



**Common Market for Eastern
and Southern Africa**

COMESA COMPETITION COMMISSION

REQUEST FOR TECHNICAL AND FINANCIAL PROPOSALS

**CONSULTANCY SERVICES TO REVIEW THE COMPETITION LAW OF
DJIBOUTI**

(INTERNATIONAL CONSULTANT)

RFP : CCC/RFP/7/3/2022

JULY 2022

I. BACKGROUND

1. The COMESA Competition Commission ("the Commission") is a regional body corporate established under Article 6 of the COMESA Competition Regulations 2004 ("the Regulations") promulgated under Article 55 of the Treaty Establishing the Common Market for Eastern and Southern Africa ("COMESA"). The Commission has the legal capacity required for the performance of its functions under the Regulations in the territory of each COMESA Member State.
2. The Commission's core mandate is to promote and encourage competition by preventing restrictive business practices and other restrictions that deter the efficient operation of markets, thereby enhancing the welfare of the consumers in the Common Market, and to protect consumers against offensive conduct by market actors. The Regulations apply to all economic activities whether conducted by private or public persons within or having an effect within the Common Market. Such conduct includes anti-competitive business practices, agreements, mergers & acquisitions, and consumer protection violations which have an appreciable effect on trade between Member States and which restrict competition in the Common Market. The Regulations also specifically prohibit all agreements between undertakings, decisions by associations of undertakings and concerted practices as incompatible with the Common Market in so far as they may affect trade between Member States and have as their object or effect the prevention, restriction and distortion of competition within the Common Market.
3. The Commission's mandate as provided under Article 7 of the Regulations amongst others include:
 - 3.1. Help Member States promote national competition laws and institutions, with the objective of the harmonisation of those national laws with the regional Regulations to achieve uniformity of interpretation and application of competition law and policy within the Common Market;
 - 3.2. Co-operate with competition authorities in Member States;
 - 3.3. Co-operate and assist Member States in the implementation of its decisions; and
 - 3.4. Provide support to Member States in promoting and protecting consumer welfare.
4. The Republic of Djibouti is one of the 21 COMESA Member States and adopted a law on competition, fraud repression and consumer protection in 2008 and further incorporated it into the legal corpus of the Djibouti Commercial Code of 2012. This law needs to be updated and the Government of the Republic of Djibouti intends to modernise and revise the competition and consumer protection law at national level and draft a new national competition legislation which is aligned to and in harmony with the COMESA Competition Law.
5. As a COMESA Member State, Djibouti appreciates that the main objective for the regulation of competition and consumer protection by public authorities is to promote and ensure competitive markets at national level and protect consumers in the Common Market in accordance with Article 55 of the COMESA Treaty. Member States have the obligation to take necessary measures to establish a Common Market based on the four fundamental principles namely: the free movement of goods, the free movement of

persons, the free movement of services and the free movement of capital. However, to achieve sustained and effective economic integration, there should be a movement towards the harmonisation of legal rules. It is within this framework that the Djibouti Ministry of Trade (here from referred as “the Ministry”) initiated the study on review of the national competition and consumer law.

6. Djibouti also noted that the enforcement of national competition and consumer protection laws must first be assessed so that concrete measures can be taken for Djibouti to better enjoy the advantages of its membership in the various free trade areas and to encourage appropriate reforms. Recently, with the formal entry into force of the AFCFTA, Djibouti as well as other Members States of COMESA will face a new set of challenges. In fact, the Republic of Djibouti has launched the largest international free zone in Africa in order to attract regional investment flows and confirm its role as a trading and distribution hub.
7. Premised on the foregoing, the Commission and Djibouti Ministry of Commerce and Tourism, (here from referred as the Ministry) is seeking to engage an International Consultant to assist Djibouti in reviewing the competition and consumer protection law and harmonizing the law with the COMESA Competition Regulations. The International Consultant is expected to work with a National Consultant to be also engaged by the Commission.

