

## COMPETITION AND CONSUMER BILL 2015

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### SAMOA

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2015, No.

**A BILL INTITULED**

**AN ACT to promote competition in trade in Samoa and to protect consumers and for related purposes.**

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1  
PRELIMINARY**

**1. Short title and commencement-**(1) This Act may be cited as the Competition and Consumer Act 2015.

(2) This Act commences on a date nominated by the Minister.

**2. Interpretation-**(1) In this Act, unless the context otherwise requires:

“acquisitions rule” means the acquisition rule in section 34;

“agreement” includes a contract, an arrangement, an understanding or a covenant;

142. Soloia ma teuteuga  
143. Aiaiga tau soloaiga ma aiaiga faasaina

Faamatalaga

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2015, Nu.

**O SE TULAFONO TAU FAAOFI UA TAU**

**O SE TULAFONO e uunaia ai faiga faatauvaga i feafaatauaiga i totonu o Samoa ma ia puipuia ai tagata e faaaogāina oloa ma auaunaga, ma mo faamoemoega e fesootai i ai.**

**UA FAIA** e le Fono Aoao Faitulafono a Samoa i totonu o le Palemene ua potopoto e faapea:

**VAEGA 1  
FAATOMUAGA**

**1. Igoa puupuu ma le amataga-**(1) E mafai ona taua leni Tulafono, o le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015.

(2) O leni Tulafono e amata faamamaluina i se aso e filifilia e le Minisita.

**2. Faamatalaina o uiga o upu-**(1) I totonu o leni Tulafono, ae vagana ua manaomia e le mataupu se isi uiga e ese ai:

“tulafono faafoe o le mauaina o sea po o aseta” o lona uiga o le tulafono faafoe o le mauaina o sea po o aseta i totonu o le fuaiupu 34;

“maliega”, e aofia ai se konekarate, se faatulagaga, se malamalamaaga po o se feagaiga;



“approved form” means a form approved under section 141(2);

“association” includes an unincorporated association;

“authorisation” means an authorisation under section 49;

“business” means an undertaking:

(a) carried on for gain or reward; or

(b) in the course of which -

(i) goods or services are acquired or supplied; or

(ii) an interest in land is acquired or disposed of,

otherwise than free of charge.

“cease and desist notice” means a notice under section 119;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry, and includes the acting Chief Executive Officer;

“claimant” means a person mentioned in section 115;

“clearance” means a clearance under section 43;

“Commission” means the Competition and Consumer Commission established by section 6;

“competition or consumer law” means each of Parts 3, 4 and 5;

“competition rule” means any of the the competition rules under sections 30, 33 and 34;

“conduct rule” means any of the the conduct rules under sections 30 and 33;

“pepa faatumu faamaonia” o lona uiga o se pepa faatumu faamaonia i lalo o le fuaiupu 141(2);

“faalapotopotoga” e aofia ai se faalapotopotoga e le i tuufaatasia faaletulafono;

“faatagaga” o lona uiga o se faatagaga i lalo o le fuaiupu 49;

“pisinisi” o lona uiga o se galuega:

(a) o lo o tauaveina mo tupe maua po o se tau; po o

(b) i le faagasologa o lea galuega -

(i) ua mauaina po o ua faaoo atu oloa po o auaunaga;

(ii) ua mauaina po o ua faalēaogāina se aia i fanua,

i se isi faiga e ese ai, i lo le leai o se tupe totogi e faaee atu.

“faasilasilaga e faamuta ma taofia ai”, o lona uiga o se faasilasilaga i lalo o le fuaiupu 119;

“Ofisa Sili o Pulega” o lona uiga o le Ofisa Sili o Pulega o le Matagaluega, ma e aofia ai le Sui Ofisa Sili o Pulega;

“tagata talosaga” o lona uiga o se tagata o taua i le fuaiupu 115;

“faamaoniga”, o lona uiga o se faamaoniga i lalo o le fuaiupu 43;

“Komisi” o lona uiga o le Komisi o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiiga o Tagata e Faaogāina Oloa ma Auaunaga, ua faavaeina e le fuaiupu 6;

“tulafono o faiga faatauvaga po o tulafono e puipuia ai tagata e faaogāina oloa ma auaunaga” o lona uiga o itu taitasi o Vaega 3, 4 ma le 5;

“tulafono faafoe o faiga faatauvaga” o lona uiga so o se tulafono faafoe o faiga faatauvaga i lalo o fuaiupu 30, 33 ma le 34;

“tulafono faafoe o faatinoga”, o lona uiga so o se tulafono faafoe o faatinoga i lalo o fuaiupu 30 ma le 33;

“consumer” means a person who acquires, or who it is proposed will acquire, goods or services as a consumer;

“consumer guarantee” means a guarantee under Division 3 of Part 4;

“consumer information standard” means a standard under section 87;

“consumer protection rule” means any of the rules in Division 1 or 2 of Part 4;

“cooperation arrangement” means an arrangement referred to in section 26;

“Court” means the Supreme Court;

“document”:

(a) means a document in any form, whether or not signed or otherwise authenticated; and

(b) includes -

(i) any writing on any material;

(ii) any information recorded or stored by means of a device and any material subsequently derived from information so recorded or stored;

(iii) a label, marking or other writing that identifies or describes the thing of which it forms part or to which it is attached;

“tagata e faaaogāina oloa ma auaunaga”, o lona uiga o se tagata, o ia lea ua na mauaina, po o se tasi ua na fuafuaina o le a mauaina, oloa po o auaunaga, e pei o se tagata e faaaogāina oloa ma auaunaga;

“faamalumaluga a le tagata e faaaogāina oloa ma auaunaga”, o lona uiga o se faamalumaluga i lalo o le Vaevaega 3 o le Vaega 4;

“faiga faataatia o faamatalaga o tagata e faaaogāina oloa ma auaunaga”, o lona uiga o se faiga faataatia i lalo o le fuaiupu 87;

“tulafono faafoe tau le puipuiga o tagata e faaaogāina oloa ma auaunaga”, o lona uiga o se tasi o tulafono faafoe i totonu o Vaevaega 1 po o le 2 o le Vaega 4;

“faatulagaga o le galulue faatasi”, o lona uiga o se faatulagaga o taua i le fuaiupu 26;

“Faamasinoga” o lona uiga o le Faamasinoga Sili;

“pepa aloaia”:

(a) o lona uiga o se pepa aloaia i so o se ituaiga, e tusa lava pe ua sainia pe leai po o ua faamaonia aloaia i se isi faiga e ese ai; ma

(b) e aofia ai -

(i) so o se tusitusiga i luga o so o se meafaitino;

(ii) so o se faamatalaga ua faapea ona faamauiina po o teuina e ala i se masini ma so o se meafaitino e maua mulimuli ane mai faamatalaga ua faapea ona faamauiina po o ua faapea ona teuina;

(iii) se igoa faapipii tau fefaatauaiga, o faailoga po o isi tusitusiga o faailoa mautinoa ai po o e faamatalaina ai se mea lea o lo o avea ma vaega po o lea o lo o ua faapipiina i ai;

(iv) a book, map, plan, graph or drawing;

(v) a photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced;

“enforceable undertaking” means an undertaking accepted under section 118;

“exemption order” means an order under section 35(1);

“goods” means personal property of any kind (whether tangible or intangible), other than money or choses in action, and includes any of the following:

(a) goods attached to, or incorporated in, any real or personal property, except a whole building or part of a building that is attached to land and not easily removable;

(b) ships, aircraft or vehicles;

(c) animals or fish;

(d) minerals, trees or crops, whether or not on, under or attached to land;

(e) electricity or gas;

(f) water;

(g) computer software.

“guideline” means a guideline published under section 9;

“identity card” means a card issued under section 100(2);

(iv) se tusi, faafanua, ata, kalafi po o se ata tusi;

(v) se ata pue, ata tifaga, foliga o ata pue e le i faavailaauina, lipine pue po o isi masini o lo o tā’ui ai le tasi (1) po o le sili atu o foliga vaaia, ina ia mafai ai ona toe gaosia (i le i ai po o le leai foi o le fesoasoani a nisi meafaigaluega).

“feagaiga e faamalosia” o lona uiga o se feagaiga ua taliaina i lalo o le fuaiupu 118;

“poloai e tuusaunoa ai” o lona uiga o se poloai i lalo o le fuaiupu 35(1);

“oloa” o lona uiga o meatotino o so o se ituaiga e patino i le tagata lava ia (e tusa lava pe faitino pe leai foi), e ese mai ai i lo tupe po o vaegamea o ni meatotino o faagaoioia, ma e aofia ai so o se tasi o mea nei:

(a) oloa o lo o faapipii i ai, po o ua tuufaatasia faaletulafono i totonu, o so o se meatotino tumau po o se meatotino tau le tagata lava ia, seia vagana ai se fale atoa po o se vaega o se fale lea o lo o faapipii atu i le fanua ma e lē faigofie ona toe fesiitai;

(b) vaa, vaalele po o taavale;

(c) manu vaefa po o i’a;

(d) minerale, laau po o laau toto, e tusa lava pe o lo o i luga, lalo ifo po o faapipiina atu i le fanua, pe leai foi;

(e) eletise po o kesi;

(f) suavai;

(g) polokalame faakomepiuta.

“taiala” o lona uiga o se taiala ua lomua faasalalau i lalo o le fuaiupu 9;

“pepa e iloagofie ai” o lona uiga o se pepa na tuuina atu i lalo o le fuaiupu 100(2);

“immunity agreement” means an agreement under section 128;

“intellectual property right” means a right conferred or recognised by or under the Copyright Act 1998, the Intellectual Property Act 2011 or any other enactment;

“inquiry” means an inquiry under Division 1 of Part 5 or another inquiry undertaken by the Commission in performing its functions;

“investigation” means an investigation under Division 1 of Part 6;

“investigator” means a person appointed as such under section 100;

“Judge” means a Judge of the District Court or Supreme Court;

“management banning order” means an order under section 129;

“member” means a member of the Commission;

“Minister” means the Minister responsible for Commerce;

“Ministry” means the Ministry responsible for Commerce;

“occupier”, of a place, means a person, apparently more than 18 years old, apparently in charge of the place;

“Office” means the Office of the Commission established by section 17;

“overseas agency” means a government body in another country that performs functions corresponding to, or similar to, the Commission’s functions;

“pecuniary penalty” means a penalty imposed under section 124;

“price control order” means a regulation made under section 94;

“maliega o puiipuiga mausali” o lona uiga o se maliega i lalo o le fuaiupu 128;

“aia tatau i meatotino tau le atamai” o lona uiga o se aia tatau ua faaee atu po o ua aloaia e po o i lalo o le Tulafono o Pule Tau Fatuga 1988, o le Tulafono o Meatotino Tau le Atamai 2011, po o so o se isi lava tulafono;

“saililiga” o lona uiga o se saililiga i lalo o le Vaeveaga 1 o le Vaega 5 po o se isi saililiga e faatinoina e le Komisi i le faatinoga o ana galuega tauave;

“suesuega” o lona uiga o se suedega i lalo o le Vaeveaga 1 o le Vaega 6;

“tagata suedue” o lona uiga o se tagata ua tofia i sea tofiga i lalo o le fuaiupu 100;

“Faamasino” o lona uiga o se Faamasino o le Faamasinoga Faaitumalo po o le Faamasinoga Sili;

“poloaga tau pulega e faasaina ai” o lona uiga o se poloaga i lalo o le fuaiupu 129;

“sui auai” o lona uiga o se sui auai o le Komisi;

“Minisita” o lona uiga o le Minisita e fitoitonu ma Pisinisi;

“Matagaluega” o lona uiga o le Matagaluega e fitoitonu ma Pisinisi;

“tagata o nofoia”, se nofoaga, o lona uiga o se tagata, ua iloatino e sili atu i lo le 18 tausaga le matua, o lo o iloatino foi o lo o i ai le vaaiga o le nofoaga;

“Ofisa” o lona uiga, o le Ofisa o le Komisi ua faavaeina e le fuaiupu 17;

“lala sooupu i atunuu i fafo” o lona uiga o se faalapopotoga a le Malo i totonu o se isi atunuu o lo o faatinoina galuega tauave e tutusa ma, po o e uiga tutusa ma, galuega tauave a le Komisi;

“faasalaga tau tupe” o lona uiga o se faasalaga ua faaee atu i lalo o le fuaiupu 124;

“poloaga e faatonutonu ai tau o oloa” o lona uiga o se tulafono faatonutonu ua faia i lalo o le fuaiupu 94;

“product recall notice” means a notice under section 90;

“product safety notice” means a notice under section 89;

“product safety standard” means a standard under section 88;

“published standard” means a standard published by an internationally recognised standards-setting body;

“regulated body” means each of the following:

- (a) a service provider as defined in the Broadcasting Act 2010;
- (b) a service licensee as defined in the Electricity Act 2010;
- (c) Samoa Post Ltd, incorporated under the Companies Act 2001;
- (d) a service provider as defined in the Telecommunications Act 2005.

“Regulator” means each of the following:

- (a) the Regulator under the Broadcasting Act 2010;
- (b) the Regulator under the Electricity Act 2010;
- (c) the Regulator under the Postal Services Act 2010;
- (d) the Regulator under the Telecommunications Act 2005.

“related body corporate” means each of two (2) or more bodies corporate related to each other for the purposes of the Companies Act 2001;

“representative action” means a proceeding by the Commission under section 116;

“faasilasilaga o oloa gaosi ua toe tapa” o lona uiga o se faasilasilaga i lalo o le fuaiupu 90;

“faasilasilaga o le saogalemu o oloa gaosi”, o lona uiga o se faasilasilaga i lalo o le fuaiupu 89;

“faiga faataatia o le saogalemu o oloa gaosi”, o lona uiga o se faiga faataatia i lalo o le fuaiupu 88;

“faiga faataatia ua lomia faasalalau” o lona uiga o se faiga faataatia ua lomia faasalalau e se faalapotopotoga e faatulagaina faiga faataatia ua aloaia faava o malo;

“faalapotopotoga ua faatonutonuina faaletulafono”, o lona uiga, o faalapotopotoga taitasi nei:

- (a) se kamupani e tuuina atu auaunaga e pei ona faamatalaina i le Tulafono o Faasalalau 2010;
- (b) se kamupani ua laiseneina o galuega tau eletise e pei ona faamatalaina i le Tulafono o le Eletise 2010;
- (c) Kamupani o Auaunaga Tau Meli a Samoa ua tuufaatasia faaletulafono i lalo o le Tulafono o Kamupani 2001;
- (d) se kamupani e tuuina atu auaunaga e pei ona faamatalaina i le Tulafono o Fesootaiga 2005.

“Pule Faatonu” o lona uiga o pule faatonu taitasi nei:

- (a) o le Pule Faatonu i lalo o le Tulafono o Faasalalau 2010;
- (b) o le Pule Faatonu i lalo o le Tulafono o le Eletise 2010;
- (c) o le Pule Faatonu i lalo o le Tulafono o Auaunaga Tau Meli a Samoa 2010;
- (d) o le Pule Faatonu i lalo o le Tulafono o Fesootaiga 2005.

“faalapotopotoga ua tuufaatasia e fesootai i ai” o lona uiga o le tasi (1), o le lua (2) po o le sili atu o faalapotopotoga ua tuufaatasia faaletulafono e fesootai le tasi i le isi, mo faamoemoe o le Tulafono o Kamupani 2001;

“gaoioiga e suia ai” o lona uiga o se taualumaga a le Komisi i lalo o le fuaiupu 116;

“services”:

(a) includes rights (including rights in relation to, and interests in, real or personal property), benefits, privileges or facilities that are, or are to be, provided, granted, or conferred in trade, and those so provided under an agreement for or in relation to any of the following -

(i) the performance of work (including work of a professional nature), whether or not with the supply of goods;

(ii) the provision of facilities for accommodation, amusement, the care of persons or things, entertainment, instruction, parking, or recreation;

(iii) insurance;

(iv) the provision of financial services such as banking, lending money or providing credit;

(v) the supply of gas, water, electricity or telecommunications or the removal of waste, including waste water; but

(b) does not include rights or benefits in the form of the supply of goods or the performance of work under an employment agreement.

