

**Statement for the Attorney General Prof. Githu Muigai on the occasion of Consumers Federation of Kenya (Cofek) Consumer Dialogue Forum - 5. Monday, 27th January 2014 at the Sarova Panafric Hotel, Nairobi**

Secretary General and other leaders of Consumers Federation of Kenya. It gives me great pleasure to address today's Consumer Dialogue Forum on Kenya Legal Instruments for Consumer Protection and the Role of the State, Private Sector and Individual Consumers.

The Government appreciates the role of Cofek in championing protection of consumers) rights through consumer education, research, information, litigation and publications. We are aware and do appreciate the fact that Cofek played a key role in the development and eventual passage of the Consumer Protection Act, 2012. On behalf of the Government, my office is committed to ensuring that the Act is fully implemented to ensure effective protection as envisaged in the law.

As a demonstration of its commitment to consumer protection, the Government established the Kenya Consumers Protection Advisory Committee (KECOPAC). Cofek and I are members of this Committee that is charged with the role of advising the Cabinet Secretary for East African Affairs, Commerce and Tourism, and ensuring relevant action on all aspects relating to consumer protection among other roles.

Besides the establishment of KECOPAC, the Government is keen to actualize section 94 of the Act which requires consumer representation on all regulatory authorities. My office will continue to provide the necessary advice to various Departments on implementing crucial provision.

The results of dialogue between Government and Cofek will add a lot more value by cutting Government expenditure on legal matters that can easily be avoided through the kind of partnership spirit which Cofek has embraced of late.

While Kenya has made great strides in putting in place legal instruments for consumer protection, the effectiveness of the instruments will depend on how well each party plays its role. The State has the responsibility of ensuring that the provisions of legal instruments are implemented to the letter and necessary steps taken to deal with any violations of the law.

The State must also continuously review the instruments to make them responsive to the changing dynamics of consumer protection. Additionally, it is the responsibility of the State to establish and facilitate operations of entities provided for in the legal instruments for the purpose of realizing the goals of the law.

The Private Sector being mainly on the supply side has a duty to comply with the provisions of the consumer protection legal instruments. They are expected to comply with specifications for labeling, disclosures, advertising among others and ensure that their actions reflect the letter and spirit of the legal instruments. The goals of the legal instruments may never be attained without

individual consumers effectively playing their roles. It is the responsibility of the consumers to understand the provisions of the legal instrument and demand for their rights as provided for in the law. In essence, they must hold the Government and other players such as the Private Sector accountable in regard to their roles and responsibilities as provided for by the legal instruments.

Individual consumers must test the law through litigation whenever there is breach of compliance by the State, Private Sector or any other player. I must commend Cofek for taking up the initiative to organize such forums that ensures that consumers are educated on the provisions of the Consumer Protection Act, 2012. We expect that the knowledge acquired from such forums will be put into use and we will start seeing more proactive consumers demanding for their rights.

I'm also aware and appreciate the fact that Cofek, through its Consumer Sector Units (CSU) is currently leading the formulation of consumer sector guidelines for the Banking, Insurance, Energy, ICT and Food and Health sectors. The Government is ready to join hands with Cofek and other key stakeholders to ensure that Consumers in Kenya are adequately protected as per the provisions of the legal instrument.

Allow me to now turn to the specifics of the Act as follows;

The Consumer Protection Act (CPA-2012) provides for the protection of the consumer, prevents unfair business practices in consumer transactions and for matters connected and incidental thereto. The law was assented to on December 13, 2012 and operationalized by then Trade Minister on March 14, 2013.

For ease of implementation, and as per Section 93 of the Act, there is need for regulations to assist in better carrying out of the Act as well as specify specific penalties for breaches. I am happy to learn that Cofek has been assembling the sector-specific stakeholders to develop the draft guidelines which will be passed to KECOPAC.

It is my hope that the regulations so developed will meet the consumer needs, accord due respect to consumer dignity, health and safety, protection of economic interests, improvement of the quality of life as well as transparency and harmony in the consumer relations as based on the following principles:

- (a) acknowledgment of consumers' vulnerability in the market relations;
- (b) government action as to effectively provide protection to consumers through direct initiative; incentives toward the establishment and development of further support to Cofek and its activities; ensuring the State presence in the market; and guarantee of products and services within the appropriate standards of quality, safety, durability and performance.
- (c) harmonization of the interests of those who take part in the consumer relations and compatibility between consumers' protection and the need for economic and

technological development, so as to make feasible the principles that support the socio-economic policy as based on good faith and balance in the relationship between consumers and suppliers;

- (d) education and information to suppliers and consumers as to appraise them of their rights and obligations with a view to improving the consumer market;
- (e) incentives to suppliers toward the creation of an efficient means of quality control, products and services safety, as well as alternative means for settling potential and emerging disputes;
- (f) efficient restraint and repression of all abuses in the consumer market relations, including dishonest competition, inadequate use of industrial inventions and creations of trademarks, commercial names and logo-types that might cause losses to consumers;
- (g) rationalization and improvement of public services; continuous independent study of the changes in the consumer market.

For the realization of the objectives of the Consumer Protection Act, 2012, various tools and structures both at the Judiciary, National and County Governments will need to rely on among others;

- a. availability of good quality and free legal assistance for particularly aggrieved low-income and semi-literate consumer;
- b. formation of compliance, enforcement and prosecution departments for consumers' defense within the Judiciary and County Governments as per Section 90 (g) of the Act especially on creation of special courts dedicated to petty claims and specialized courts for the solution of consumer disputes;
- c. in consultation with the Inspector General of Police and or County Governments establish police or other oversight departments especially those that are dedicated to assist consumers that are victims of consumer related criminal infractions.
- d. avail incentives for the creation and development of accredited consumer associations for consumer protection.

Finally, my office will actively seek the support of the Kenya Law Reform Commission, among other partners, to aid the technical capacity of Cofek. I also wish to urge members of the public to consider joining Cofek and bolstering its work