II. OBJECTIVES OF CONSULTANCY SERVICES

8. The main objective of the Consultancy service is to study and analyse all the legal provisions on competition and consumer protection that currently exist at national level. This study is expected to help the Djibouti Ministry of Trade to develop national competition and consumer protection legal framework and further harmonise it with the COMESA Competition Regulations. The best approach in this harmonization process is to first come up with a coherent national competition and consumer protection policy to guide in building a broad framework of consensus in which Government responds to anticompetitive challenges in the marketplace. The national competition and consumer protection policy framework will be expected to inform the needs for the amendment of the existing legislation on which basis the harmonization process with the COMESA Competition Regulations will be done. This will also ensure that firms operating in various sectors of the economy comply with and adhere to the Competition and consumer protection Policy and regulatory requirements. Further, the study is expected to have recommendations on the appropriate structure for the national competition and consumer protection authority to be established to enforce the competition and consumer protection law.

III. SCOPE OF THE CONSULTANCY SERVICES

9. To fulfil the purpose and objectives of the Consultancy Services, the International Consultant in liaison with the National Consultant to be engaged, will have to:
 - 9.1. Hold consultative meeting(s) (whether in-person or virtually) with the stakeholders and, where deemed relevant, with the Commission and the Ministry and specified stakeholders in order to gather their preliminary views on the national competition and consumer protection policy formulation and law review process;
 - 9.2. Develop a draft national policy to promote competition and consumer protection;

- 9.3. Review the current competition legislation against the draft competition and consumer protection policy and recommend the necessary amendments to ensure that the new policy is translated into the appropriate competition legislation;
- 9.4. Harmonise and modernise the legal provisions on competition and consumer protection at national and regional level;
- 9.5. Recognise and give legal effect to the COMESA Competition Regulations in Djibouti;
- 9.6. Add new provisions to complete the Djibouti Commercial Code;
- 9.7. Recommend the appropriate institutional structure for the creation of a national competition and consumer protection authority for the enforcement of the national competition and consumer protection law; and
- 9.8. Hold a validation workshop for the adoption of the recommended amendments of the review of the law.

IV. EXPECTED RESULTS

10. To attain the objectives, the International Consultant, in liaison with the National Consultant, and under the supervision of the Commission and the Focal Point of the Ministry are expected to come up with the following results:
 - 10.1. The relevant stakeholders consulted for their views and input into the competition policy formulation and law review process;
 - 10.2. The national legislation on competition and consumer protection reviewed in line with the developed national competition and consumer protection policy and necessary amendments drafted and recommended;
 - 10.3. A draft national policy for the promotion of competition and consumer protection developed;
 - 10.4. The national competition and consumer protection legislation updated and harmonised with the COMESA Competition Regulations to ensure consistency;
 - 10.5. The COMESA Competition law recognised and given legal effect in Djibouti;
 - 10.6. The necessary draft amendments to the national competition and consumer protection law prepared; and
 - 10.7. Recommendations made on the appropriate structure of a competition authority to be created for the enforcement of the national competition law.

V. DELIVERABLES

11. The following are the expected deliverables on the part of the International Consultant which shall be delivered in liaison with the National Legal Consultant:

- 11.1. Submit an Inception Report to the Commission and the Focal Point of the Djibouti Ministry including the conclusions of the consultative meetings, the first draft National Competition and consumer protection Policy, inventory of the areas in the national competition and consumer law identified for review, the justifications for the review and the proposed draft amendments to the national competition and consumer protection law.
 - 11.2. Prepare the Second draft Report highlighting the comprehensive draft amendments of the national competition and consumer protection law, in line with the aforementioned objectives, scope of work and expected results, following the consultative meetings and submit this Second draft Report to the Commission and Focal Point of the Djibouti Ministry of Trade for their comments, ensuring that the comments and the views of the Commission and the Ministry well addressed in the report.
 - 11.3. Present the draft national competition and consumer protection policy and draft amendments of the national competition and consumer protection law to the key stakeholders for validation.
12. The reporting requirements and time schedule for the deliverables are projected to follow the ensuing timeline:

Deliverables	Time of submission to The Commission and the Ministry	Review Period by The Commission and the Ministry
Submitting an Inception Report to the Commission and the Focal Point of the Djibouti Ministry of Trade together, including: <ol style="list-style-type: none"> 1) The conclusions of the consultative meetings; 2) The 1st draft National Competition Policy; 3) Inventory of the areas in the national competition and consumer protection law identified for review; 4) The justifications for the review and the proposed draft amendments to the national competition and consumer protection law. 	No later than 6 weeks starting from the date of signing the Contract.	2 weeks from date of receipt from the Consultant.

<p>Submitting the Second draft of the report including:</p> <ol style="list-style-type: none"> 1) The proposed National Competition and consumer protection Policy; 2) The proposed draft amendments to the national competition and consumer protection law. 3) Ensuring that the comments and the views of the Commission and Djibouti Ministry of Trade are well addressed in the report. 	<p>10 weeks starting from the date of submitting the inception Report</p>	<p>2 weeks</p>
<p>Submitting the final draft Report including;</p> <ol style="list-style-type: none"> 1) The proposed National competition and consumer Policy 2) The proposed draft amendments to the national competition and consumer protection law; and 3) Holding the validation workshop. 	<p>8 weeks starting from the date of submitting the second draft of the Report</p>	<p>4 weeks</p>

VI. SUPERVISION

13. The Consultant shall report to the Commission and Djibouti Ministry.

VII. EXPERIENCE AND QUALIFICATIONS

14. The Commission wishes to obtain the services of an international firm or individual Consultants with the requisite legal and legislative drafting skills and experience in competition and law to assist with the drafting of the required substantive rules and procedures to be gazetted in Djibouti. Proof of having undertaken similar assignments is critical. Further, the International Consultant is expected to have the following qualifications and experience:

- 14.1. The International Consultant should have qualifications in law. Qualifications in economics, shall be an added advantage;
- 14.2. The Consultant should have at least 10 years practical experience in competition law; and
- 14.3. The Consultant should be fluent in English and/or French, proficiency of both English and French will be an added advantage.

VIII. APPLICATIONS

15. Responses to this request for technical and financial proposal shall include copies of the following:
 - 15.1. A proposal for the consultancy service;
 - 15.2. A brief cover letter indicating relevant experience and suitability for assignment;
 - 15.3. Copy of the firm's profile/ for individuals consultants, the C.V suffices;
 - 15.4. Valid and current tax compliance certificate for firms; and
 - 15.5. Costs (in USD): The service providers should identify their rates which should be valid for the entire length of the assignment.

IX. PAYMENT PERIOD

16. The period for payment shall be 30 days from certification of invoices, payment phases shall be in accordance with Paragraph 24 of the TORs.

X. PRICING

17. All prices MUST be indicated in United States Dollars.
18. There will be a no price variation contract after signing of contract except upon a mutual written agreement between the Commission and the successful bidder.
19. The price quoted amount shall be considered to be for all the services required by the Commission as contained in this Request for Proposal.
20. Prices must be exclusive of all taxes within the Common Market, with particular emphasis to Malawi and Djibouti.

XI. CRITERIA FOR EVALUTION OF BIDS

21. Bidders must provide both Technical and Financial proposals. The evaluation shall be based on the following attributes:
 - 21.1. The overall responsiveness (including completion of bid submission requirements outlined in Paragraph 29 and 30 below);
 - 21.2. Technical ability of the proposer to perform the required services;
 - 21.3. The experience and reputation of the proposer as represented in the response and the quality of references; and
 - 21.4. Cost of services. Fees and expenses will be particularly important factor when all other evaluation criteria are relatively equal.