“services safety standard” means a standard made under section 91;

“share” means a share in the capital of a company or other body corporate, whether or not it carries the right to vote or other rights, and includes:

“auaunaga”:

(a) e aofia ai aia tatau (e aofia ai aia tatau e faasino i, ma aia i, meatotino tumau po o meatotino tau le tagata lava ia), faamanuiaga, tulaga aloaia po o nofoaga o lo o, po o o le a faapea ona saunia, faamatuu atu, po o ua faaee atu i fefaatauaiga, ma isi ua faapena ona tuuina atu i lalo o se maliega mo po o e faasino i so o se tasi o itu nei -

(i) le faatinoga o galuega (e aofia ai galuega tau tomai faapitoa), e tusa lava po o le i ai faatasi ma le faaooina atu o oloa, pe leai foi;

(ii) o le saunia o nofoaga mo le nonofo ai, mea faafiafia, le vaaiga o tagata po o meafaitino, faafiafiaga, aoaoga, pakaina o taavale, po o taaloga faamalositino;

(iii) inisiua;

(iv) le saunia o auunaga tau tupe e pei o faletupe, faaunegatupe po o tulaga faaaitalafu;

(v) le faaooina atu o kesi, suavai, eletise po o fesootaiga po o le aveesea o otaotavale, e aofia ai le suavai o otaotavale; peitai

(b) e lē aofia ai aia tatau po o faamanuiaga i le tulaga o le faaooina atu o oloa po o le faatinoga o galuega i lalo o se maliega tau galuega.

“faiga faaatitia o le saogalemu o auunaga”, o lona uiga o se faiga faataatia ua faia i lalo o le fuaiupu 91;

“sea” o lona uiga o se sea i totonu o tupe faavae a se kamupani po o isi faalapotopotoga ua tuufaatasia faaletulafono, e tusa lava pe o lo o tauaveina le aia tatau e palota ai po o isi aia tatau, pe leai foi, ma e aofia ai:

- (a) stock; and
- (b) interests in, and rights in relation to, shares as so defined, being interests or rights -
  - (i) that directly or indirectly entitle or may entitle the acquirer, or a related body corporate of the acquirer; or
  - (ii) because of which, directly or indirectly, the acquirer, or a related body corporate of the acquirer, is in a position,

to control the disposition of the shares or any voting rights attached to the shares.

“supply” means:

- (a) for goods, supply (or re-supply) the goods by way of gift, sale, exchange, lease, hire or hire purchase; and
- (b) for services, provide the services.

“trade” means any trade, business, industry, profession, occupation, activity of commerce or undertaking relating to the supply or acquisition of goods or services;

“warning notice” means a notice under section 117.

(2) For this Act, a person acquires goods or services as a consumer if:

- (a) the goods or services are of a kind ordinarily acquired for personal, domestic or household use or consumption; and
- (b) the goods are supplied to the person in trade; and

- (a) oloa; ma
- (b) aia i, ma aia tatau e faasino i, sea e pei ona faamatalaina faapena, o aia ma aia tatau ua -
  - (i) agavaa po o e mafai ona agavaa ai lē ua mauaina, po o se faalapotopotoga ua tuufaatasia faaletulafono a lē ua mauaina, i se faiga tuusao pe lē tuusao foi; po o
  - (ii) ona o lea itu, i le tuusao pe lē tuusao foi, o lē ua mauaina po o se faalapotopotoga ua tuufaatasia faaletulafono a lē ua mauaina, ua i ai i se tulaga,

e faafoe ai le faataapeina o sea po o so o se aia tatau e palota ai o faapipiina atu i sea.

“oloa tuuina atu” o lona uiga:

- (a) mo oloa, faaoo atu (po o le toe faaoo atu) o oloa e ala i meaalofo, oloa faatauina atu, faafesuiaga, lisi, totogi faalisi po o faatau faalisi totogi auauai; ma
- (b) mo auunaga, ia tuuina atu auunaga.

“fefaatauaiga” o lona uiga o so o se fefaatauaiga, pisinisi, alamanuia, galuega tau tomai faapitoa, galuega, gaoioiga o pisinisi po o feagaiga e noatia ai e faasino i le faaooina atu po o le mauaina o oloa po o auunaga;

“faasilasilaga tau lapataiga” o lona uiga o se faasilasilaga i lalo o le fuaiupu 117.

(2) Mo lenei Tulafono, e mauaina e se tagata oloa po o auunaga i le avefa ai ma tagata e faaogaina oloa ma auunaga pe afai:

- (a) o oloa po o auunaga o se ituaiga e masani ona maua mo le faaogaina e le tagata lava ia, faaogaina faalotoifale po o le faaogaina i aiga po o le taumafaina; ma
- (b) o oloa ua faaooina atu i le tagata i fefaatauaiga; ma

(c) the person does not acquire them, or hold himself or herself out as acquiring them, for the purpose of -

(i) resupplying them in trade; or

(ii) consuming them in the course of a process of production or manufacture; or

(iii) for goods, repairing or treating in trade other goods or fixtures on land.

(3) In this Act, a person has a controlling interest in a body corporate if the person has the ability to control, directly or indirectly, the financial or operating policies of the body corporate and in determining whether a person has a controlling interest, the legal form of an interest that the person has is not relevant.

(4) A person does not have a controlling interest in a body corporate merely because the person is:

(a) a director of the body corporate; or

(b) a lender to the body corporate.

(5) In this Act, a person is knowingly concerned in a contravention of a competition or consumer law if the person:

(a) aids, abets, counsels or procures another person to contravene the law; or

(b) induces or attempts to induce another person, including by threats or promises, to contravene the law; or

(c) ua lē mauaina e le tagata ia mea, po o ua taofi o ia e ia lava mai le mauaina o ia mea, mo le faamoemoe o -

(i) le toe faaooina atu o oloa, i fefaatauaiga; po o

(ii) le faaaogāina o oloa a o faagasolo se faagasologa o le gaosiga po o le gaosia o oloa; po o

(iii) mo oloa, toe faaleleia po o le faatatauina i fefaatauaiga o isi oloa po o fausaga tumau i fanua.

(3) I totonu o lenei Tulafono, o se tagata e i ai se aia e faafoe ai i totonu o se faalapotopotoga ua tuu faatasia faaletulafono, pe afai e i ai i le tagata le mafai gafatia e faafoe ai, i se ala tuusao pe leai foi, o faiga faavae tau tupe po o faiga faavae tau faatinoga a le faalapotopotoga ua tuu faatasia faaletulafono ma i le fuafuaina pe i ai i se tagata se aia tau le faafoega, o le ituaiga aia faaletulafono lea o lo o i ai i se tagata, e lē talafeagai.

(4) E lē i ai i se tagata se aia tau le faafoega i se faalapotopotoga ua tuu faatasia faaletulafono, e lē ona o le tagata o ia:

(a) o se faatonu o se faalapotopotoga ua tuu faatasia faaletulafono; po o

(b) o se tagata faaunetupe i se faalapotopotoga ua tuu faatasia faaletulafono.

(5) I totonu o lenei Tulafono, o se tagata ua iloa lelei lava lona aafia i se soliga o se tulafono o faiga faatauvaga po o se tulafono e puipuia ai tagata e faaaogāina oloa ma auaunaga, pe afai o le tagata:

(a) ua fesoasoani, tau pulepule, fautua po o le sailia o se isi tagata e solia le tulafono; po o

(b) le tauanauina po o le taumafai e tauanau se isi tagata, e aofia ai faiga tau faamatau po o folafolaga, e solia ai le tulafono; po o



- (c) conspires with another person to contravene the law;  
or
- (d) is in any other way, directly or indirectly, knowingly concerned in, or party to, the contravention.

(6) In this Act, a group consisting of a body corporate and its related bodies corporate is not an association of persons.

**3. Objects** - The objects of this Act are:

- (a) to promote competition in markets in Samoa; and
- (b) to establish standards of conduct for those engaged in trade in Samoa; and
- (c) to contribute to a trading environment in which the safety and interests of consumers are protected and consumers and businesses participate confidently.

**4. Act binds State** - This Act binds the State in so far as the State carries on a business, but the State is not liable to be prosecuted for an offence against this Act.

**5. Application of this Act**-(1) Without limiting any other application of this Act, this Act applies to each body corporate established by or under any enactment, or in which the State or the Government has a controlling interest.

(2) This Act extends to the engaging in conduct outside Samoa by any person resident or carrying on business in Samoa.

- (c) le taupulepule faatasi ma se isi tagata e solia le tulafono; po o
- (d) i so o se isi lava auala, i le tuusao pe lē tuusao foi, ua aafia ma le iloa lelei i, po o ua avea ma vaega auai i, le soliga.

(6) I totonu o lenei Tulafono, e le o se faalapotopotoga o tagata, se vaega e aofia ai se faalapotopotoga ua tuu faatasia faaletulafono ma ona faalapotopotoga ua tuu faatasia faaletulafono e fesootai i ai.

**3. Sini** - O Sini nei o lenei Tulafono:

- (a) ia uunaia faiga faatauvaga i maketi i totonu o Samoa; ma
- (b) ia faavaeina faiga faataatitia o faatinoga mo i latou o galulue i feaatauaiga i totonu o Samoa; ma
- (c) ia faia o se sao i se siosiomaga tau feaatauaiga e puipuia ai le saogalemu ma aia a tagata e faaaogāina oloa ma auaunaga ma le auai i se tulaga mautinoa o tagata e faaaogāina oloa ma auaunaga ma pisinisi.

**4. Tulafono e noatia ai le Malo** - O lenei Tulafono e noatia ai le Malo, i le a lava le tulaga e tauaveina ai e le Malo se pisinisi, peitai, e lē noatia le Malo ina ia molia faaletulafono mo se soligatulafono e faasaga i lenei Tulafono.

**5. Faaaogāina o lenei Tulafono**-(1) E aunoa ma le faatapulaaina o so o se isi faaaogāina o lenei Tulafono, e faaaogā lenei Tulafono i faalapotopotoga taitasi ua tuu faatasia faaletulafono ua faavaeina e po o i lalo o so o se tulafono, po o lea o lo o i ai se aia tau le puleaina a le atunuu po o le Malo.

(2) O lenei Tulafono e oo atu lava i le auai i faatinoga i fafo atu o Samoa, e faia e so o se tagata nofomau po o le tauaveina o pisinisi i totonu o Samoa.

(3) Subsections (1) and (2) do not limit Part 3.

(4) This Act and another Act do not limit each other where they can have effect concurrently.

(5) If a provision of this Act and a provision of another Act (not regulations under an Act) are inconsistent, then, unless the other Act expressly provides to the contrary, the provision of this Act prevails.

(6) Despite the other provisions of this Act, sections 30 and 33 and Parts 4 and 5 do not apply in relation to a regulated body.

## PART 2 COMPETITION AND CONSUMER COMMISSION

### *Division 1 - Competition and Consumer Commission*

**6. Establishment** - The Competition and Consumer Commission is established.

**7. Functions and powers-**(1) The Commission has the following functions:

- (a) to advise the Minister on competition, consumer protection and prices in Samoa;
- (b) to conduct research into matters affecting competition, consumer protection and prices in Samoa;
- (c) to promote the use of internal controls and risk management measures by persons carrying on business in Samoa to ensure compliance with this Act;

(3) O faafuaiupu (1) ma le (2) e lē faatapulaaina ai le Vaega 3.

(4) O lenei Tulafono ma se isi Tulafono e lē faatapulaaina ai o le tasi i le isi pe afai e i ai tulaga e faamamaluina faatasi.

(5) Afai e lē ogatasi se aiaiga o lenei Tulafono ma se aiaiga o se isi Tulafono (ae le o tulafono faatonutonu i lalo o se Tulafono), ona faapea lea, vagana ua aiaia manino e le isi Tulafono i se isi itu e ese ai, o le aiaiga o lenei Tulafono e mausali.

(6) E ui lava i isi aiaiga o lenei Tulafono, o fuaiupu 30 ma le 33 ma Vaega 4 ma le 5, e lē faaaogāina, e tusa ai o se faalapotopotoga ua faatonutonuina faaletulafono.

## VAEGA 2 KOMISI O FAIGA FAATAUVAGA MA TAGATA E FAAAOGĀINA OLOA MA AUAUNAGA

### *Vaevaega 1 - Komisi o Faiga Faatauvaga ma Tagata e Faaaogāina Oloa ma Auaunaga*

**6. Faavaeina** - Ua faavaeina le Komisi o Faiga Faatauvaga ma Tagata e Faaaogāina Oloa ma Auaunaga.

**7. Galuega tauave ma malosiaga-**(1) O galuega tauave nei a le Komisi:

- (a) ia fautuaina le Minisita i faiga faatauvaga, puipuiga o tagata e faaaogāina oloa ma auaunaga ma tau o oloa i totonu o Samoa;
- (b) ia faatautaia saililiga i mataupu e aafia ai faiga faatauvaga, puipuiga o tagata e faaaogāina oloa ma auaunaga ma tau o oloa i totonu o Samoa;
- (c) ia uunaia le faaaogāina o faiga faafoe faalotoifale ma le faafoega o lamatiaga, e tagata o tauaveina pisinisi i totonu o Samoa, e faamautinoa ai le tausisia o lenei Tulafono;

- (d) to promote research into and the development of skills in relation to the legal, economic and policy aspects of competition, consumer protection and prices oversight in Samoa;
- (e) to promote public understanding of the value of competition and consumer protections;
- (f) to carry out any other functions conferred by this Act or any other written law.

(2) The Commission has all the powers necessary and convenient for carrying out its functions.

**8. Commission is independent-**(1) Except as provided by this Act, the Commission is not subject to direction by any person in relation to the performance of its functions.

(2) Subsection (1) does not:

- (a) prevent the Commission from delegating a power or function or engaging a person to provide services to the Commission; and
- (b) apply to a direction given by a court; and
- (c) affect the operation of the Public Finance Management Act 2001.

**9. Guidelines-**(1) The Commission may issue guidelines on competition, consumer protection or pricing, and the administration of competition or consumer laws.

(2) Without limiting subsection (1), guidelines may set out:

- (a) the Commission's approach to interpreting and applying competition or consumer laws; and

- (d) ia uunaia suesuega faapitoa i ma le atinae o tomai e faatatau i itu taua faaletulafono, tulaga tau le tamaoaiga ma faiga faavae, o tulaga faatauvaga, puipuiga o tagata e faaaogāina oloa ma auaunaga ma le pulega aoao o tau o oloa i totonu o Samoa;
- (e) ia uunaia faalauiloa le malamalama o tagata lautele i le taua o faiga faatauvaga ma puipuiga o tagata e faaaogāina oloa ma auaunaga;
- (f) ia tauaveina so o se isi lava galuega tauave ua faaee atu e lenei Tulafono po o so o se isi lava tulafono ua tusia.

(2) E i ai i le Komisi o malosiaiga uma e talafeagai ma faafaigofieina ai le faatinoga o ana galuega tauave.

**8. E tutoatasi le Komisi-**(1) Ae vagana ai ua aiaia e lenei Tulafono, e lē noatia le Komisi i se faatonuga a so o se tagata e faasino i le faatinoga o ana galuega tauave.

(2) O le faafuaiupu (1) e lē:

- (a) taofia ai le Komisi mai le tuuina atu o se malosiaiga po o se galuega tauave po o le faafaigaluegaina o se tagata e tuuina atu auaunaga i le Komisi; ma
- (b) faaaogā i se faatonuga e tuuina atu e se faamasinoga; ma
- (c) e aafia ai le faagaoioiga o le Tulafono o le Pulega o Tupe a le Malo 2001.

**9. Taiala-**(1) E mafai e le Komisi ona tuuina atu taiala o faiga faatauvaga, puipuiga o tagata e faaaogāina oloa ma auaunaga po o tau o oloa, ma le faafoega o tulafono o faiga faatauvaga po o tulafono e puipuia tagata e faaaogāina oloa ma auaunaga.

(2) E aunoa ma le faatapulaaina o le faafuaiupu (1), o taiala e mafai ona faatulaga atu ai:

- (a) le faiga e le Komisi e faauigaina ai ma faaaogā tulafono o faiga faatauvaga po o tulafono e puipuia ai tagata e faaaogāina oloa ma auaunaga; ma

- (b) the Commission's approach to exercising its powers under this Act, including -
- (i) powers in relation to clearances and authorisations; and
  - (ii) powers under Part 6, including as to the conduct of investigations; and
  - (iii) powers under Part 7, including powers to accept undertakings and enter immunity agreements; and
  - (iv) the Commission's priorities for the enforcement of competition or consumer laws; and
- (c) the Commission's requirements for information to be provided in applications to the Commission, including applications for clearances or authorisations.

