

## Complaint Form about possible violation of cartel prohibition or the abuse of a dominant position

The Fair Trade Authority Curaçao has established the following form for filing complaints regarding the cartel prohibition or prohibition on abuse of a dominant position:

### Part 1: general explanation

#### Purpose of this form

As of 1 September 2017, the prohibition of cartels and the prohibition to abuse a dominant position apply to all domestic and foreign companies which are active in Curaçao. This has been laid down in Chapters 3 and 4 of the National Ordinance on Competition. Cartel prohibition means that certain anti-competitive agreements between undertakings are prohibited. The prohibition on abuse of a dominant position means that undertakings with a strong market position cannot abuse that position. More information on the prohibition on cartels and the prohibition on abuse of a dominant position can be found on the FTAC'S website ([www.ftac.cw](http://www.ftac.cw)).

The FTAC supervises compliance with these rules and investigates possible violations of the cartel prohibition and the prohibition of abuse of a dominant position.<sup>1</sup> These violations are sometimes difficult to discover, partly because violations are sometimes carried out in secret. For this reason, the FTAC wants to encourage consumers and companies to submit tip-offs and complaints about possible violations of the new competition rules to the FTAC. This can be done in two ways:

- Submitting an *informal* tip-off or
- Filing a *formal* complaint.

Submitting an informal tip-off can be done by (i) sending an e-mail to [info@ftac.cw](mailto:info@ftac.cw), (ii) via the [form](#) on the website or (iii) by visiting the FTAC office. There are no conditions for submitting a tip-off. The FTAC can accomplish more with a tip-off if it is well motivated. Therefore, the FTAC prefers to receive supporting documents with a tip-off. Tip-offs can also be submitted anonymously. This can be done, for example, by indicating in the abovementioned form that you want to remain anonymous. The FTAC will then guarantee this anonymity as much as possible.<sup>2</sup>

The second way is to file a formal complaint. In the case of a formal complaint, the FTAC is obliged - contrary to an informal tip-off - to take a decision on the complaint, provided that the complainant is an "interested party".<sup>3</sup> An interested party is a person or undertaking that is directly affected by an FTAC decision about the possible violation.<sup>4</sup> For example, a competitor or customer is usually an interested party.

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<sup>1</sup> Article 6.1 paragraph 1 and 2 National Ordinance on Competition.

<sup>2</sup> In exceptional cases, the FTAC may be required to disclose the identity of the person submitting a tip-off. For example, on the basis of a court order.

<sup>3</sup> Article 6.1 paragraph 3 and 4 National Ordinance on Competition.

<sup>4</sup> This concerns the concept of "interested party" within the meaning of Article 7, paragraph 1, of the National Ordinance on Administrative Jurisdiction (in Dutch: Landsverordening administratieve rechtspraak). The condition of being an interested party follows from article 6.1 paragraph 3 of the National Ordinance on Competition.



Filing a formal complaint is subject to the condition that the information as mentioned in Part 2 of this form is provided. This is to ensure that the FTAC receives sufficient information to assess the formal complaint.

Informal tip-offs or formal complaints may also be submitted orally to the FTAC. In order to do this, you can make an appointment with the FTAC via [info@ftac.cw](mailto:info@ftac.cw) or the telephone number below.

**Do you have questions about or problems when submitting your complaint?**

Please feel free to contact one of the FTAC employees via the contact details below. You may also visit the office of the FTAC.

**Fair Trade Authority Curacao**

Pietermaai 6

PO box 135, Punda

Willemstad

[info@ftac.cw](mailto:info@ftac.cw)

Phone number: +5999 461 0067

## Part 2: information which should be provided when filing a formal complaint

**1. Information about the complainant and the undertaking(s) against whom the complaint is directed**

Please state your name and contact details. If your complaint is filed on behalf of an undertaking, state the company name in full and a brief description of its activities.

*Is the complaint submitted by one or more proxies? If so, please state the contact details and job title of the proxy/proxies.*

State the name and contact details of the undertaking(s) against which your complaint is directed. If the undertaking is part of a group, then provide as much information as possible about the group to which the undertaking belongs.

Describe the activities of the undertaking(s) against which your complaint is directed. Also describe your relationship to the undertaking(s). For example: customer, competitor or supplier.

**2. Information about the possible violation**

Please describe, as extensively as possible, the possible violation of the cartel prohibition and/or the abuse of a dominant position. In your answer, if available, include the following aspects:

- a description of the types of goods and/or services to which your complaint relates;
- all available information about the possible violation, such as agreements, minutes of meetings, decisions, letters, e-mails or interview reports;
- information about the market where the possible violation has taken place, such as the market share of the concerned undertaking(s) and the main competitors;
- a description of the most important developments in the market; and
- information about price (developments) and the limitations for new firms to enter the market.



Describe how you or your undertaking are disadvantaged by the possible violation and why you are an “interested party”.<sup>5</sup> What do you want to achieve with your complaint?

Can other persons or undertakings confirm the possible violation or provide more information about this? If so, state the names and contact details of these persons or undertakings.

### **3. Confidentiality of your information**

The FTAC will not disclose confidential information. If your complaint contains confidential information within the meaning of Article 8.1 of the National Ordinance on Competition, please state the reasons for which the information on your complaint is confidential.

*You may highlight the confidential information of your complaint in bold or by placing it between square brackets. This can be whole sentences but also specific words or numbers. You should attach an annex to the complaint, explaining - per confidentiality claim - why this information is classified as confidential. Make sure to make reference to one or more confidentiality grounds, as referred to in the second and third paragraph of Article 8.1 of the National Ordinance on Competition. You can use the [format](#) for submitting confidentiality claims that are available on the FTAC website.*

### **4. Declaration of accuracy and completeness**

Your notification should conclude with the declaration below:

“I hereby declare that the information provided in my complaint is, to the best of my knowledge and belief, true, and accurate and complete.”

The submitting party or parties hereby declare(s) that the information provided in this complaint is, to the best of their knowledge and belief, true and accurate and complete, that documents have been submitted that reflect reality.

Willemstad, 4 January 2018

Fair Trade Authority Curaçao

w.g. drs. A.G. Romero  
Chairman of the Fair Trade Authority Curaçao

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<sup>5</sup> An "interested party" is a person or undertaking that is directly affected by a FTAC decision about the possible violation within the meaning of article 7 paragraph 1 of the National Ordinance Administrative Jurisdiction. For example, a competitor or customer is usually an interested party.