22. The technical proposal will be assigned a weight of 80% and the financial proposal will be weighted at 20%.

Evaluation Attribute	Percentage Points
Consultant's understanding of the Commission's requirements	15
Approach and methodology	30
Specific Experience in carrying out similar assignments. Evidence in the form of for example reference letters, offer letters, orders or copies of contracts, or any other evidence of working in competition and consumer law matters in a very influential position should be presented	30
Qualifications and Experience of proposed Consultant(s) :	25
Total	100

23. The proposal shall be considered unsuitable and shall be rejected at the technical stage if it does not respond to important aspects of the Terms of Reference and/or fails to achieve a minimum technical score of 70%.

XII. FINANCIAL PROPOSAL _ STANDARD BIDDING FORM

24. Bidders are advised to use the standard tender Form below as a sample format and modify it to cover all relevant costs or charges.

25. There will be no price variation tender.

26. Bidders are advised to disclose any other relevant information on a separate sheet of paper.

XIII. VALIDITY OF THE BID

27. The Bid shall be valid for a period of six months after the closing date of this tender.

XIV. AMENDMENTS OF PROPOSAL DOCUMENTS

28. At any time prior to the deadline for submission of Bids, the Commission may, for any reason, modify the Proposal Documents by issuing an addendum.

XV. BID SUBMISSION

29. Bidders are advised to include in their bids the following standard tender Forms attached to this tender document and marked Annexes 1-6:

29.1. Bid Submission Sheet;

29.2. Bidder's references;

29.3. Comments and suggestions on the Scope of Work;

29.4. Description of the methodology for performing the assignment;

29.5. Team Composition and Tasks assignment. (This does not apply to individual consultants); and

29.6. Proposed fees;

30. The proposals must be submitted with a covering letter containing a confirmation and a description of how you have understood the Terms of Reference for the assignment. Bidders should provide copies of documentation, evidence and confirmation, as applicable that:

30.1. For firms, that they are not insolvent, in receivership, bankrupt or being wound up. Their business activities have not been suspended, and they are not the subject of legal proceedings for any of the foregoing; (provide copies of 6 months bank statements or 3 months financial audited accounts as proof as is the case with prequalification of lawyers where this is provided as proof of the same);

30.2. For firms, that they have fulfilled their obligations to pay taxes and social security contributions, and for that purpose, documentary evidence to be provided by the relevant authorities to demonstrate that the bidders have met their obligations (provide copy of valid and current tax compliance certificate);

30.3. that they have not offered any inducement to any employees of the Commission (complete confirmation form in line with Annex 1).

31. Bidders who do not submit their proposal using the Annexes 1-6 and respond to the required documents under paragraph 29 and 30, shall be disqualified.

XVI. COST OF TENDER

32. The Bidder shall bear all costs associated with the preparation and submission of the bid. The Commission will in no case be responsible or liable for those costs, regardless of the conduct and outcome of the tender.

XVII. CANCELLATION OF THE TENDER

33. In the event of cancellation of the tender, bidders will be notified in writing of the cancellation by the Commission.

XVIII. OWNERSHIP OF TENDERS

34. The Commission retains ownership of all tenders received under this Request for Proposals. Consequently, bidders have no right to have their tenders returned to them.

XIX. COMMUNICATION OF THE OUTCOME OF THE BID

35. The Commission shall communicate to all the bidders the outcome of their submitted bid. However, the Commission is not obliged to provide and justify grounds for rejection.

XX. NEGOTIATION AND FINALISATION

36. After the selection of the best bid and notification to the selected party, the Commission will commence negotiations with that party for purposes of concluding an agreement.

XXI. AWARD OF CONTRACT

37. Prior to expiration of the period of bid validity, the Procurement Committee will award the contract to the qualified Bidder whose Bid after being evaluated is considered to be the most responsive to the needs of the organization and activity concerned.
38. The Commission reserves the right to wholly or partially reject or award the contract to any bidder and has no obligation to award this tender to the highest ranked bidder.
39. The Commission also reserves the right to annul the Bid process and reject all Bids at any time prior to award of contract, without thereby incurring any liability to the affected Bidder(s).