*Division 2 - Members of the Commission*

- 10. Members-**(1) The Commission must have at least three (3) and no more than seven (7) members.
- (2) Each Regulator is a member of the Commission.
- (3) The other members:
- (a) are to be appointed by the Head of State acting on the advice of Cabinet; and
  - (b) may be appointed on a full time or a part time basis.
- (4) A person must not be appointed as a member unless the Minister is satisfied that the person has appropriate skills and expertise in industry, commerce, economics, law, accountancy, public administration or consumer affairs.
- (5) The Minister must appoint a member (not a Regulator) to be Chairperson, and another member (not a Regulator) to be Deputy Chairperson, of the Commission.

- (b) le faiga a le Komisi i le faatinoina o ona malosiaga i lalo o lenei Tulafono, e aofia ai -
- (i) malosiaga e faasino i faamaoniga ma faatagaga; ma
  - (ii) malosiaga i lalo o le Vaega 6, e aofia ai le itu i le faatautaiga o suesuega; ma
  - (iii) malosiaga i lalo o le Vaega 7, e aofia ai malosiaga e taliaina ai feagaiga e noatia ai ma sainia maliega o puipuiga mausali; ma
  - (iv) tulaga faamuamua a le Komisi mo le faamalosiaga o tulafono o faiga faatauvaaga po o tulafono e puipui ai tagata e faaaogaina oloa ma auaunaga; ma
- (c) manaoga o le Komisi mo faamatalaga e ao ona tuuina atu i talosaga i le Komisi, e aofia ai talosaga mo faamaoniga po o faatagaga.

*Vaevaega 2 - Sui Auai o le Komisi*

- 10. Sui auai-**(1) E ao i le Komisi ona i ai, a itiiti mai o le toatolu (3) sui auai ae lē silia i le toafitu (7).
- (2) O Pule Faatonu taitasi o sui auai ia o le Komisi.
- (3) O isi sui auai:
- (a) o le a tofia e Le Ao o le Malo i le faia i luga o le fautuaga a le Kapeneta; ma
  - (b) e mafai ona tofia e galue tumau po o i se faiga faavaaitaimi.
- (4) E lē tatau ona tofia se tagata e avea ma sui auai, seia vagana ua faamalieina le Minisita e faapea, e i ai agavaa talafeagai ma le tomai faapitoa i le tagata, i mataupu tau alamanuia, pisinisi, tamaoiga, tulafono, galuega faatausitusi, pulega faale-Malo po o mataupu e aafia ai tagata e faaaogaina oloa ma auaunaga.
- (5) E tatau i le Minisita ona tofia se sui auai (ae le o se Pule Faatonu) e avea ma Taitaifono, ma se isi sui auai (ae le o se Pule Faatonu), e avea ma Sui Taitaifono, o le Komisi.

(6) Anything done by or in relation to a person purporting to act under an appointment as a member is not invalid merely because:

- (a) the occasion for the appointment had not arisen; or
- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect.

**11. Term of office, resignation and removal-**(1) A member:

- (a) holds office for up to three (3) years from the date of appointment;
- (b) is eligible to be re-appointed;
- (c) may resign from office by giving a written resignation to the Minister;
- (d) ceases to hold office if the member -
  - (i) is convicted or found guilty of an offence the maximum penalty for which is imprisonment for 12 months or more; or

(ii) is convicted or found guilty of an offence against this Act; or

(iii) has been adjudged bankrupt and an order of discharge of the bankruptcy has not been made.

(2) The Minister may, with the approval of the Cabinet, by written instrument, remove a member from office on the ground that the member:

- (a) has failed to attend three (3) consecutive meetings of the Commission without good cause; or
- (b) has contravened section 13; or

(6) O so o se mea e faia e, po o e faasino i se tagata ua faamoemoe e galue i lalo o se tofiga faasui auai, e lē aloaia ona:

- (a) e le i faatulai mai se faapogai mo le tofiga; po o
- (b) sa i ai se itu ua lē lelei po o se tulaga faaletonu e fesootai ma le tofiga; po o
- (c) ua faamutaina le aloaia o le tofiga.

**11. Vaitaimi i le tofi, faamavaega ma le aveesea-**(1) O se sui auai:

- (a) e umia le tofi mo se vaitaimi e oo atu i le tolu (3) tausaga mai le aso o le tofiga;
- (b) e agavaa ina ia toe tofia;
- (c) e mafai ona faamavae mai le tofi, e ala i le tuuina atu o se faamavaega tusitusia i le Minisita;
- (d) e faamuta ona umia le tofi pe afai o le sui auai -

(i) ua faamaonia faaletulafono se moliaga po o ua ioe i se moliaga o se soligatulafono, o le tapulaa maualuga o le faasalaga mo lea moliaga o le nofosala i le falepuipui mo le 12 masina po o le sili atu; po o

(ii) ua faamaonia faaletulafono se moliaga po o ua ioe i se moliaga o se soligatulafono e faasaga i lenei Tulafono; po o

(iii) ua maea ona faamasinoina e faapea ua gaumativa ma e le i faia o se poloaiga e faamatuu atu ai le tulaga gaumativa.

(2) E mafai e le Minisita, i le i ai faatasi ma le faamaoniga a le Kapeneta, e ala i se pepa faaletulafono tusitusia, ona aveese se sui auai mai le tofi, i luga o mafuaaga e faapea o le sui auai:

- (a) ua lē mafai ona auai i fonotaga sosoo e tolu (3) a le Komisi e aunoa ma se mafuaaga tatau; po o
- (b) ua na solia le fuaiupu 13; po o

- (c) cannot properly carry out the duties of the office because of a mental or physical condition;
- (d) has a controlling interest in a body corporate that has -
  - (i) been found by the Court to have contravened this Act; or
  - (ii) given an enforceable undertaking; or
- (e) has been disqualified, under the laws of Samoa or another country, from acting as a director or the executive officer of a body corporate.

**12. Remuneration, etc., of members-**(1) A member is entitled to remuneration and allowances determined by the Cabinet on the recommendation of the Minister.

(2) A member holds office on any terms and conditions (not inconsistent with this Act) in relation to matters not covered by this Act determined by the Cabinet on the recommendation of the Minister.

**13. Disclosure of interests-**(1) A member must disclose in writing to each other member all interests that the member has that could conflict with the proper performance of the functions of the office.

(2) The disclosure must be given as soon as practicable after the member becomes aware of the interest.

(3) A member who has an interest on a particular matter that could conflict with the proper performance of the functions of the office must not perform those functions unless:

- (a) the member has complied with subsection (1) in relation to the interest; and
- (b) each of the other members has consented to the member performing those functions in relation to the matter despite the possible conflict of interest.

- (c) ua lē mafai ona tauaveina lelei titue o le tofi ona o se tulaga afaina o le mafaufau po o le tino.
- (d) e i ai o se aia tau faafoega i se faalapopotoga ua tuufaatasia faaletulafono lea:
  - (i) na mauaina e le Faamasinoga e faapea ua solia ai lenei Tulafono; po o
  - (ii) ua tuuina atu o se feagaiga e noatia ai e mafai ona faamalosia; po o
- (e) na taulēagavaaina, i lalo o tulafono a Samoa po o se isi atunuu, mai le galue ai o se faatonu po o se ofisa o pulea a se faalapopotoga ua tuufaatasia faaletulafono.

**12. Totogi, ma isi tulaga faapena, o sui auai-**(1) E agavaa se sui auai i totogi ma alauni ua fuafuaina e le Kapeneta i luga o le fautuaga a le Minisita.

(2) E umia le tofi e se sui auai i luga o so o se tuutuuga ma aiaiga (e ogatasi ma lenei Tulafono) e faasino i mataupu e le o aofia ai i lenei Tulafono ua fuafuaina e le Kapeneta i luga o le fautuaga a le Minisita.

**13. Faailoaina atu o aia-**(1) E ao i se sui auai ona faailoa i se faiga tusitusia i isi sui auai taitasi, o aia uma a le sui auai ia e mafai ona feteenai ma le faatinoga lelei o galuega tauave o le tofi.

(2) E ao ona tuuina atu le faailoaina atu o aia i se taimi vave lava e mafai ai ona faatino, i le tuanai ai ona silafia e le sui auai o aia.

(3) O se sui auai e i ai sana aia i se mataupu faapitoa lea e mafai ona fetuunai ma le faatinoga lelei o galuega tauave o le tofi, e lē tatau ona faatinoina o na galuega tauave, seia vagana ai:

- (a) ua tausisia e le sui auai le faafuaiupu (1) e faasino i aia; ma
- (b) ua malilie o isi sui auai taitasi i le sui auai o faatinoina na galuega tauave e faasino i le mataupu, e ui lava i se feteenaiga o aia, e ono tulai mai.

(4) For subsections (1) and (3), it does not matter whether an interest is direct, indirect, pecuniary or non-pecuniary, and it does not matter when the interest was acquired.

(5) For this section, if:

- (a) a related party of a member has an interest; and
- (b) the member had the interest, it could conflict with the proper performance of the functions of his or her office,

the member is taken to have the interest, and this section applies accordingly.

(6) If the Chairperson becomes aware that a member who is performing, or about to perform, a function as member, has an interest that could conflict with the proper performance of the function, the Chairperson may give the member a direction not to perform the function, or to disclose the interest, as required by this section.

(7) A Regulator does not, merely because of holding the office of the Regulator, have an interest that could conflict with the proper performance of a function as a member of the Commission.

(8) If a Regulator considers that his or her performing, or continuing to perform, a function as a member would conflict with the proper performance of the functions of the office of Regulator, the Regulator:

- (a) may decide to withdraw from performing the functions of the office of member so long as the conflict exists; and
- (b) if the Regulator decides to withdraw, must notify the Chairperson in writing.

(9) The Commission must take reasonable steps to ensure that members of the Commission's staff, persons otherwise engaged by the Commission and other persons performing or exercising functions or powers of the Commission make proper and adequate disclosure of their interests.

(4) Mo faafuaiupu (1) ma le (3), e lē afaina pe tuusao se aia, pe lē tuusao foi, pe o se aia tau tupe po o e le o ni tulaga tau tupe, ma e lē afaina foi le taimi na mauaina ai o le aia.

(5) Mo lenei fuaiupu, afai:

- (a) e i ai se aia a se vaega a se sui auai e fesootai i ai; ma
- (b) na i ai le aia a le sui auai, e ono mafai ona feteenai lea aia ma le faatinoga lelei o galuega tauave o lona tofi,

ua faatatauina lava le sui auai e faapea e i ai le aia, ma o lenei fuaiupu ua talafeagai lava ona faaaogāina i ai.

(6) Afai ua silafia e le Taitaifono o le sui auai o lo o faatinoina, po o le a ia faatinoina, se galuega tauave i le avea ai ma sui auai, e i ai sana aia e ono feteenai ma le faatinoga lelei o le galuega tauave, e mafai e le Taitaifono ona tuuina atu i le sui auai se faatonuga ina ia lē faatinoina le galuega tauave, po o ia lē faailoaina atu le aia, e pei ona manaomia e lenei fuaiupu.

(7) O se Pule Faatonu e leai se aia e ono mafai ona feteenai ma le faatinoga lelei o se galuega tauave i le avea ai ma sui auai o le Komisi, i le na o lona umiaina o le Tofi o le Pule Faatonu.

(8) Afai ua manatu se Pule Faatonu o lona faatinoina, po o lona faaauauina pea ona faatino, se galuega tauave i le avea ai ma sui auai, o le a mafai ai ona feteenai ma le faatinoga lelei o galuega tauave o le Tofi o le Pule Faatonu, o le Pule Faatonu:

- (a) e mafai ona filifili e faasee ese mai le faatinoina o galuega tauave o le tofi o le sui auai, i le a lava le tulaga e tulai mai ai le feteenaiga; ma
- (b) pe afai e filifili le Pule Faatonu e faasee ese, e ao lava ona ia logoina le Taitaifono i se faiga tusinga.

(9) E ao i le Komisi ona faia o laasaga talafeagai e faamautinoa ai e faapea o sui o le afaigaluega a le Komisi, tagata ua faafaigaluega i se isi faiga e ese ai e le Komisi, ma isi tagata o faatinoina po o faagaioia o galuega tauave po o malosiaga o le Komisi, ua faia ai o tulaga faailoa atu ua talafeagai ma atoatoa o a latou aia.

(10) The Commission must record, and maintain a register of, all disclosures under this section.

(11) In this section, “related party” of a member, means any of the following:

- (a) a spouse, child or parent of the member;
- (b) a company of which the member is a director or executive officer, and a subsidiary of the company;
- (c) a company of which a spouse, child or parent of the member is a director or executive officer;
- (d) a company in which the member, or a spouse, child or parent of the member, has a controlling interest.

**14. Immunity** - No civil, criminal or administrative liability, including damages or penalties, may be imposed on:

- (a) the Government or a Minister; or
- (b) the Commission; or
- (c) a member of the staff of the Commission or an agent of the Commission; or
- (d) a person acting under an authority conferred by the Commission,

for any act or matter done or omitted to be done in good faith in the exercise or purported exercise of their respective functions.

### *Division 3 - Meetings*

**15. Meetings**-(1) The Commission must hold any meetings, convened by the Chairperson, as are necessary to carry out its functions.

(2) The Chairperson must convene a meeting on request by at least two (2) members.

(10) E ao i le Komisi ona faamauina, ma tausia o se tusi resitala o tulaga faailoa uma i lalo o lenei fuaiupu.

(11) I totonu o lenei fuaiupu, “vaega e fesootai i ai” a se sui auai, o lona uiga o so o se tasi o vaega nei:

- (a) se toalua, tamaitiiti po o se matua o le sui auai;
- (b) se kamupani lea e avea ai le sui auai ma faatonu po o se ofisa tau pulega, ma o se lala o le Kamupani;
- (c) se kamupani lea e avea ai se toalua, tamaitiiti po o le matua o le sui auai ma faatonu po o se ofisa tau pulega;
- (d) se kamupani lea e i ai se aia tau faafoega a se toalua, tamaitiiti po o se matua o le sui auai.

**14. Puipuiga mausali** - E leai se noataga tau le va o tagata, tau solitulafono po o noataga tau pulega, e aofia ai totonu o mea ua faaleagaina po o faasalaga, e mafai ona faaee atu i luga o:

- (a) le Malo po o se Minisita; po o
- (b) le Komisi; po o
- (c) se sui o le aufaigaluega a le Komisi po o se sui sooupu a le Komisi; po o
- (d) se tagata o galue i lalo o le pule faataga ua faaee atu e le Komisi,

mo so o se gaoioiga po o se mataupu ua faia po o ua lē faia i le agaga lelei i le faatinoga po o le faatinoga ua faamoemoeina o a latou galuega tauave eseese.

### *Vaevaega 3 - Fonotaga*

**15. Fonotaga**-(1) E ao i le Komisi ona faia so o se fonotaga, e taloina e le Taitaifono, e pei ona talafeagai ai i le tauaveina o ana galuega tauave.

(2) E ao i le Taitaifono ona taloina se fonotaga pe a talosagaina e ni sui auai a itiiti mai e toalua.



(3) A member who participates in a meeting by telephone, video conferencing or other electronic means is taken to be present at the meeting if the member can hear the other members and can be heard by the other members.

(4) At a meeting of the Commission:

- (a) the Chairperson is to preside, subject to paragraphs (b) and (c);
- (b) the Deputy Chairperson is to preside if the Chairperson is not present at a meeting;
- (c) a member elected by the members present at the meeting isto preside at the meeting if the Chairperson and the Deputy Chairperson are not present at that meeting;
- (d) the quorum is a majority of the members;
- (e) a question arising at a meeting is to be determined by a majority of the votes of the members present and voting; and
- (f) the presiding member has a deliberative vote and casting vote.

(5) The Commission:

- (a) must keep written minutes of all its meetings, and of all meetings of any committee of the Commission; and
- (b) subject to this Act, may regulate its proceedings at meetings as it considers appropriate.

