development and implementation of Codes of Practice to target various sub-sectors as a means of co-regulation. The Codes, whether mandatory or voluntary, will provide a positive ethical guide for suppliers on agreed best practices.

Codes of Practice developed by industry associations will set agreed quality standards which will serve as a bench mark in settling disputes between firms and consumers. The codes will contain key commitments relating to:

- Service standards;
- Complaints handling;
- Information provision to consumers;
- Terms and conditions of contract;
- Warranties,
- Dispute resolution; and
- Consumer awareness.

Additionally, goods supplied to consumers in Trinidad and Tobago must be of a satisfactory standard. As such, all food, appliances, electronic equipment, vehicles and other products imported into Trinidad and Tobago must meet the relevant statutory compulsory standards. The Consumer Affairs Division (CAD) in collaboration with the Chemistry Food and Drugs Division (CFDD) and the Trinidad and Tobago Bureau of Standards (TTBS) will be actively involved in the enforcement of both voluntary and compulsory standards on the importation of such items into the country.

POLICY MEASURES TO ADDRESS ADMINISTRATIVE CAPACITY

STRENGTHEN HUMAN RESOURCES AND DEVELOPMENT OF TECHNICAL CAPACITY

Currently, consumer protection cross-cuts a number of Ministries and Agencies within the Government such as the Consumer Affairs Division of the Ministry of Trade and Industry, Chemistry, Food and Drugs Division of the Ministry of Health and the Trinidad and Tobago Bureau of Standards.

Specialized training and other capacity building activities for Officers of the Consumer Affairs Division in various disciplines pertaining to consumer protection shall be facilitated through:

- Capacity building workshops on dealing with technical consumer complaints;
- Exchange programmes with other countries; and
- Training in research and data management and collection, which will enhance policy monitoring and evaluation and decision making.

In addition, given the urgent need to expand the pool of authorized persons with the power to enforce the new legislation, provision shall be made for the Minister with responsibility for Consumer Affairs to designate any other suitable person (outside the Consumer Affairs Division) to assist in the enforcement of the new law. However, the Minister shall furnish every such person with a certificate of his designation as such.

POLICY MEASURES TO STRENGTHEN INSTITUTIONAL FRAMEWORK

Effective Consumer Protection and Empowerment in Trinidad and Tobago shall only be realized if the complete institutional capacity of the State functions affectively. In this regard, in addition to the Consumer Affairs Division, there are several entities which have clear statutory responsibilities as follows which must be discharged if the objectives of this Policy are to be realised:

- i. Telecommunication's Authority of Trinidad and Tobago-TATT's* primary role is to regulate both the telecommunications and the broadcasting sectors, in addition to establishing equipment and service quality standards, setting guidelines to prevent anti-competitive practices and encouraging investment in order to facilitate the availability of affordable telecommunications and broadcasting services to all citizens of Trinidad and Tobago.
- ii. Trinidad and Tobago Bureau of Standards-TTBS* primary role is to develop, promote and enforce standards in order to improve the quality and performance of goods produced or used in Trinidad and Tobago.
- iii. Chemistry, Food and Drug Division-CFDD* monitors all aspects of imported and manufactured food and drug items.
- iv. Regulated Industries Commission-RIC* has been established to ensure that good quality and efficient utility services are provided at fair and reasonable costs in Trinidad and Tobago.

The Consumer Affairs Division shall improve co-ordination and build new institutional relationships among the various entities that directly have a role to play in consumer protection and empowerment.

IMPLEMENTATION FRAMEWORK

The Consumer Affairs Division is responsible for developing a comprehensive implementation plan for this Policy which will include but not limited to the specific actions outlined in the table below.

Table 1: IMPLEMENTATION PLAN FOR THE NATIONAL CONSUMER POLICY

POLICY ISSUES	SPECIFIC ACTIONS	RESPONSIBLE AGENCY
Outdated Consumer Protection Legislation	Ministry of the Attorney General and Legal Affairs (Chief Parliamentary Counsel)	Draft new Consumer Protection and Empowerment legislation.
Standards	Consumer Affairs Division; Industry Associations	Develop Codes of Practice
Inadequate consumer awareness building programmes	<ul style="list-style-type: none"> Execute media advertising campaign on scams, e-commerce issues, and telemarketing Publish consumer tips columns in print and radio media. Alerts on fraud Conduct seminars on consumer rights, safety issues. Conduct workshops on consumer redress. Prepare consumer brochures and other publications. 	<p>Consumer Affairs Division</p> <p>Consumer Affairs Division; Regulated Industries Commission (RIC)</p>
Institutional and administrative weaknesses	<ul style="list-style-type: none"> Recruit technical staff members to assist the Director of Consumer Guidance to function effectively Provide the Consumer Affairs Division with the requisite technology, equipment and space to carry out its functions. 	Ministry of Trade and Industry

MONITORING AND EVALUATION FRAMEWORK

A programme of monitoring and evaluation which involves key stakeholders from the public and private sectors as outlined in Table 1 above shall be implemented.

The Consumer Affairs Division will utilise several indicators, such as the number of complaints and timely resolution of complaints, to continually assess the effectiveness of the National Consumer Policy in achieving its objectives. This will form the basis for reviewing the Policy and recommending any changes to the Policy framework in the future.

The Policy will be evaluated over the next five (5) years, to observe if specific targets, objectives and deliverables are being achieved. Additionally, the Consumer Affairs Division will monitor regional and worldwide consumer developments with a view to identifying issues that may be of particular significance to Trinidad and Tobago which were not previously considered.

The Consumer Affairs Division shall also be responsible for monitoring and evaluating the implementation of this Policy.

CONCLUSION

This Policy seeks to better promote and protect the interests of consumers through *inter alia*, harmonizing and strengthening the regulatory and institutional framework for consumer protection in Trinidad and Tobago.

The main intention of the Policy is to improve consumer wellbeing through enhanced consumer empowerment and enabling the confident and responsible participation of consumers and suppliers respectively in the market place. This will result from the enactment of new harmonised and modern legislation which is intended to revolutionise the legal and regulatory framework for consumer protection and empowerment locally in keeping with regional and international best practice.



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CONSUMER
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