XXII. SIGNING OF CONTRACT

40. Within 14 days of receipt of the contract the successful Bidder shall sign and date the contract and return it to the Commission.

XXIII. PERIOD OF EXECUTION

41. The period of execution of the contract starts from the date of the signing of the contract and is dependent on accomplishment of the deliverables provided under Section V, Paragraph 11.

XXIV. CONFIDENTIALITY

42. Information relating to evaluation of bids and recommendations concerning awards, shall NOT be disclosed to the Bidders who submitted the bids or to other persons not officially concerned with the process, until the winning consultant has been notified that it has been awarded the contract.

XXV. CORRUPT AND FRAUDULENT PRACTICES

43. The Commission requires that Bidders observe the highest standard of ethics during the procurement and executions of contracts. For the purposes of this provision, COMESA defines the terms set forth below as follows:
 - 43.1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution: and
 - 43.2. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the COMESA and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive COMESA of the benefits of free and open competition.

XXVI. FORMAT AND SEALING OF BIDS

44. The bidder shall submit the proposal in one envelope containing two sealed envelopes by the closing date set forth below through courier services or hand delivery to the following address.

The Chairperson – Procurement Committee,
COMESA Competition Commission,
5th Floor- Kang'ombe House
P.O. Box 30742
Lilongwe 3, Malawi
Attention: Procurement Unit

45. The outer envelope should be clearly marked at the top right-hand corner [TENDER REFERENCE AND TITLE].
46. The first internal sealed envelope shall be clearly marked “Technical Proposal” and must contain two (2) hard copies of the technical proposal with one marked ‘original’ and the other marked ‘copy’. The second internal envelope shall be marked “Financial Proposal” and must contain two hard copies of the financial proposal with one marked ‘original’ and the other marked ‘copy’. In the event of any discrepancy between the original and the copy, the original shall govern.

NOTE: If the envelopes are not sealed and marked as per the instructions in this clause, the Commission will not assume responsibility for the proposal’s misplacement or premature opening and may – at its discretion – reject the proposal.

XXVII. DEADLINE FOR SUBMISSION OF PROPOSALS

47. The deadline for the submission of proposals is 14h00 Malawi Time on Thursday, 4 August 2022. Bidders are invited to attend either physically or virtually the opening of bids scheduled to be held at the Commissions office at the address provided in “44” above on Thursday, 4 2022 at 16h00 Malawi Time.
48. The Commission does not bind itself to accept any bid and reserves the right to accept the whole or part of any of the submitted bids.
49. Any proposal received by the Commission after the deadline for submission of proposals shall be rejected. There shall be no exception to this requirement.

XXVIII. TECHNICAL QUERIES

50. For any queries, kindly contact Ms. Agnes Mkandawire, on the following email address: agmkandawire@comesa.int. Contacting any staff member of the Commission in any manner whatsoever on the subject of this tender other than Ms. Agnes Mkandawire shall be considered inappropriate may result in the disqualification of the bidder.

ANNEX 1: BID SUBMISSION SHEET

[This Bid Submission Sheet should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign documents that are binding on the Bidder.]

Date: [insert date (as day, month and year) of bid submission]

Reference No: [insert Reference number]

To: The Chairperson of the Procurement Committee

- a) I/We, the undersigned, declare that:
- b) I/We have examined and have no reservations to the Bidding Document;
- c) I/We offer to provide the services in conformity with the Bidding Document for the [insert a brief description of the Services];
- d) I/We hereby submit our bid which includes the following (to state the documents included);
- e) The bid shall be valid for a period of six months from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- f) I/We are not participating, as Bidders, in more than one bid in this bidding process;
- g) I/We did not offer any inducement to any employees of the Commission;
- h) I/We do not have any conflict of interest and have not participated in the preparation of the project document for the COMESA Competition Commission;
- i) My/Our Proposal is binding upon us, subject to modifications agreed during any contract negotiations, and we undertake to negotiate on the basis of the staff proposed in our Bid;
- j) I/We understand that this Bid, together with your written acceptance thereof included in your Letter of Bid Acceptance, shall NOT constitute a binding contract between us, until a formal letter of engagement is prepared and executed; and
- k) I/We understand that you are not bound to accept the lowest bid or any other bid that you may receive.