**16. Decisions without meetings-(1) If:**

- (a) the members have resolved that resolutions may be passed in accordance with this section; and

(3) O se sui o ia lea e auai i se fonotaga e faaaogāina ai telefoni, fonotaga e faaaogā ai masini pue ata vito po o isi auala faaeletoroni, ua faatatauina e faapea o lo o auai i le fonotaga, pe afai e mafai e le sui ona lagonaina isi sui auai ma e mafai foi ona lagonaina o ia e isi sui auai.

(4) I se fonotaga a le Komisi:

- (a) o le Taitaifono e nofoia le nofoa, i le noatia ma fai fuafua i parakalafa (b) ma le (c);
- (b) o le Sui Taitaifono e nofoia le nofoa, pe afai o toesea le Taitaifono i se fonotaga;
- (c) o se sui auai e filifilia e sui auai o lo o i ai i le fonotaga, e nofoia le nofoa i le fonotaga, pe afai o lo o toesea le Taitaifono ma le Sui Taitaifono i lea fonotaga;
- (d) o le aofaiga o sui e mafai ai ona usuia se fonotaga, o le vaega toatele lea o sui auai;
- (e) o se fesili e faatulai mai i se fonotaga, o le a fuafuaina se faaiuga e ala i se vaega aupito toatele palota a sui o lo o auai ma palota; ma
- (f) o le sui auai o lo o taitaifono e i ai lana palota e faia ai filifiliga ma lana palota e faia ai o faaiuga.

(5) O le Komisi:

- (a) e ao ona teuina oototoga o mataupu tusitusia o ana fonotaga uma, ma fonotaga uma a so o se komiti a le Komisi; ma
- (b) i le noatia ma fai fuafua i lenei Tulafono, e mafai ona faatonutonuina faaletulafono o ana taulumaga i fonotaga e pei ona ia manatu ua talafeagai ai.

**16. Faaiuga e aunoa ma ni fonotaga-(1) Afai:**

- (a) ua finagalo sui auai e faapea e mafai ona pasia ni faaiuga e tusa ai ma lenei fuaiupu; ma

(b) either -

(i) all members were informed in writing of the terms of a proposed resolution; or

(ii) reasonable efforts were made to inform all members in writing of the terms of a proposed resolution; and

(c) without meeting, a majority of the members indicate agreement with the proposed resolution and communicate that to the Chief Executive Officer by letter, fax or other electronic transmission,

the resolution is taken to have been passed at a meeting of members on the date on which the last member indicated his or her agreement.

(2) Subsection (1)(b) and (c) does not count a member who would have been prevented by section 13 from deliberating on the resolution if the resolution had been put to a meeting.

(3) Section (1) does not apply to a proposed resolution if any of the members requests, by notice in writing addressed to the Chief Executive Officer, that the resolution be referred to a meeting of the members.

*Division 4 - Administrative and financial arrangements*

**17. Office of the Commission-**(1) An Office of the Commission is established consisting of:

(a) the members of the Commission;

(b) staff of the Commission;

(c) other persons seconded under this section.

(2) The Commission is responsible for the management of the Office.

(b) a lē -

(i) o sui auai uma na logoina i se faiga tusingusia i tuutuuga o se faaiuga ua fuafuaina; po o

(ii) na faia o taumafaiga talafeagai e logoina ai sui auai uma i se faiga tusingusia i tuutuuga o se faaiuga ua fuafuaina; ma

(c) e aunoa ai ma se fonotaga, ua faaalua e se vaega toatele o sui auai lo latou maliega i le faaiuga ua fuafuaina ma ua faafesootai atu lena faaiuga i le Ofisa Sili o Pulega e ala i se tusi, fesi po o isi faiga faaeletoni o le faaoina atu,

o le faaiuga ua faatatauina e faapea na pasia i se fonotaga a sui auai i le aso na faaalua ai e le sui auai mulimuli o lana maliega.

(2) O le faafuaiupu (1)(b) ma le (c) e lē faitauina ai se sui auai, o ia lea e ono mafai ona toafia e le fuaiupu 13 mai le lauiluina o le faaiuga pe a na fai na tuuina atu le faaiuga i se fonotaga.

(3) E lē faaaogāina le faafuaiupu (1) i se faaiuga na fuafuaina, pe afai e talosagaina e so o se tasi o sui auai, e ala i se faasilasilaga tusingusia i le Ofisa Sili o Pulega, e faapea ia faasee atu le faaiuga i se fonotaga a sui auai.

*Vaevaega 4 - Faatulagaga tau faafoega ma tulaga tau tupe*

**17. Ofisa o le Komisi-**(1) Ua faavaeina le Ofisa o le Komisi e aofia ai:

(a) sui auai o le Komisi;

(b) aufaigaluega a le Komisi;

(c) isi tagata ua auina mai e galulue i lalo o lena fuaiupu

(2) O le Komisi e nafa ma le pulega o le ofisa.

(3) Except as provided in this Act, the Commission and the Office are to function in accordance with the laws governing the public service and the finances of the Government of Samoa, and in particular:

- (a) the staff of the Office are to be appointed or employed under the Public Service Act 2004; and
- (b) the Public Service Commission is to appoint staff only on the recommendation of the Commission; and
- (c) the budget of the Office is to be determined in accordance with the national budgetary process of the Government.

(4) The Minister may, on the advice of the Commission and the Chief Executive Officer, make arrangements in writing for the Office to share or use resources (including human resources) and facilities of the Ministry, another Ministry or a Government agency.

(5) The Commission may appoint consultants as appropriate for the efficient performance of its functions.

**18. Civil liability** - A civil claim by or against the Commission is to be made under the Government Proceedings Act 1974.

**19. Secrecy**-(1) In this section:

“officer” means a person:

- (a) who is or has at any time been a member, or a member of the staff of the Commission; or
- (b) to whom powers or functions are or have at any time been delegated by the Commission; or
- (c) who is or has at any time been engaged to provide services to the Commission; or

(3) Ae vagana ai ua aiaia i totonu o lenei Tulafono, o le a galulue le Komisi ma le Ofisa e tusa ai ma tulafono o puleaina ai galuega a le Malo ma tupe a le Malo o Samoa, ma aemaise ai:

- (a) o le aufaigaluega a le Ofisa o le a tofia pe faafaigaluegaina i lalo o le Tulafono o Galuega a le Malo 2004; ma
- (b) o le Komisi o le Aufaigaluega o Galuega a le Malo o le a tofiaina le aufaigaluega, na o luga lava o le fautuaga a le Komisi; ma
- (c) o le tala faatautu o le tupe a le Ofisa o le a fuafuaina e tusa ai ma le faagasologa a le Malo i le faatautuina o tala o tupe a le atunuu.

(4) E mafai e le Minisita, i luga o le fautuaga a le Komisi ma le Ofisa Sili o Pulega, ona faia o faatulagaga i se faiga tusinga mo le Ofisa ina ia fefaasoai pe faaaogā o alaoa (e aofia ai punaoa o tagata faigaluega) ma nofoaga ma fale o le Matagaluega, o se isi Matagaluega po o se lala sooupu a le Malo.

(5) E mafai e le Komisi ona tofia tagata faufautua faapitoa e pei ona talafeagai ai mo le faatinoga aupito sili ona lelei o ana galuega tauave.

**18. Noataga tau le va o tagata** - O se tagi i mataupu tau le va o tagata e faia e pe faasaga i le Komisi, e ao ona faia i lalo o le Tulafono o Taulumaga a le Malo 1974.

**19. Tulaga faalilolilo**-(1) I totonu o lenei fuaiupu:

“tagata ofisa” o lona uiga o se tagata:

- (a) o ia lea o lo o avea po o sa avea ma sui auai i so o se taimi, po o o se sui o le aufaigaluega a le Komisi; po o
- (b) o ia lea ua tuuina atu i ai pe sa tuuina atu i ai malosiaga po o galuega tauave e le Komisi; po o
- (c) o ia lea ua faafaigaluegaina pe sa faafaigaluegaina i so o se taimi e tuuina atu o auaunaga i le Komisi; po o

(d) who is or has at any time been an investigator.

“protected information” means information about a person’s affairs obtained by an officer because the officer was an officer.

(2) An officer commits an offence who, directly or indirectly:

(a) makes a record of protected information; or

(b) discloses protected information to another person, and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

(3) It is a defence to an offence against subsection (2):

(a) that the act concerned was done in the proper performance of the person’s duties or functions as an officer; or

(b) for disclosure of protected information about a person, that the disclosure was made with the written consent of the person.

(4) An officer cannot be compelled to disclose protected information or a document so far as it contains protected information.

**20. Delegation by Commission-**(1) Subject to subsection (2), the Commission may, by resolution, delegate any of its powers or functions to any of the following:

(a) a member (other than a Regulator);

(b) a staff member of the Commission;

(c) a person holding or acting in a specified position in the Office or the Ministry.

(d) o ia lea ua avea pe sa avea ma tagata sutesue i so o se taimi.

“faamatalaga puipuia” o lona uiga o faamatalaga e uiga i mataupu a le tagata lava ia na mauaina e se tagata ofisa talu ai ona o le tagata ofisa sa avea muamua ma tagata ofisa.

(2) Ua faia e se tagata ofisa se soligatulafono o ia lea, i se ala tuusao pe lē tuusao foi:

(a) ua na faia o se faamaumauga o faamatalaga puipuia; po o

(b) ua na faailoaina o faamatalaga puipuia i se isi tagata, ma e noatia i luga o se moliaga ua faamaonia faaetulafono i se sala tupe e lē silia le 50 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o ia faasalaga uma e lua.

(3) O se tete e i se soligatulafono e faasaga i le faafuiau (2):

(a) le faia o le gaoioiga ua taua i se faatinoga lelei o tiute po o galuega tauave a le tagata, i le avea ai o ia ma tagata ofisa; po o

(b) mo le faailoaina atu o faamatalaga puipuia e uiga i le tagata, e faapea o le faailoaina atu sa faia i le i ai faatasi ma le maliega tusitusia a le tagata.

(4) E lē mafai e se tagata ofisa ona faamalosiā o ia ina ia faailoaina atu faamatalaga puipuia po o se pepa aloaia, i le a lava le tulaga o lo o aofia ai faamatalaga puipuia.

**20. Tuuina atu o malosiaga e le Komisi-**(1) I le noatia ma fai fuafua i le faafuiau (2), e mafai e le Komisi, e ala i se faaiuga, ona tuuina atu so o se tasi o ona malosiaga po o galuega tauave i so o se tasi o i latou nei:

(a) se sui auai (e ese mai ai i lo se Pule Faatonu);

(b) se sui auai o le Komisi;

(c) se tagata o umia po o lo o galue i se tulaga tofi faapitoa i le Ofisa po o le Matagaluega.

(2) The Commission must not delegate any of the following powers:

- (a) the power of delegation under this section; or
- (b) the power to give or revoke a clearance; or
- (c) the power to give, revoke or vary an authorisation.

(3) A delegation:

- (a) may be subject to conditions specified in the resolution; and
- (b) may be varied or revoked at will; and
- (c) does not prevent the Commission from carrying out the delegated power or performing the delegated function.

(4) A delegated power or function:

- (a) is to be carried out pursuant to the resolution for it; and
- (b) when carried out by the delegate, is taken for all purposes to have been exercised or performed by the Commission.

(5) If a delegate purports to act under a delegation, it is to be presumed, unless the contrary is established, that the delegate had the delegation and acted under it.

**21. Annual reports** - The Commission must provide annual reports to the Minister, including a statement of:

- (a) the steps that have been taken in the implementation of competition and consumer laws during the period to which the report relates; and
- (b) the outcomes that have been achieved as a result of those steps.

(2) E lē tatau i le Komisi ona tuuina atu so o se tasi o malosiaga nei:

- (a) o le malosiaga e tuuina atu ai malosiaga i lalo o lenei fuaiupu; po o
- (b) o le malosiaga e tuu atu ai pe faalēaogāina ai se faamaoniga; po o
- (c) o le malosiaga e tuu atu ai, faalēaogā pe suia ai o se faatagaga.

(3) O le tuuina o malosiaga:

- (a) e mafai ona noatia i aiaiga ua faamaotiina i totonu o se faaiuga; ma
- (b) e mafai ona suia pe faalēaogāina ma le loto i ai; ma
- (c) e lē taofia ai le Komisi mai le tauaveina o malosiaga tuuina atu po o le faatinoina o galuega tauave ua faamatuu atu.

(4) O se malosiaga po o se galuega tauave tuuina atu:

- (a) e ao ona tauaveina e tusa ai ma se faaiuga na faia i ai; ma
- (b) pe afai e tauaveina e lē ua tuuina atu i ai, ua aveava lava mo faamoemoe uma e faapea na faagaoioia pe na faatinoina e le Komisi.

(5) Afai ua faamoemoe se tagata ua tuuina atu i ai le malosiaga, e galue i lalo o se malosiaga tuuina atu, e ao ona faatatauina e faapea, seia vagana ua faamautuina i se tulaga e ese ai, e faapea na i ai le malosiaga tuuina atu i lē na tuuina atu i ai, ma faapea ona galue ai i lalo o lea malosiaga tuuina atu.

**21. Lipoti faaletausaga** - E ao i le Komisi ona tuuina atu lipoti faaletausaga i le Minisita, e aofia ai se faamatalaga o:

- (a) laasaga na faia i le faatinoga o tulafono o faiga faatauvaga ma tulafono e puipuia ai tagata e faaogāina oloa ma auaunaga, a o faagasolo le vaitaimi lea e faatatau i ai lipoti; ma
- (b) taunuuga na ausia e afua mai in a laasaga na faatinoina.

*Division 5 - Relationships with  
Regulators and overseas agencies*

**22. Relationship with Regulators-**(1) The Commission must cooperate and collaborate with the Regulators, and assist them, in carrying out their functions.

(2) Each Regulator must cooperate and collaborate with the Commission, and assist it, in carrying out its functions.

**23. Memorandum of understanding-**(1) As soon as reasonably practicable after the commencement of this Act, the Commission and each Regulator must develop and enter into a memorandum of understanding (“MOU”), not inconsistent with this Act, to facilitate compliance with section 22.

(2) Subject to this section, an MOU may provide for any of the following:

- (a) meetings between the Commission and the Regulator, and between their staff;
- (b) communications protocols between the Commission and the Regulator;
- (c) the provision of information and assistance between the Commission and the Regulator;
- (d) joint development and issue of guidelines and other information to the public.

(3) The Commission and a Regulator may amend the MOU to which they are parties at any time.

(4) The Commission must publish each MOU (including through the internet), and make a copy available to any person who asks for it.

*Vaevaega 5 - Sootaga ma Pule Faatonu  
ma lala sooupu i atunuu i fafo*

**22. Sootaga ma Pule Faatonu-**(1) E ao i le Komisi ona galulue faatasi ma felagolagomai ma Pule Faatonu, ma fesoasoani i ai, i le tauaveina o a latou galuega tauave.

(2) E ao i Pule Faatonu taitasi ona galulue faatasi ma felagolagomai ma le Komisi, ma fesoasoani i ai, i le tauaveina o ana galuega tauave.

**23. Maliega tusitusi faaletulafono-**(1) I se taimi vave lava talafeagai e mafai ai ona faatino, i le tuanai ai o le amata faamamaluina o lenei Tulafono, e ao i le Komisi ma Pule Faatonu taitasi ona atiae ma sainia se maliega tusitusia faaletulafono (“MOU”), e ogatasi ma lenei Tulafono, e faafaigofieina ai le tulaga tausisia o le fuaiupu 22.

(2) I le noatia ma fai fuafua i lenei fuaiupu, e mafai e se maliega tusitusia faaletulafono (MOU) ona aiaia ai mo so o se tasi o mataupu nei:

- (a) fonotaga i le va o le Komisi ma le Pule Faatonu, ma i le va foi o a latou aufaigaluega;
- (b) o tulaga aloaia tau fesoataiga i le va o le Komisi ma le Pule Faatonu;
- (c) o le tuuina atu o faamatalaga ma fesoasoani i le va o le Komisi ma le Pule Faatonu;
- (d) atinae soofaatasi ma le tuuina atu o taiala ma isi faamatalaga i tagata lautele.

(3) E mafai e le Komisi ma se Pule Faatonu ona teuteu le maliega tusitusia faaletulafono (MOU) lea e aveia ai i latou ma vaega auai, i so o se taimi lava.

(4) E ao i le Komisi ona lomina faasalalau o Maliega taitasi ua tusitusia faaletulafono (MOU) (e aofia ai le faaogāina o le initaneti), ma ia faia ni ata o lomiga ia avanoa i so o se tagata e manao i ai.

(5) Each Regulator must publish each MOU (including through the internet), and make a copy available to any person who asks for it.

**24. Commission may exchange information with overseas agencies-**(1) The Commission may provide to an overseas agency any information, or a copy of any document, that the Commission holds, but only if the Commission:

(a) considers that to do so will assist the overseas agency in the performance of the overseas agency's functions that correspond to the Commission's functions; and

(b) is satisfied that appropriate protections are or will be in place to maintain the confidentiality of anything provided.

(2) When carrying out its functions, the Commission may use any information, or a copy of any document, provided to it by an overseas agency.

**25. Commission may assist overseas agencies by conducting investigations-**(1) If the Commission receives a request from an overseas agency to investigate a matter related to the functions of the overseas agency and provide the overseas agency with information or documents resulting from the investigation (a "request"), the Commission may comply with the request, but only if satisfied that:

(a) compliance will not substantially affect the performance of its other functions; and

(b) appropriate protections are or will be in place to maintain the confidentiality of anything provided; and

(5) E ao i Pule Faatonu taitasi ona lomiga faasalalau o maliega taitasi ua tusionia faaletulafono (e aofia ai le faaaogāina o le initaneti), ma ia faia o se ata o lomiga ia avanoa i so o se tagata e manao i ai.

**24. E mafai e le Komisi ona fetufaai faamatalaga ma lala sooupu i atunuu i fafo-**(1) E mafai e le Komisi ona tuuina atu i se lala sooupu i atunuu i fafo, o so o se faamatalaga, po o se ata o so o se pepa aloaia, lea o lo o umia e le Komisi, peitai, vagana lava pe afai o le Komisi:

(a) ua manatu o le faia faapena, o le a fesoasoani ai i le lala sooupu i atunuu i fafo i le faatinoga o galuega tauave a le lala sooupu i atunuu i fafo, ia e foliga tutusa ma galuega tauave a le Komisi; ma

(b) ua faamalieina e faapea ua faatulaga po o o le a faatulagaina o puipuiga talafeagai e tausia ai le tulaga agatapuia o so o se mea ua tuuina atu.

(2) I le faataunuaina o ana galuega tauave, e mafai e le Komisi ona faaaogāina so o se faamatalaga, po o se ata o so o se pepa aloaia, ua tuuina atu ia te ia, e se lala sooupu i atunuu i fafo.

**25. E mafai e le Komisi ona fesoasoani i lala sooupu i atunuu i fafo e ala i le faatautaia o suesuega-**(1) Afai e mauaina e le Komisi o se talosaga mai se lala sooupu i atunuu i fafo ina ia suesueina se mataupu e fesootai i galuega tauave a le lala sooupu i atunuu i fafo ma tuuina atu o faamatalaga po o pepa aloaia i lea lala sooupu, e afua mai i suesuega (o se "talosaga"), e mafai e le Komisi ona tausisi i le talosaga, peitai, vagana lava pe afai ua faamalieina e faapea:

(a) o le tausisia o le a lē aafia ai i se tulaga matuia le faatinoga o isi o ana galuega tauave; ma

(b) o puipuiga talafeagai ua faatulagaina po o o le a faatulagaina ina ia tausia ai le tulaga agatapuia o so o se mea ua tuuina atu; ma

- (c) it is appropriate to do so.
- (2) The matters to be considered in deciding, for subsection (1), whether it is appropriate include the following:
- (a) the terms of any relevant cooperation arrangement;
  - (b) whether the Commission is likely to be able to comply with the request;
  - (c) the cost to the Commission of complying with the request;
  - (d) whether another source could more conveniently satisfy the request;
  - (e) the extent to which the functions of the overseas agency correspond with the functions of the Commission;
  - (f) whether the overseas agency would be likely to comply with a similar request made by the Commission;
  - (g) whether it would be more appropriate for the request to be dealt with under the Mutual Assistance in Criminal Matters Act 2007.
- (3) The Commission may, in complying with a request, impose conditions relating to any of the following:
- (a) maintaining the confidentiality of information and documents provided to the overseas agency;
  - (b) the storage or use of, or access to, that information and those documents;
  - (c) copying, returning or disposing of any of that information and those documents;
  - (d) the costs incurred by the Commission in complying with the request.
- (4) The Commission may exercise powers under Part 6 in complying with the request.

- (c) ua talafeagai lava ona faia faapena.
- (2) O mataupu e ao ona iloiloina i le faia o se faaiuga, mo le faafuaiupu (1), pe ua talafeagai ai, e aofia ai itu nei:
- (a) o tuutuuga o so o se fuafuaga talafeagai o le galulue faatasi;
  - (b) pe e ono mafai e le Komisi ona tausisia le talosaga;
  - (c) o le tupe totogi i le Komisi i le tausisia ai o le talosaga;
  - (d) pe e mafai e se isi punaoa ona faamalieina i se tulaga ua tatau ai le talosaga;
  - (e) le tulaga e tutusa ai o galuega tauave a le lala sooupu i atunuu i fafo ma galuega tauave a le Komisi;
  - (f) pe e ono tausisia e le lala sooupu i atunuu i fafo o se talosaga faapena e faia e le Komisi;
  - (g) pe e ono sili atu ona talafeagai ona tagofia le talosaga i lalo o le Tulafono o Fesoasoani Soofaatasi i Mataupu Tau Solitulafono 2007.
- (3) E mafai e le Komisi, i le tausisia ai o se talosaga, ona faaee atu aiaiga e faasino i so o se tasi o itu nei:
- (a) tausia o tulaga agatapuia o faamatalaga ma pepa aloaia ua tuuina atu i le lala sooupu i atunuu i fafo;
  - (b) le teuina po o le faaaogāina o, po o avanoa i, lena faamatalaga ma na pepa aloaia;
  - (c) le faia o ata, toe faafoi po o le lafoaia o so o se tasi o lena faamatalaga ma na pepa aloaia;
  - (d) o tupe totogi faatupulaia e le Komisi i le tausisia ai o le talosaga.
- (4) E mafai e le Komisi ona faatino malosiaga i lalo o le Vaega 6 i le tausisia ai o le talosaga.



(5) If the Commission exercises a power under Part 6 in complying with a request, it must specify, in any notice given for the purpose of exercising the power, that it is exercising the power to comply with the request.

(6) If:

- (a) a person makes a statement to the Commission or an investigator in the course of an investigation (whether or not the investigation was conducted under a request); and
- (b) the statement might tend to incriminate the person or render the person liable to a pecuniary penalty under the law of another country,

the Commission must not provide a copy of the statement to an overseas agency for that other country unless the overseas agency gives the Commission a written undertaking:

- (c) that it will not use the statement in a prosecution of the person, or a proceeding for a pecuniary penalty or like proceedings; and
- (d) that, to the extent that it is within the ability of the overseas agency to do so, it will ensure that those statements are not so used by any other agency of the foreign country.

**26. Cooperation arrangements-**(1) The Minister may, on behalf of the Government, enter into an arrangement (a “cooperation arrangement”) in respect of an overseas agency with:

- (a) the government of the country in

(5) Afai e faatinoina e le Komisi se malosiaga i lalo o le Vaega 6 i le tausisia ai o le talosaga, e tatau ona faamaoti, i so o se faasilasilaga na tuuina atu mo le faamoemoe o le faatinoga o le malosiaga, e faapea o lo o faatinoina lava le malosiaga e tausisia ai le talosaga.

(6) Afai:

- (a) ua faia e se tagata se faamatalaga i le Komisi po o se tagata suesue, a o faagasolo se suesuega (tusa lava pe na faatautaia le suesuega i lalo o se talosaga pe leai foi); ma
- (b) o le faamatalaga e ono oo atu i le tuuaia ai o le tagata po o e agai ina noatia ai le tagata i se faasalaga tau tupe i lalo o le tulafono a se isi atunuu,

e lē tatau i le Komisi ona tuuina atu se ata o le faamatalaga i se lala sooupu i atunuu i fafo mo le isi lena atunuu, ae vagana ai ua tuuina atu e le lala sooupu i atunuu i fafo i le Komisi se maliega tusitusia e noatia ai;

- (c) e faapea o le a ia lē faaaogāina le faamatalaga i se moliaga o se tagata, po o se taualumaga mo se faasalaga tau tupe po o se taualumaga faapena; ma
- (d) e faapea, i le tulaga o lo o ogatasi ma le mafaigafatia o le lala sooupu i atunuu i fafo e faia ai faapena, o le a faamautinoaina ai e le o faaaogāina faapena o na faamatalaga, e so o se isi lava lala sooupu a le atunuu ese.

**26. Faatulagaga o le galulue faatasi-**(1) E mafai e le Minisita, i le aveai ai ma sui o le Malo, ona sainia o se faatulagaga (o se “faatulagaga o le galulue faatasi”) e tusa ai o se lala sooupu i atunuu i fafo ma:

- (a) le Malo o le atunuu lea o lo o faavaeina ai le lala sooupu i atunuu i fafo; po o

(b) if an overseas agency is established by an international body, the governing body of that international body.

(2) The Commission may, with the written approval of the Minister, enter into an arrangement (also a “cooperation arrangement”) with an overseas agency.

(3) Without limiting what a cooperation arrangement may contain, a cooperation arrangement:

(a) must -

(i) identify the overseas agency that it relates to; and

(ii) identify the enactment in connection with which the overseas agency may seek information or documents from the Commission; and

(iii) set out how information or documents provided to the overseas agency under the arrangement may be used by the overseas agency, and how they are to be kept secure; and

(b) may provide for the reimbursement of the Commission for costs incurred in complying with requests to which the cooperation arrangement applies.

(4) Before entering into a cooperation arrangement, or giving approval to the Commission to enter into a cooperation arrangement, the Minister must consider:

(a) the legal framework relating to the use of compulsorily acquired information in the overseas country; and

(b) pe afai ua faavaeina se lala sooupu e se faalapotopotoga faava o malo, o le faalapotopotoga o lo o puleaina lena faalapotopotoga faava o malo.

(2) E mafai e le Komisi, i le i ai faatasi ma le faamaoniga tusitusia a le Minisita, ona sainia o se faatulagaga (e faapea foi i se “faatulagaga o le galulue faatasi”), faatasi ma se lala sooupu i atunuu i fafo.

(3) E aunoa ma le faatapulaaina o itu o lo o aofia ai i se faatulagaga o le galulue faatasi, o se faatulagaga o le galulue faatasi:

(a) e ao ona:

(i) faailoa mautinoa le lala sooupu i atunuu i fafo lea o lo o fesootai i ai le faatulagaga o le galulue faatasi; ma

(ii) faailoa mautinoa le tulafono e fesootai i ai lea e mafai ai e le lala sooupu i atunuu i fafo ona saili o faamatalaga po o pepa aloaia mai le Komisi; ma

(iii) faatulaga atu ai faiga e mafai ona faaaogāina ai faamatalaga po o pepa aloaia ua tuuina atu i lala sooupu i atunuu i fafo i lalo o le faatulagaga, e lala sooupu i atunuu i fafo, ma faiga e tataua ona teumalu ai o ia faamatalaga po o pepa aloaia; ma

(b) e mafai ona aiaia ai le toe faaolaina o tupe totogi a le Komisi na faatupulaia i le tausisia ai o talosaga, lea e faaaogāina i ai le faatulagaga o le galulue faatasi.

(4) A o le i sainia se faatulagaga o le galulue faatasi, po o le tuuina atu o le faamaoniga i le Komisi e sainia ai se faatulagaga o le galulue faatasi, e ao i le Minisita ona silasila totoa i:

(a) le faataotoga faaletulafono e faasino i le faaaogāina o faamatalaga na maua mai faamalosi i totonu o le atunuu i fafo; ma

(b) the potential consequences for consumers and businesses in Samoa of providing information or documents to the overseas agency; and

(c) any privacy issues arising from the proposed arrangement.

(5) The Minister must not enter into a cooperation arrangement, or give approval to the Commission to enter into a cooperation arrangement, unless satisfied that entering into the arrangement is consistent with Samoa's international obligations.

(6) If a cooperation arrangement is entered into or amended, then, as soon as practicable, notice of the fact must be published in the *Savali* and a copy of the arrangement placed on the Commission's website.

**27. Information provided by consent** - Despite any other provisions of this Division and a cooperation arrangement, the Commission may provide any information to an overseas agency with the consent of the person to whom the information relates.

*Division 6 - Administrative action*

**28. Ministers to consider effects on competition**-(1) A Minister must have regard to the effects on competition in markets in Samoa of any government decision in which that Minister participates.

(2) Failure to comply with subsection (1) does not make a decision invalid.

**29. Provision of report**-(1) The Commission:

(b) taunuuga e mafai ona tulai mai mo tagata e faaaogāina oloa ma auaunaga ma pisinisi i Samoa i le tuuina atu o faamatalaga po o pepa aloaia i lala sooupu i atunuu i fafo; ma

(c) so o se mataupu i tulaga e lē faalauaitelina e faatulai mai i le faatulagaga ua fuafuaina.

(5) E lē tatau i le Minisita ona sainia se faatulagaga o le galulue faatasi, po o le tuuina atu o le faamaoniga i le Komisi, e sainia ai se faatulagaga o le galulue faatasi, seia vagana ai ua faamalieina le tulaga e faapea, o le sainia o se faatulagaga o le galulue faatasi ua ogatasi ma noataga faava o malo a Samoa.

(6) Afai ua sainia po o ua teuteuina se faatulagaga o le galulue faatasi, ona faapea lea, i se taimi vave lava e mafai ai ona faatino, e tatau ona lomina faasalalau o se faasilasilaga o le mea moni, i totonu o le *Savali* ma ia tuuina i luga o le tuatusi faakomepiuta a le Komisi se ata o le faatulagaga.

**27. Faamatalaga tuuina atu e ala i maliega** - E ui lava i so o se isi aiaiga o lenei Vaevaega ma se faatulagaga o le galulue faatasi, e mafai e le Komisi ona tuuina atu so o se faamatalaga i se lala sooupu i atunuu i fafo, faatasi ai ma le maliega a le tagata, o ia lea e faasino i ai le faamatalaga.

*Vaevaega 6 - Gaoioiga tau faafoega*

**28. Ia iloiloaina e Minisita aafiaga i faiga faatauvaga**-(1) E ao i se Minisita ona amanaia aafiaga o faiga faatauvaga i maketi i totonu o Samoa, o so o se faaiuga a le Malo, lea e auai le Minisita.

(2) O le lē mafai ona tausisia o le faafuaiupu (1) o le a lē aloaia ai se faaiuga.

**29. Tuuina atu o lipoti**-(1) O le Komisi:

- (a) must, upon request by the Minister, provide a report to the Minister about the effects on competition in markets in Samoa of any proposal being considered by the Minister or the Government; and
- (b) must provide the report as soon as reasonably practicable, unless the Commission considers that it is unable to do so; and
- (c) if it is unable to do so, must notify the Minister of the reasons why it is unable to do so.

(2) The Commission may, on its own initiative, provide a report to the Minister about the effects on competition in markets in Samoa of any proposal being considered by the Minister or the Government.

### **PART 3 COMPETITION RULES**

#### *Division 1 - The rules*

#### **30. Anti-competitive agreements, concerted practices and decisions of associations-**(1) A person must not:

- (a) make or give effect to an agreement; or
- (b) engage in a concerted practice; or
- (c) as a member of an association of persons, make or give effect to a decision of the association,

if the agreement, concerted practice or decision has, or would be likely to have, the effect of substantially lessening competition in a market in Samoa.

- (a) e tatau, pe a talosagaina e le Minisita, ona tuuina atu se lipoti i le Minisita, e uiga i aafiaga o faiga faatauavaga i totonu o maketi i Samoa, o so o se fuafuaga ua iloiloina e le Minisita po o le Malo; ma
- (b) e tatau ona tuuina atu le lipoti i se taimi talafeagai lelei e mafai ai ona faatino ai, ae vagana ai ua manatu le Komisi ua na lē mafaia ona faapea ona faia; ma
- (c) pe afai ua na lē mafaia ona faia faapea, e tatau ona logoina le Minisita i mafuaaga ua lē mafai ai ona ia faia faapena.