Name: [insert complete name of person signing the Bid]

In the capacity of [insert legal capacity of person signing the bid]

Signed: [signature of person whose name and capacity are shown above]

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on _____ day of _____, _____ [insert date of signing]

ANNEX 2: BIDDER'S REFERENCES
Relevant Services Carried Out that Best Illustrate Experience

Using the format below, provide information on each assignment for which the Bidder, either individually or as a corporate entity or as one of the major firms within an association, was legally contracted.

Bidder's Name:

Assignment Name:		Country:
Location within Country:		Professional Staff Provided by Bidder (profiles):
Name of Client:		Nº of Staff:
Address:		Nº of Staff-Months; Duration of Assignment:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Services (in Current US\$):
Name of Associated Consultants, If Any:		Nº of Months of Professional Staff Provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of Project:		
Description of Actual Services Provided by the Staff:		

ANNEX 3: COMMENTS AND SUGGESTIONS ON THE SCOPE OF WORK

The bidder is required to give his comments and suggestions on the scope of work as follows:

Scope of work	Comments and Suggestions

ANNEX 4: DESCRIPTION OF THE METHODOLOGY FOR PERFORMING THE ASSIGNMENT

Scope of work	Methodology for performing the Assignment

ANNEX 5: TEAM COMPOSITION AND TASK ASSIGNMENTS (Applicable only where the worked will be undertaken by a group of people and not an individual)

1. Technical/Managerial Staff		
Name	Position	Task(s)

ANNEX 6: PROPOSED FEES

The bidder is required to state his proposed fees for the various financial statements to be audited as follows:

Level of Service	Rate Per hour	Estimated Hours	Amount
Expert 1			
Expert 2			
Expert 3 etc			

ANNEX 7

TERMS OF REFERENCE FOR THE ENGAGEMENT OF AN INTERNATIONAL CONSULTANT TO REVIEW THE NATIONAL COMPETITION AND CONSUMER LAW OF DJIBOUTI

I. Background and Rationale

1. The government of the Republic of Djibouti intends to modernise and revise the competition and consumer protection law at national level and draft a new legislation in accordance with the COMESA Competition Law.
2. The main objective for the regulation of competition by the public authorities is to promote and ensure free competition at national level and protect consumers in the Common Market in accordance with Article 55 of the COMESA Treaty.
3. In 2008, the Republic of Djibouti adopted a law on competition, fraud repression and consumer protection which has been incorporated into the legal corpus of the Djibouti Commercial Code of 2012. However, this text needs to be extensively updated, especially given that it has never been popularised and has had no implementing decree. It is hence more than necessary to rectify this state of affairs and raise awareness among all stakeholders.
4. Member States have the obligation to take necessary measures to establish a common market based on the four fundamental freedoms: the free movement of goods, the free movement of persons, the free movement of services and the free movement of capital.
5. However, to achieve sustained and effective economic integration, there should be a movement towards the harmonisation of legal rules. It is within this framework that the Ministry of Trade, SMEs, Handicrafts and Formalisation initiated this study on national competition regulations.
6. After all, the enforcement of national competition regulations must first be assessed so that concrete measures can be taken for Djibouti to better enjoy the advantages of its membership in the various free trade areas and to encourage appropriate reforms.
7. And recently, with the formal entry in force of the AfCFTA, Djibouti as well as other Members States of the COMESA need to face a new set of challenges.
8. In fact, the Republic of Djibouti has launched the largest international free zone in Africa in order to attract regional investment flows and confirm its role as a trading and distribution hub.
9. Nowadays, there are many African and international companies established in free trade zones which are creating their own separate economic zones (for example: Turkey, Jordan, Egypt) to create added value and to benefit from the comparative advantage of Djibouti's geostrategic location.
10. For this reason, the legal arsenal on competition needs to be strengthened and effective regulatory mechanisms must be established in partnership with the COMESA Competition Commission and the arbitration bodies of the African Union.