(2) E mafai e le Komisi, i lana lava faitalia, e tuuina atu se lipoti i le Minisita, e uiga i aafiaga i luga o faiga faatauavaga i totonu o maketi i Samoa, o so o se fuafuaga ua iloiloina e le Minisita po o le Malo.

### **VAEGA 3 TULAFONO FAAFOE O FAIGA FAATAUVAGA**

#### *Vaevaega 1 - O tulafono faafoe*

#### **30. Maliega e tetee atu ai i faiga faatauavaga, faiga masani ua tuufaatasia ma faaiuga a faalapotopotoga-**(1) E lē tatau i se tagata ona:

- (a) faia pe aloaia se maliega; po o
- (b) le auai i se faiga masani ua tuufaatasia; po o
- (c) i le avea ai ma sui auai o se faalapotopotoga o tagata,

ona faia pe aloaia se faaiuga a le faalapotopotoga, pe afai o le maliega, faiga masani ua tuufaatasia, po o ua i ai i le faaiuga, po o o le a ona i ai i le faaiuga, le aafiaga o le a matua faaitiitia ai faiga faatauavaga i totonu o se maketi i Samoa.

(2) For subsection (1), if an agreement, concerted practice or decision has, or would be likely to have, the effect of substantially lessening competition in a market in Samoa, it does not matter that it has other effects.

(3) Subsection (1):

(a) applies even if -

(i) the agreement or decision was made or partly made outside Samoa; or

(ii) the concerted practice was engaged in wholly or partly outside Samoa; and

(b) does not apply -

(i) to an agreement so far as it relates to the acquisition of shares or assets; or

(ii) if the object of the agreement, concerted practice or decision is to coordinate the business conduct of a related body corporate of one of them; and

(c) is not limited by other provisions of this Division by implication (but they may limit it expressly).

(3) Division 2 sets out other exemptions from this section.

**31. Bid-rigging-**(1) For section 30(1), unless the contrary is established, an agreement or concerted practice, or a decision of an association, is taken to have the effect, or to be likely to have the effect, of substantially lessening competition in a market in Samoa if:

(2) Mo le faafuaiupu (1), afai o se maliega, faiga masani ua tuufaatasia po o se faaiuga ua i ai, po o e ono tulai mai ona i ai, o le aafiaga e matua faaitiitia ai faiga faatauvaga i totonu o se maketi i Samoa, e lē afaina lava lea itu e faapea o lo o i ai isi aafiaga.

(3) O le faafuaiupu (1):

(a) e faaaogā, e ui lava pe afai -

(i) o le maliega po o le faaiuga na faia po o o sona vaega na faia i fafo atu o Samoa; po o

(ii) o le faiga masani ua tuufaatasia, sa faaaogāina atoa po o i sona vaega i fafo atu o Samoa; ma

(b) e lē faaaogāina i -

(i) se maliega, i le a lava le tulaga e fesootai i le mauaina o sea po o aseta; po o

(ii) pe afai o le sini o le maliega, faiga masani ua tuufaatasia, po o se faaiuga, o le tuufaatasia lea o le faatinoga tau pisinisi a se faalapotopotoga ua tuufaatasia faaletulafono e fesootai i ai, o se tasi o ia sini; ma

(c) e le o faatapulaaina e isi aiaiga o lenei Vaevaega e ala i aafiaga (peitai e ono mafai ona faatapulaaina lea itu i se faiga manino e maoti).

(3) O le Vaevaega 2 ua faatulagaina ai isi tuusaunoaga mai lenei fuaiupu.

**31. Tauofoga i auala tau faasese-**(1) Mo le fuaiupu 30(1), ae vagana ai ua faamautuina i se isi faiga e ese ai, se maliega po o se faiga masani ua tuufaatasia, po o se faaiuga a se faalapotopotoga, ua ave e faapea ua aloaia, po o e ono i ai le aafiaga, i le matua faaitiitia o faiga faatauvaga i totonu o se maketi i Samoa, pe afai:

(a) the agreement, concerted practice or decision involves persons (in this section, “participants”) any two (2) or more of whom who are in competition with each other; and

(b) under the agreement, concerted practice or decision, a participant submits or agrees to submit, in response to a request for bids (however described) in Samoa, a bid the terms of which are specified in, or determined under, the agreement, concerted practice or decision; and

(c) the agreement, concerted practice or decision is not made known in writing to the person requesting the bids when the bid is submitted.

(2) For section 30(1), unless the contrary is established, an agreement or concerted practice, or a decision of an association, is taken to have the effect, or to be likely to have the effect, of substantially lessening competition in a market in Samoa if:

(a) the agreement, concerted practice or decision involves persons any two (2) or more of whom who are in competition with each other; and

(b) under the agreement, concerted practice or decision, a participant -

(i) does not submit, or agrees not to submit, a bid; or

(ii) withdraws, or agrees to withdraw, a bid that has been submitted,

in response to a request for bids (however described) in Samoa; and

(a) o le maliega, faiga masani ua tuufaatasia po o se faaiuga e aafia ai tagata (i totonu o lenei fuaiupu “tagata auai”) so o se toalua po o le sili atu, o i latou ia o lo o i ai i se faiga faatauvaga o le tasi i le isi; ma

(b) i lalo o le maliega, faiga masani ua tuufaatasia po o se faaiuga, ua tuuina atu e se tagata auai po o ua malie e tuuina atu, e tali atu ai i se talosaga mo tauofoga (i le a lava le tulaga o faamatalaina ai) i totonu o Samoa, se tauofoga, o ona tuutuuga o lo o faapea ona faamaotiina i totonu, po o ua fuafuaina i lalo, o le maliega, faiga masani ua tuufaatasia po o se faaiuga; ma

(c) o le maliega, faiga masani ua tuufaatasia po o se faaiuga e le i faailoaina atu i se faiga tusitusia i le tagata o talosagaina tauofoga i le taimi e tuuina atu ai le tauofoga.

(2) Mo le fuaiupu 30(1), ae vagana ua faamautuina o se isi itu e feteenai ai, o se maliega po o se faiga masani ua tuufaatasia, po o se faaiuga a se faalapotopotoga ua aveva e faapea ua aloaia, po o o le a ono aloaia, i le matua tuuitiitia ai o faiga faatauvaga i totonu o se maketi i Samoa, pe afai:

(a) o le maliega, faiga masani ua tuufaatasia po o se faaiuga e aafia ai tagata, so o se toalua (2) po o le sili atu o i latou ia, o lo o i ai i se tauvaga, o le tasi i le isi tagata; ma

(b) i lalo o le maliega, faiga masani ua tuufaatasia po o se faaiuga, o se tagata auai -

(i) e le i tuuina atu, po o ua malie ina ia lē tuuina atu, o se tauofoga; po o

(ii) ua faau i tua, po o ua malie e faau i tua, o se tauofoga lea sa tuuina mai,

e tali atu ai i se talosaga mo tauofoga (i le a lava le tulaga e faamatalaina ai) i totonu o Samoa; ma

- (c) the agreement, concerted practice or decision is not made known in writing to the person requesting the bids when the bid is submitted.

(3) For this section, participants are in competition with each other if they, or related bodies corporate of one (1) or more of them, compete with each other in relation to the supply or acquisition of the goods or services concerned, or would so compete but for the conduct concerned.

### **32. Price fixing, market sharing and collective boycotts-(1)**

For section 30(1), unless the contrary is established, the following agreements, concerted practices and decisions of associations are taken to have the effect, or to be likely to have the effect, of substantially lessening competition in a market in Samoa:

- (a) price fixing agreements, concerted practices and decisions;
- (b) market sharing agreements, concerted practices and decisions;
- (c) collective boycott agreements, concerted practices and decisions.

(2) A price fixing agreement, concerted practice or decision is one that:

- (a) involves persons (in this section, “participants”) any two (2) or more of whom who are in competition with each other; and
- (b) has the effect, or is likely to have the effect, directly or indirectly, of fixing, maintaining or controlling the price of goods or services in Samoa (including because they affect, or may affect, terms or conditions of trade).

- (c) le maliega, faiga masani ua tuufaatasia po o se faaiuga e le i faailoaina atu i se faiga tusitusia i le tagata o talosagaina tauofoga i le taimi e tuuina atu ai tauofoga.

(3) Mo leni fuaiupu, o tagata auai ua i ai i se faiga faatauvaga o le tasi i le isi pe afai o i latou, po o le toatasi (1) po o le sili atu o faalapotopotoga e fesootai i ai ua tuufaatasia faaletulafono o i latou ia, o lo o tauva o le tasi ma le isi, e faasino i le faaooina atu po o le mauaina o oloa po o auaunaga ua taua, po o le a faapea ona tauva, peitai e mo le faatinoga o taua.

**32. Faatulagaina o tau o oloa, faasoaga faamaketi ma tetee autasi-(1)** Mo le fuaiupu 30(1), ae vagana ai ua faamautuina o se isi itu e feteenai ai, o maliega nei, faiga masani ua tuufaatasia ma faaiuga a faalapotopotoga ua aveva e faapea ua aloaia, po o e ono aloaia, i le matua tuuitiitia ai o faiga faatauvaga i totonu o se maketi i Samoa:

- (a) maliega o le faatulagaga o tau o oloa, faiga masani ua tuufaatasia ma faaiuga;
- (b) maliega tau le faasoaga faamaketi, faiga masani ua tuufaatasia ma faaiuga;
- (c) maliega o faiga tetee tuufaatasia, faiga masani ua tuufaatasia ma faaiuga.

(2) O se maliega o le faatulagaga o tau o oloa, faiga masani ua tuufaatasia po o se faaiuga o se tulaga lea e:

- (a) aafia ai tagata (i totonu o leni fuaiupu, “tagata auai”) so o se toalua (2) po o le sili atu, o i latou ia o lo o i ai i le tauvaga o le tasi ma le isi; ma
- (b) e i ai le aafiaga, po o e ono i ai se aafiaga, i se ala tuusao pe lē tuusao foi, i le faatulagaina, tausiga po o le faatonutonuina o tau o oloa po o auaunaga i totonu o Samoa (e aafia ai ona o lo o aafia ai i latou, po o e ono aafia ai, o tuutuuga po o aiaiga o feaatauaiga).

(3) A market sharing agreement, concerted practice or decision is one that:

- (a) involves participants any two (2) or more of whom who are in competition with each other; and
- (b) has the effect, or is likely to have the effect, directly or indirectly, of sharing or dividing up a market in Samoa in a way that prevents or restricts any one (1) or more of the parties to the agreement, concerted practice or decision from competing with any one (1) or more of the other parties to the agreement, concerted practice or decision in the supply or acquisition of any goods or services.

(4) A collective boycott agreement, concerted practice or decision of an association is one that:

- (a) involves participants any two (2) or more of whom who are in competition with each other; and
- (b) has the effect, or is likely to have the effect, directly or indirectly, of excluding a competitor, customer, supplier or other person from a market in Samoa.

(5) For this section, participants are in competition with each other if they, or related bodies corporate of one (1) or more of them, compete with each other for the supply or acquisition of the goods or services concerned, or would so compete but for the conduct concerned.

(6) Subsection (1) does not apply if the object of agreement, concerted practice or decision is to coordinate the business conduct of a related body corporate of one of them.

(3) O se maliega tau le faasoaga faamaketi, faiga masani ua tuufaatasia po o se faaiuga, o se tulaga lea e:

- (a) aafia ai tagata auai, o so o se toalua (2) po o le sili atu o i latou ia o lo o i ai i se faiga faatauva o le tasi ma le isi; ma
- (b) e i ai le aafiaga, po o e ono i ai se aafiaga, i se ala tuusao pe lē tuusao foi, i le fefaasoaiga po o le vaevaeina o se maketi i totonu o Samoa i se auala e taofia pe faasaina ai so o se tasi (1) po o le sili atu o vaega auai i le maliega, faiga masani ua tuufaatasia po o se faaiuga mai le tauvaga ma so o se tasi (1) po o le sili atu o isi vaega auai i le maliega, faiga masani ua tuufaatasia po o se faaiuga i le tuuina atu po o le mauaina o so o se oloa po o auaunaga.

(4) O se maliega o faiga tetee tuufaatasia, faiga masani ua tuufaatasia po o se faaiuga a se faalapotopotoga, o se tulaga lea e:

- (a) aafia ai tagata auai, o so o se toalua (2) po o le sili atu, o i latou ia o lo o i ai i le tauvaga o le tasi ma le isi; ma
- (b) e i ai le aafiaga, po o e ono i ai o le aafiaga, i se ala tuusao pe lē tuusao foi, i le vavaeeseina o se tagata tauva, tagata e faaaogāina oloa ma auaunaga, tagata e tuuina atu oloa ma auaunaga po o se isi tagata, mai se maketi i totonu o Samoa.

(5) Mo lenei fuaiupu, o tagata auai o lo o tauva o le tasi ma le isi pe afai o i latou, po o faalapotopotoga ua tuufaatasia e fesootai i ai o le tasi (1) po o le sili atu o i latou, o lo o tauva le tasi ma le isi mo le tuuina atu po o le mauaina o oloa po o auaunaga o taua, po o o le a faapea ona tauva, peitai e mo le faatinoga o taua.

(6) O le faafuuiupu (1) e lē faaaogāina pe afai o le aano moni o le maliega, faiga masani ua tuufaatasia po o se faaiuga, o le tuufaatasia lea o le faatinoga o pisinisi a se faalapotopotoga ua tuufaatasia e fesootai i ai, i se tasi o i latou ia.



**33. Abuse of market power-**(1) A person who has a substantial degree of market power in a market must not abuse that power by engaging in conduct that has the effect, or would be likely to have the effect, of substantially lessening competition in a market in Samoa.

(2) For this section, if a person and a related body corporate of the person together have a substantial degree of market power in a market, each is taken to have a substantial degree of market power in the market.

(3) For subsection (1), if conduct has the effect or would be likely to have the effect of substantially lessening competition in a market in Samoa, it does not matter that it has other effects.

(4) Subsection (1):

(a) applies even if the person engaged in the conduct wholly or partly outside Samoa; and

(b) does not apply to an agreement so far as it relates to the acquisition of shares or assets.

(5) For this section, a person does not abuse a substantial degree of market power merely by enforcing an intellectual property right.

(6) Division 2 sets out other exemptions from this section.

**34. Acquisitions that substantially lessen competition-**(1) A person must not, directly or indirectly:

(a) acquire shares in a body corporate; or

(b) acquire any assets of a person, if the acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in a market in Samoa.

**33. Faaaogā sese o le malosiaga faamaketi-**(1) O se tagata, o ia lea o lo o i ai se tulaga mautu o le malosaga faamaketi i totonu o se maketi, e lē tatau ona ia faaaogāina sese o lena malosiaga e ala i le auai i se faatinoga e i ai sona aafiaga, po o e ono tulai mai ai o se aafiaga, o le matua tuuitiitia ai lea o faiga faatauvaga i totonu o se maketi i Samoa.

(2) Mo lenei fuaiupu, afai ua i ai faatasi i se tagata ma se faalapotopotoga ua tuuifaatasia e fesootai i ai a le tagata, se tulaga mautu o se malosiaga faamaketi i totonu o se maketi, ua faatatauina lava ia vaega taitasi e faapea ua i ai se malosiaga faamaketi i se tulaga mautu i totonu o le maketi.

(3) Mo le faafuaiupu (1), afai o le faatinoga e i ai le aafiaga po o e ono i ai se aafiaga o le matua tuuitiitia ai lea o faiga faatauvaga i totonu o se maketi i totonu o Samoa, e lē afaina le i ai i le faatinoga o isi aafiaga.

(4) O le faafuaiupu (1):

(a) e faaaogā, e tusa lava pe afai o lo o galue le tagata i le faatinoga i se tulaga atoatoa po o i se vaega i fafo atu o Samoa; ma

(b) e lē faaaogāina i se maliega, i le a lava se tulaga e fesootai i ai i le mauaina o sea po o aseta.

(5) Mo lenei fuaiupu, e lē faaaogāina sese e se tagata se tulaga mautu o le malosiaga faamaketi, i le na o le faamalosia o se aia tatau i meatotino tau le atamai.

(6) O le Vaevaega 2 ua faatulagaina ai isi tuusaunoaga mai lenei fuaiupu.

**34. O sea po o aseta ua mauaina e matua tuuitiitia ai faiga faatauvaga-**(1) E lē tatau i se tagata, i se ala tuusao pe lē tuusao foi ona:

(a) mauaina sea i se faalapotopotoga ua tuuifaatasia faaletulafono; po o

(b) ua mauaina so o se aseta a se tagata, pe afai o sea po o aseta ua mauaina o le a i ai se aafiaga po o e ono i ai o se aafiaga, o le matua tuuitiitia lea o faiga faatauvaga i totonu o se maketi i Samoa.

(2) For this section, if a person and a related body corporate of the person each acquire shares in or assets of an entity, the acquisitions must be treated as a single acquisition, by each of the person and the related body corporate.

(3) For subsection (1), if an acquisition has the effect or would be likely to have the effect of substantially lessening competition in a market in Samoa, it does not matter that it has other effects.

(4) Without limiting the matters that may be taken into account in determining whether an acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in a market in Samoa, the following may be taken into account:

- (a) the extent of competition in the market from competitors outside Samoa;
- (b) whether the body corporate whose assets or shares are to be acquired is or is likely to be insolvent;
- (c) the extent to which substitutes for the good or services are available or are likely to be available in the market;
- (d) the height of any barriers to entry into the market;
- (e) the likelihood that the acquisition would result in the person or a related body corporate of the person being able to increase prices or profit margins significantly and sustainably;
- (f) whether the acquisition would result in the removal of an effective and vigorous competitor;

(2) Mo lenei fuaiupu, afai na mauaina taitasi e se tagata ma se faalapotopotoga ua tuufaatasia faaletulafono e fesootai i ai a le tagata, o sea i po o aseta a se faalapotopotoga, e tatau ona faatatauina o ia sea po o aseta ua mauaina, e aveia o se sea po o se aseta e tasi ua mauaina, e tagata taitoatasi ma le faalapotopotoga taitasi ua tuufaatasia faaletulafono e fesootai i ai.

(3) Mo le faafuaiupu (1), afai o se sea po o se aseta ua mauaina e i ai sona aafiaga po o o le a ono i ai se aafiaga o le matua tuuitiitia lea o faiga faatauvaga i totonu o se maketi i Samoa, e lē afaina lava le i ai o isi aafiaga.

(4) E aunoa ma le faatapulaaina o mataupu ia e ono mafai ona amanaia i le fuafuaina pe o se sea po o se aseta ua mauaina o le a i ai o se aafiaga, po o e ono tulai mai le i ai o se aafiaga, o le matua tuuitiitia lea o faiga faatauvaga i totonu o se maketi i Samoa, o itu nei e mafai ona amanaia:

- (a) le tulaga o faiga faatauvaga i totonu o le maketi mai tagata tauva i fafo atu o Samoa;
- (b) pe o le faalapotopotoga ua tuufaatasia faaletulafono, o ana aseta po o sea o le a faapea ona mauaina o le a po o e ono tulai mai ai le gaumativa;
- (c) le tulaga e avanoa ai po o e ono mafai ona avanoa ai o mea e suia ai oloa po o auaunaga i totonu o le maketi;
- (d) le maualuga o so o se pa puipui i le ulufale atu ai i totonu o le maketi;
- (e) le tulaga e ono tulai mai e mafai ai i se sea po o se aseta ua mauaina ona taunuu i se itu e mafai ai e le tagata po o se faalapotopotoga a le tagata ua tuufaatasia faaletulafono e fesootai i ai, ona siitia tau o oloa po o faatulagaga o tupe faasili i se tulaga lelei tele ma le mafai ona gafataulimaina;
- (f) pe o le sea po o se aseta ua mauaina o le a ono taunuu atu i le aveesea o se tagata tauva lelei ma galue malosii;

- (g) the degree of countervailing power in the market;
  - (h) the nature and extent of change and innovation in the market.
- (5) Subsection (1) extends to any of the following:
- (a) an acquisition of shares or assets that are outside Samoa;
  - (b) an acquisition of shares or assets that takes place outside Samoa;
  - (c) an acquisition of shares or assets by or from a person who is outside Samoa.
- (6) Division 2 sets out exemptions from this section.

*Division 2 - Exemptions*

**35. Exemptions to avoid conflicts with international obligations-**(1) The Minister may, with the approval of the Cabinet, by order:

- (a) exempt a specified agreement, concerted practice or decision from section 30(1); or
- (b) exempt specified conduct from section 33(1); or
- (c) exempt a specified acquisition from section 34(1),

if satisfied that it is necessary to do so to avoid a conflict between this Act and an international obligation of Samoa.

- (2) The order:
- (a) must specify the international obligation concerned; and
  - (b) may be subject to conditions or limitations specified in the order; and

- (g) le maualuga e oo i ai i le malosiaga e faalēaogāina ai i totonu o le maketi;
  - (h) le uiga ma le tulaga o suiga ma sailiga o mea fou i totonu o le maketi.
- (5) O le faafuaiupu (1) e oo atu lava i so o se tasi o itu nei:
- (a) o le mauaina o sea po o aseta o lo o i fafo atu o Samoa;
  - (b) o le mauaina o sea po o aseta ia sa faia i fafo atu o Samoa;
  - (c) o le mauaina o sea po o aseta e po o mai se tagata o ia lea o lo o i fafo atu o Samoa.
- (6) O le Vaevaega 2 ua faatulagaina ai o tuusaunoaga mai lenei fuaiupu.

*Vaevaega 2 - Tuusaunoaga*

**35. Tuusaunoaga e alofia ai feteenaiga ma noataga faava o malo-**(1) E mafai e le Minisita, i le i ai faatasi ma le faamaoniga o le Kapeneta, e ala i se poloaiga ona:

- (a) tuusaunoa se maliega ua faamaotiina se faiga masani ua tuufaatasia po o se faaiuga mai le fuaiupu 30(1); po o
- (b) le tuusaunoa o se faatinoga ua faamaotiina mai le fuaiupu 33(1); po o
- (c) le tuusaunoa o se sea po o se aseta ua mauaina ua faamaoti, mai le fuaiupu 34(1),

pe afai ua faamalieina e faapea e talafeagai lava ona faia faapena, ina ia alofia ai o se feteenaiga i le va o lenei Tulafono ma se noataga faava o malo a Samoa.

- (2) O le poloaiga:
- (a) e ao ona faamaoti ai le noataga faava o malo ua taua; ma
  - (b) e mafai ona noatia ma fai fuafua i aiaiga po o tapulaa ua faamaotiina i totonu o le poloaiga; ma

(c) commences on -

- (i) the date it is published in the *Savali*;
- or
- (ii) another past date specified in the order.

(3) The power under subsection (1) includes, the power:

- (a) to amend, suspend or revoke the order; or
- (b) to re-make an order that has ceased to have effect or been revoked; or
- (c) to amend, suspend or revoke a condition or limitation of the order;
- (d) to impose a new condition or limitation in an order.

(4) If the international obligation ceases to apply in relation to Samoa, the exemption order ceases to have effect.

**36. Employment exemptions-**(1) Entering into or giving effect to an agreement, or engaging in a concerted practice, does not contravene section 30(1) if:

- (a) the parties to the agreement or concerted practice are employees; and
- (b) the agreement or concerted practice relates to the remuneration or other terms and conditions of employment of those parties or some of them.

(2) Making or giving effect to a decision of an association of persons does not contravene section 30(1) if:

- (a) the association is an employees' organisation or trade union within the meaning of the Labour and Employment Relations Act 2013; and

(c) e amata faamamaluina i le -

- (i) aso e lomua ai faasalalau i le Savali;
- po o
- (ii) se isi aso ua tuana'i o faamaotiina i le poloaiga.

(3) O le malosiaga i lalo o le faafuuiupu (1) e aofia ai le malosiaga:

- (a) e teuteu, faataatia ese po o le faalēaogāina o le poloaiga; po o
- (b) ia toe faia o se poloaiga sa taofia le faamamaluina po o sa faapea ona faalēaogāina; po o
- (c) ia teuteu, faataatia ese pe faalēaogāina o se aiaiga po o se tapulaa o le poloaiga;
- (d) ia faaee atu o se aiaiga po o se tapulaa fou i totonu o se poloaiga.

(4) Afai o le noataga faava o malo ua taofia le faaaogāina, e faasino ia Samoa, ua taofia foi le faamamaluina o le poloaiga e tuusaunoa ai.

**36. Tuusaunoaga o galuega-**(1) O le sainia po o le faamamaluina o se maliega, po o le auai i se faiga masani ua tuufaatasia, e le o solia ai le fuaiupu 30(1) pe afai:

- (a) o vaega auai i le maliega po o se faiga masani ua tuufaatasia, o tagata faigaluega; ma
- (b) o le maliega po o le faiga masani ua tuufaatasia e fesootai i totogi po o isi tuutuuga ma aiaiga o galuega a na vaega auai po o nisi o i latou.

(2) O le faia po o le faamamaluina o se faaiuga a se faalapotopotoga o tagata, e le o solia ai le fuaiupu 30(1) pe afai:

- (a) o le faalapotopotoga o se faalapotopotoga po o se iuni tau feafaatauaiga a tagata faigaluega, e tusa ai ma le uiga o le Tulafono o Leipa ma Sootaga Tau Galuega 2013; ma

(b) the decision relates to the remuneration or other terms and conditions of employment of members of the association or some of them.

(3) Entering into or giving effect to an employment agreement or an agreement for the provision of services does not contravene section 30(1) or 33(1), merely because the agreement includes provisions under which an individual who is a party to the agreement undertakes not to engage in specified work, whether or not as an employee, during or after the term of the agreement.

**37. Partnerships exemptions** - Entering into or giving effect to a partnership agreement does not contravene section 30(1) or 33(1) merely because the partnership agreement includes provision in relation to the terms of the partnership, the conduct of the partnership business or in relation to competition between the partnership and a party to the agreement while the party is, or after the party ceases to be, a partner.

**38. Vertical agreement exemptions** - Entering into or giving effect to an agreement for the supply of goods or services does not contravene section 30(1) if:

- (a) the parties to the agreement are competitors or likely competitors in relation to supplies of that kind; and
- (b) the agreement relates to the conditions under which the parties may purchase, sell or resell certain goods or services in relation to which the parties are competitors or likely competitors; and
- (c) in the circumstances, the agreement does not have the dominant purpose of lessening competition between any two (2) or more of the parties to the agreement.

(b) o le faaiuga e fesooteai i le totoi po o isi tuutuuga ma aiaiga o galuega a sui o le faalapopotoga po o nisi o i latou.

(3) O le sainia po o le faamamaluina o se maliega tau galuega po o se maliega mo le tuuina atu o auaunaga, e le o solia ai le fuaiupu 30(1) po o le 33(1), talu ai ona o le maliega o lo o aofia ai aiaiga ia e lē auai o se tagata e toatasi, o ia lea o se vaega auai i le maliega, i se galuega ua faamaotiina, e tusa lava pe o ia o se tagata faigaluega pe leai foi, a o faagasolo po o ua tuanai ai le vaiitami o le maliega.

**37. Tuusaunoaga o faiga faapaaga** - O le sainia po o le faamamaluina o se maliega faapaaga, e le o solia ai le fuaiupu 30(1) po o le 33(1), talu ai ona o le maliega faapaaga e aofia ai se aiaiga e faasino i tuutuuga o le faiga faapaaga, o le faafoega o pisinisi faapaaga po o e faasino i faiga faatauvaga i le va o paaga ma o se vaega auai i le maliega, a o i ai le vaega auai po o i le tuanai ai ona faamutaina le aveva o le vaega auai, o se paaga.

**38. Tuusaunoaga o maliega tuusao** - O le sainia po o le faamamaluina o se maliega mo le tuuina atu o oloa po o auaunaga, e le o solia ai le fuaiupu 30(1) pe afai:

- (a) o vaega auai i le maliega o tagata tauva po o tagata tauva e ono tulai mai, e faasino i oloa tuuina atu o lena ituaiga; ma
- (b) o le maliega e faataata i aiaiga ia e mafai ai e vaega auai ona faatauina mai, faatau atu po o le toe faatau atu o nisi oloa, po o auaunaga ia e faasino i ai vaega auai o tagata tauva po o tagata tauva e ono tulai mai; ma
- (c) i tulaga aliae mai, o le maliega e leai sona faamoemoe malosi e tuuititia ai faiga faatauvaga i le va o so o se lua (2) po o le sili atu o vaega auai i le maliega.

**39. Exemption for standards, etc.** - Entering into or giving effect to an agreement does not contravene section 30(1) or 33(1) merely because the agreement includes provisions under which a party to the agreement must comply with or apply:

- (a) a consumer information standard; or
- (b) a product safety standard; or
- (c) a service safety standard; or
- (d) another published standard as to design, quality, workmanship or performance.

**40. Exemption for protection of goodwill, etc.** - Entering into or giving effect to an agreement for or related to the sale of a business, assets used in a business or shares in a body corporate carrying on a business does not contravene section 30(1), 33(1) or 34(1), merely because the agreement includes provisions for the protection of the purchaser in respect of the goodwill of the business.

**41. Exemption for collaborative activity-**(1) Entering into or giving effect to an agreement, engaging in a concerted practice or making or giving effect to a decision of an association does not contravene section 30(1) if, at the time:

- (a) the person and one (1) or more parties to the agreement, one (1) or more of the persons engaging in the concerted practice or one (1) or more members of the association are involved in a collaborative activity; and
- (b) the agreement, concerted practice or decision is reasonably necessary for the purpose of the collaborative activity.

**39. Tuusaunoaga mo faiga faataatitia, ma isi tulaga faapena** - O le sainia po o le faamamaluina o se maliega, e le o solia ai le fuaiupu 30(1) po o le 33(1), talu ai ona o le maliega o lo o aofia ai aiaiga ia e tatau i se vaega auai ona tausisia pe faaaogā:

- (a) i se faiga faataatitia o faamatalaga o tagata e faaaogāina oloa ma auunaga; po o
- (b) se faiga faataatia o le saogalemu o oloa gaosi; po o
- (c) se faiga faataatia o le saogalemu o auunaga; po o
- (d) se isi faiga faataatia ua lomua faasalalau e uiga i mamamu, tulaga aupito sili ona lelei, tomai i se galuega po o se matata, po o faatinoga.

**40. Tuusaunoaga mo puipuiga o itu e manuia ai ma isi tulaga faapena** - O le sainia po o le faamamaluina o se maliega mo po o e fesootai i le faatauina atu o se pisinisi, aseta na faaaogāina i se pisinisi po o sea i se faalapopotoga ua tuufaatasia faaletulafono o tauaveina se pisinisi, e le o solia ai le fuaiupu 30(1), 33(1) po o le 34(1), talu ai ona o le maliega e aofia ai aiaiga mo le puipuiga o le tagata o faatauina mai e tusa ai o itu e manuia ai le pisinisi.

**41. Tuusaunoaga mo gaoioiga tuufaatasia-**(1) O le sainia po o le faamamaluina o se maliega, o lo o faagaioioia i se faiga masani ua tuufaatasia po o le faia po o le faamamaluina o se faaiuga a se faalapopotoga, e le o solia ai le fuaiupu 30(1) pe afai, i lea taimi:

- (a) o le tagata ma se toatasi (1) po o le sili atu o vaega auai i le maliega, toatasi (1) po o le sili atu tagata o auai i le faiga masani ua tuufaatasia po o le toatasi (1) po o le sili atu sui o le faalapopotoga o lo o aafia ai i se gaoioiga tuufaatasia; ma
- (b) o le maliega, faiga masani ua tuufaatasia po o se faaiuga ua talafeagai lelei mo le faamoemoe o le gaoioiga ua tuufaatasia.

(2) In this section, “collaborative activity” means an enterprise, venture or other activity, in trade, that:

- (a) is carried on in co-operation by two (2) or more persons; and
- (b) is not carried on for the dominant purpose of lessening competition between any two (2) or more of the parties.

**42. Exemption for proposed authorisations and clearances**

- Entering into or giving effect to an agreement, engaging in a concerted practice or making or giving effect to a decision of an association does not contravene section 30(1), 33(1) or 34(1) if:

- (a) the agreement, concerted practice or decision provides that the provisions because of which it would have that effect do not come into force unless an authorisation for the agreement, concerted practice or decision has been given; and
- (b) an application is made for the authorisation no later than 15 working days after the agreement or decision is made, or the concerted practice is first engaged in.