11. The mission of the International Consultant is to:

- 11.1. Review and harmonise all legal and regulatory provisions relating to competition at national level;
- 11.2. Conduct a study on the competition rules applicable in the COMESA regional market and those adopted in the Republic of Djibouti;
- 11.3. Propose lines of thought on the requirement for the harmonisation of the rules for an effective transposition of COMESA rules into the national legal system; and
- 11.4. Present, if necessary, a bill amending national legislation on competition.

II. Objectives of the Consultancy Service

12. The main objective of the Consultancy is to study and analyse all the legal provisions on competition that currently exist at national level. This study should help the Ministry of Trade to develop national competition legal framework and further harmonise it with the COMESA Competition Regulations. The best approach in this harmonization process is to first come up with a coherent national competition policy to guide in building a broad framework of consensus in which Government responds to anticompetitive challenges in the marketplace. The national competition policy framework will be expected to inform the needs for the amendment of the existing legislation on which basis the harmonization process with the COMESA Competition Regulations will be done. This will also ensure that firms operating in various sectors of the economy comply with and adhere to the Competition Policy and regulatory requirements. There should be recommendations on the appropriate structure for the national competition authority to be established to enforce the competition law.

III. Scope of the Consultancy

13. To fulfil the above purpose and objectives, the Consultants engaged will have to:

- 13.1. Hold consultative meeting(s) (whether in-person or virtually) with the Authorities and, where deemed relevant, with the Commission and Djibouti Ministry of Commerce and Tourism and specified stakeholders in order to gather their preliminary views on the national competition policy formulation and law review process;
- 13.2. Review the current competition legislation against the draft competition policy and recommend the necessary amendments to ensure that the new policy is translated into the appropriate competition legislation;
- 13.3. Develop a national policy to promote competition;
- 13.4. Harmonise and modernise the legal provisions on competition at national and regional level;

- 13.5. Recognise and give legal effect to the COMESA Competition Regulations in Djibouti;
- 13.6. Add new provisions to complete the Djibouti Commercial Code;
- 13.7. Recommend the appropriate institutional structure for the creation of a national competition authority for the enforcement of the national competition law; and
- 13.8. To hold a validation workshop for the adoption of the recommended amendments of the review of the law.

IV. Experience and Qualifications of the International Consultant

14. The Commission wishes to obtain the services of a firm or individual with the requisite legal and legislative drafting skills and experience in competition law to carry out the required substantive study and draft the national competition policy and review the national competition law. To this end, the International Legal Consultant shall possess the following qualifications and experience:
 - 14.1. The Consultant should have qualifications in law. Qualifications in economics, shall be an added advantage;
 - 14.2. The Consultant should have at least 10 years practical experience in competition and consumer law; and
 - 14.3. The Consultant should be fluent in English and/or French, proficiency of both English and French will be an add advantage.

V. Expected Results

15. To attain the stated objectives, the International Consultant, under the supervision of the COMESA Competition Commission and the Focal Point of the Ministry, are expected to come up with the following results:
 - 15.1. Relevant stakeholders consulted for their views and input into the competition policy formulation and law review process;
 - 15.2. A draft national policy for the promotion of competition developed;
 - 15.3. The national legislation on competition reviewed in line with the developed national competition policy and necessary amendments drafted;
 - 15.4. The national competition legislation reviewed, updated and harmonised with that of the COMESA Competition Regulations;
 - 15.6. The COMESA Competition law recognised and given legal effect in Djibouti;
 - 15.7. Recommendations made on the appropriate structure of a competition authority to be created for the enforcement of the competition law;

VI. Deliverables

16. The following are the expected deliverables on the part of the International Consultant which shall be delivered in liaison with the National Consultant:
- 16.1. Submit an Inception Report to the Commission and the Focal Point of the Ministry of Trade together including the conclusions of the consultative meetings, the 1st draft National Competition Policy, inventory of the areas in the national competition law identified for review, the justifications for the review and the proposed draft amendments to the national competition law;
 - 16.2. Prepare the Second draft Report with comprehensive draft amendments to the national competition law, in line with the aforementioned objectives, scope of work and expected results, following the consultative meetings and submit the Second Draft Report to the Commission and Focal Point of the Ministry for their comments; insuring that the comments and the views of the Commission and Ministry well addressed in the report; and
 - 16.3. Present the draft national competition policy and draft amendments to the national competition law to the key stakeholders for validation.
17. The Consultancy is expected to commence on the date of signing the Consultancy Contract and the deliverables time schedule is as outlined below:

Deliverables	Time of submission by the International Consultant to the Commission and the Ministry	Review Period by Commission and the Ministry
Submitting an Inception Report to the Commission and the Focal Point of Djibouti Ministry of Trade together including: <ol style="list-style-type: none"> 1) The conclusions of the consultative meetings; 2) The 1st draft National Competition Policy; 3) Inventory of the areas in the national competition law identified for review; 4) The justifications for the review and the proposed draft amendments to the national competition law. 	No later than 6 weeks starts from the date of signing the Contract.	2 weeks
Submitting the Second draft of the report including: <ol style="list-style-type: none"> 1) The proposed National Competition Policy; 	10 weeks starts from the date of submitting the inception Report	2 weeks

<p>2) The proposed draft amendments to the national competition law;</p> <p>3) Insuring that the comments and the views of the Commission and Djibouti Ministry of Trade well addressed in the report.</p>		
<p>Submitting the final draft of the Report including:</p> <p>1) The proposed National Competition Policy;</p> <p>2) The proposed draft amendments to the national competition law and</p> <p>3) Holding the validation workshop.</p>	<p>8 weeks starts from the date of submitting the second draft of the Report</p>	<p>4 weeks</p>

VII. Supervision

18. The Consultant shall report to the Commission and Djibouti Ministry

VIII. Duration of the Mission and Report

19. The duration of the project is 4 6 Months (180 days), after completion of the works, the National and International Consultant will produce a report that will be approved by the COMESA and the Djibouti Ministry focal point.

IX. Conditions of Project

20. The remuneration of the appointed National Legal Consultant under the present Consultancy shall consist of an all-inclusive fee. No additional expenses shall be reimbursed to the Independent Local Legal Consultant for any other requirements such as stationeries, medical benefits, schooling allowances, insurance, pension funds, taxes, etc.

21. The International Legal Consultant shall make himself/herself available for meeting(s) with the International Consultant, the Ministry, and/or the COMESA Competition Commission by way of telephone, e-mail and/or via the Internet and/or via video conferences and he/she shall periodically update the Authorities on progress made on the Project.

X. Payments

22. The Contract is effective upon signing.

23. Total level of effort is estimated at 30 person-days, which could be reviewed in case of changes to the scope of the assignment. Any modifications to this timeframe must be agreed in writing with the Director.
24. Payment of the fees will be made against deliverables to be submitted by the National Legal Consultant and approved by the Director, taking into consideration whether the specific deliverables have been met satisfactorily:
 - a. Inception Report 10%
 - b. Report on Second Draft 30%
 - c. Report on Final Draft 60%

XI. Confidentiality Statement

25. All data and information received from the Commission for the purpose of this assignment are to be treated confidentially and are only to be used in connection with the execution of these Terms of Reference. All intellectual property rights arising from the execution of these Terms of Reference are assigned to Commission. The contents of written materials obtained and used in this assignment may not be disclosed to any third parties without the expressed advance written authorization of the Commission.