*Division 3 - Clearances*

**43. Clearances of conduct and acquisitions-**(1) The Commission may, on application, give a clearance for any of the following:

- (a) for section 30(1), for specified agreement, concerted practice or decision of an association;
- (b) for section 33(1), for specified conduct;
- (c) for section 34(1), for specified acquisition.

(2) I totonu o lenei fuaiupu “gaoioiga ua tuufaatasia” o lona uiga o se pisinisi, taumafaiga po o isi gaoioiga, i fefaatauaiga, lea:

- (a) o lo o tauaveina i se tulaga galulue faatasi ai o se toalua (2) po o le sili atu tagata; ma
- (b) e le o tauaveina mo le faamoemoe iloga o le tuuitiitia ai o faiga faatauva i le va o so o se toalua (2) po o le sili atu o vaega auai.

**42. Tuusaunoaga mo faatagaga ma faamaoniga ua fuafuaina**

- O le sainia po o le faamamaluina o se maliega auai i se faiga masani ua tuufaatasia, po o le faia po o le faamamaluina o se faaiuga a se faalapopotoga, e le o solia ai le fuaiupu 30(1), 33(1) po o le 34(1) pe afai:

- (a) o le maliega, faiga masani ua tuufaatasia po o se faaiuga, o lo o aiaia ai e faapea, talu ai ona o aiaiga ia e ono mafua ai ona i ai o lena tulaga, e lē mafai ona faamamaluina, seia vagana ai ua tuuina atu o se faatagaga mo le maliega, faiga masani ua tuufaatasia po o se faaiuga; ma
- (b) se talosaga ua faia mo le faatagaga, e le sili atu i lo le 15 aso faigaluega, i le tuanai ai ona faia o le maliega po o le faaiuga, po o le muamua ona auai i se faiga masani ua tuufaatasia.

*Vaevaega 3 - Faamaoniga*

**43. Faamaoniga o faatinoga ma sea po o aseta ua mauaina-**(1) E mafai e le Komisi, i luga o se talosaga, ona tuuina atu o se faamaoniga mo so o se tasi o itu nei:

- (a) mo le fuaiupu 30(1), e mo se maliega ua faamaotiina, faiga masani ua tuufaatasia po o se faaiuga a se faalapopotoga;
- (b) mo le fuaiupu 33(1), e mo se faatinoga ua faamaotiina;
- (c) mo le fuaiupu 34(1), e mo se sea po o se aseta ua mauaina.

(2) The Commission must not give a clearance unless satisfied that:

- (a) the application involves a question of wide importance or public interest in relation to the operation of this Act that has not been resolved; and
- (b) the agreement, concerted practice, decision, conduct or acquisition to which the application relates does not or would not contravene a competition rule.

(3) A clearance may be subject to conditions and limitations specified in the clearance.

(4) To the extent that a clearance applies to it, Division 1 does not apply to:

- (a) an agreement, concerted practice or decision of an association;
- (b) conduct that might lessen competition; or
- (c) an acquisition of shares in a body corporate or assets of a person.

**44. Applications**-(1) An application for a clearance must:

- (a) be in the approved form and accompanied by any prescribed fee; and
- (b) contain all the information required by the form and by relevant guidelines

(2) An applicant may, at any time, withdraw the application.

**45. Dealing with applications** - The Commission:

- (a) may require an applicant for a clearance to provide further documents or information related to the application; and
- (b) does not have to consider the application further until the requirement in paragraph (a) is met; and

(2) E lē tatau i le Komisi ona tuuina atu se faamaoniga, seia vagana ai ua faamalieina e faapea:

- (a) o le talosaga e aafia ai se mataupu e lautele lona taua po o e mo le manuia o tagata lautele, e faasino i le faagaoioiga o lenei Tulafono, lea e le i maea ona soalaupuleina; ma
- (b) o le maliega, faiga masani ua tuufaatasia, faaiuga, faatinoga po o sea po o aseta ua mauaina, ia e faataatau i ai le talosaga, e lē solia ai pe ono lē solia ai se tulafono faafoe o faiga faatauvaga.

(3) E mafai ona noatia ma fai fuafua se faamaoniga i tuutuuga ma tapulaa ua faamaotiina i totonu o le faamaoniga.

(4) I le tulaga e faapea e faaogā i ai le faamaoniga, o le Vaevaega 1, e lē faaogāina i:

- (a) se maliega, faiga masani ua tuufaatasia po o se faaiuga a se faalapotopotoga;
- (b) faatinoga e ono tuuititia ai faiga faatauvaga; po o
- (c) o le mauaina o sea i se faalapotopotoga ua tuufaatasia faaletulafono po o aseta a se tagata.

**44. Talosaga**-(1) O se talosaga mo se faamaoniga e tatau ona:

- (a) faia i le pepa faatumu faamaonia ma tuuina atu faatasi ma so o se totagifuapauina ua faatonuina; ma
- (b) ia aofia ai o faamatalaga uma o manaomia e le pepa faatumu ma e tusa ai ma taiala talafeagai.

(2) E mafai e se tagata talosaga, i so o se taimi, ona faai i tua le talosaga.

**45. Tagofia o talosaga** - O le Komisi:

- (a) e mafai ona manaomia se tagata talosaga mo se faamaoniga ina ia tuuina mai o nisi pepa aloaia po o faamatalaga e fesootai i le talosaga; ma
- (b) e lē toe tau iloiloina le talosaga, seia vagana ai ua faamalieina manaoga i le parakalafa (a); ma



- (c) may consult any person who, in the opinion of the Commission, is able to assist it in considering an application; and
- (d) must consult the appropriate Regulator if the application concerns a regulated body; and
- (e) must -
  - (i) take reasonable steps to bring an application to the attention of those whom the Commission considers are likely to be affected by a decision on the application; and
  - (ii) have regard to any submissions made; and
- (f) may refuse to deal with an application if it appears to the Commission that -
  - (i) the applicant will not engage in the conduct to which the application relates; or
  - (ii) the application does not involve a question of wide importance or public interest in relation to the operation of this Act that has not been resolved; and
- (g) must notify the applicant of the decision, including the reasons for the decision and a statement of the material facts on which those reasons were based.

**46. Time limits-**(1) If the Commission has not notified an applicant for a clearance of its decision on the application within the decision period, it is taken to have refused to give the clearance.

(2) The decision period is:

- (a) one (1) month after the application was made; or

- (c) e mafai ona feutagai i so o se tagata, o ia lea, i le manatu o le Komisi, e mafai ona fesoasoani i ai i le iloiloga o se talosaga; ma
- (d) e ao ona feutagai ma le Pule Faatonu talafeagai, pe afai o le talosaga e faatatau i se faalapopotoga ua faatonutonuina faaletulafono; ma
- (e) e ao ona -
  - (i) faia o laasaga talafeagai ina ia tuuina atu le talosaga mo le silafia o i latou ua manatu le Komisi e ono aafia i se faaiuga o le talosaga; ma
  - (ii) ia amanaia o so o se talosaga tusitusia ua faia; ma
- (f) e mafai ona teena le tagofia o se talosaga pe afai e foliga mai i le Komisi e faapea -
  - (i) o le a lē auai le tagata talosaga i le faatinoga lea e faatatau i ai le talosaga; po o
  - (ii) o le talosaga e lē aafia ai se mataupu e lautele lona taua po o tulaga e manuia ai tagata lautele, e faasino i le faagaoioiga o lenei Tulafono lea e le i maea ona soalaupuleina; ma
- (g) e ao ona logoina le tagata talosaga i le faaiuga, e aofia ai mafuaaga mo le faaiuga ma se faamatalaga o mea moni na faavae ai o na mafuaaga.

**46. Taimi faatapulaaina-**(1) Afai e le i logoina e le Komisi se tagata talosaga mo se faamaoniga lana faaiuga i le talosaga, i totonu o le vaitaimi na faia ai le faaiuga, o le a faatatauina e faapea ua teena le tuuina atu o le faamaoniga.

(2) O le vaitaimi na faia ai le faaiuga e:

- (a) tasi (1) le masina i le tuanai ai ona faia o le talosaga; po o

(b) a longer period, if the Commission and the applicant agree to it.

(3) The decision period is to be calculated excluding any period between the time when a requirement under section 45(a) was made and the time when it was met.

**47. Revocation** - The Commission:

(a) may revoke a clearance, by giving notice to the person to whom the clearance was given; and

(b) must not revoke a clearance unless -

(i) satisfied that information provided with or in connection with the application for the clearance was incomplete, false or misleading in a material particular; and

(ii) the person to whom the clearance was given and any other person who, in the opinion of the Commission, is likely to have an interest in the matter have been given a reasonable opportunity to make submissions to the Commission and the Commission has had regard to any such submissions.

**48. Expiry of clearances** - A clearance remains in force until the earlier of:

(a) the time when it is revoked; and

(b) the date, if any, specified in the clearance as the day it expires.

(b) se vaitaimi e umi atu, pe afai ua malilie i ai le Komisi ma le tagata talosaga.

(3) O le vaitaimi e faia ai le faaiuga e ao ona fuafuaina ina ia lē aofia ai so o se vaitaimi i le va o le taimi na faia ai o se manaoga i lalo o le fuaiupu 45(a) ma le taimi na faamalieina ai lea manaoga.

**47. Faalēaogāina** - O le Komisi:

(a) e mafai ona faalēaogāina se faamaoniga, e ala i le tuuina atu o se faasilasilaga i le tagata, o ia lea na tuuina atu i ai le faamaoniga; ma

(b) e lē tataua ona faalēaogāina se faamaoniga, seia vagana ai ua:

(i) faamalieina e faapea o faamatalaga ua tuuina atu faatasi ma po o e fesootai ma le talosaga mo le faamaoniga sa lē atoatoa, sese po o e tau faasese i se faamatalaga maumaututu; ma

(ii) o le tagata, o ia lea na tuuina atu i ai le faamaoniga ma so o se isi lava tagata, o ia lea, i le manatu o le Komisi, e ono i ai o se aia i le mataupu sa tuuina atu i ai o se avanoa talafeagai e faia ai talosaga tusitusia i le Komisi ma sa faapea ona amanaia e le Komisi i so o se talosaga tusitusia faapena.

**48. Taimi e muta ai le aogā o faamaoniga** - O se faamaoniga e tumau pea ona faamalosiā, seia vagana ai le tulaga ua muamua atu o:

(a) le taimi na faalēaogāina ai le faamaoniga; ma

(b) le aso, pe afai e i ai, ua faamaotiina i le faamaoniga e aveā o le aso ua muta ai lona aogā.

*Division 4 - Authorisations**Vaevaega 4 - Faatagaga*

**49. Authorisations-**(1) The Commission may, on application, give an authorisation:

- (a) for section 30(1), for a specified agreement, concerted practice or decision; or
- (b) for section 33(1), for specified conduct; or
- (c) for section 34(1), for a specified acquisition.

(2) The Commission must not give an authorisation unless satisfied that the agreement, concerted practice, decision, conduct or acquisition will result, or will be likely to result, in a benefit to the public which would outweigh the adverse effects from the lessening in competition that would result, or would be likely to result.

(3) An authorisation may be subject to conditions and limitations specified in the authorisation.

(4) To the extent that an authorisation applies to it, Division 1 does not apply to:

- (a) an agreement, concerted practice or decision of an association;
- (b) conduct that might lessen competition; or
- (c) an acquisition of shares in a body corporate or assets of a person.

**50. Applications-**(1) An application for an authorisation must:

- (a) be in the approved form and accompanied by any prescribed fee; and
- (b) contain all the information required by the form and by relevant guidelines.

**49. Faatagaga-**(1) E mafai e le Komisi, i luga o se talosaga, ona tuuina atu o se faatagaga:

- (a) mo le fuaiupu 30(1), mo se maliega ua faamaotiina, faiga masani ua tuufaatasia po o se faaiuga; po o
- (b) mo le fuaiupu 33(1), mo se faatinoga ua faamaotiina; po o
- (c) mo le fuaiupu 34(1), mo le mauaina o se sea po o se aseta ua faamaotiina.

(2) E lē tatau i le Komisi ona tuuina atu se faatagaga, seia vagana ai ua faamalieina e faapea o le maliega, faiga masani ua tuufaatasia, faaiuga, faatinoga po o le mauaina o sea po o aseta, o le a taunuu, po o le a ono taunuu, i se tulaga e manuia ai tagata lautele, lea o le a sili atu ona mamafa i lo aafiaga matuia, mai le tuuititia ai o faiga faatauvaga lea o le a taunuu, po o e ono tulai mai o le a taunuu lava.

(3) O se faatagaga e mafai ona noatia ma fai fuafua i tuutuuga ma tapulaa ua faamaotiina i totonu o se faatagaga.

(4) I se tulaga e faapea, o se faatagaga e faaaoogā i ai, o le Vaevaega 1, e lē faaaoogāina i:

- (a) se maliega, faiga masani ua tuufaatasi po o se faaiuga a se faalapopotoga;
- (b) se faatinoga e ono tuuititia ai faiga faatauvaga; po o
- (c) le mauaina o sea i se faalapopotoga ua tuufaatasia faaletulafono po o aseta a se tagata.

**50. Talosaga-**(1) O se talosaga mo se faatagaga e tatau ona:

- (a) faia i le pepa faatumu ua faamaonia ma ia tuuina atu faatasi ma so o se totofiguapauina ua faatonuina; ma
- (b) ia aofia ai o faamatalaga uma o manaomia e le pepa faatumu ma ia tusa ai ma taiala talafeagai.

(2) An applicant may, at any time, withdraw the application.

**51. Dealing with applications** - The Commission:

- (a) may require an applicant for an authorisation to provide further documents or information related to the application; and
- (b) does not have to consider the application further until the requirement in paragraph (a) is met; and
- (c) may consult any person who, in the opinion of the Commission, is able to assist it in considering an application; and
- (d) must consult the appropriate Regulator if the application concerns a regulated body; and
- (e) must -
  - (i) take reasonable steps to bring an application to the attention of those whom the Commission considers are likely to be affected by a decision on the application; and
  - (ii) have regard to any submissions made; and
- (f) may refuse to deal with an application if it appears to the Commission that the applicant will not proceed with the agreement, concerted practice, decision, conduct or acquisition to which the application relates; and
- (g) must notify the applicant of the decision, including the reasons for the decision and a statement of the material facts on which those reasons were based.

(2) E mafai e se tagata talosaga, i so o se taimi, ona faau i tua le talosaga.

**51. Tagofia o talosaga** - O le Komisi:

- (a) e mafai ona manaomia se tagata talosaga mo se faatagaga e tuuina atu ai o nisi pepa aloaia po o faamatalaga e fesootai i le talosaga; ma
- (b) e le toe tau iloiloina le talosaga, seia vagana ai ua faamalieina le manaoga i le parakalafa (a); ma
- (c) e mafai ona feutagai ma so o se tagata, o ia lea, i le manatu o le Komisi, e mafai ona fesoasoani i ai i le iloiloina o se talosaga; ma
- (d) e tatau ona feutagai ma le Pule Faatonu talafeagai, pe afai o le talosaga e faatatau i se faalapotopotoga ua faatonutonuina faaletulafono; ma
- (e) e tatau ona -
  - (i) faia o laasaga talafeagai e tuuina atu ai o se talosaga mo le silafia o i latou ia ua manatu le Komisi, e ono aafia i se faaiuga o le talosaga; ma
  - (ii) ia amanaia o so o se talosaga tusinga ua faia; ma
- (f) e mafai ona teena le tagofia o se talosaga pe afai e foliga mai i le Komisi e faapea, o le tagata talosaga o le a lē faaauuina le maliega, faiga masani ua tuufaatasia, faaiuga, faatinoga po o le mauaina o sea po o aseta, ia e faatatau i ai le talosaga; ma
- (g) e tatau ona logoina le tagata talosaga e tusa ma le faaiuga, e aofia ai o mafuaaga mo le faaiuga ma se faamatalaga o mea moni maumaututu na faavae ai o na mafuaaga.

**52. Time limits-**(1) If the Commission has not notified an applicant for an authorisation of its decision on the application within the decision period, it is taken to have refused to give the authorisation.

(2) The decision period is:

(a) one (1) month after the application was made; or

(b) a longer period, if the Commission and the applicant agree to it.

(3) The decision period is to be calculated excluding the period (if any) between the time when a requirement under section 51(a) was made and the time when it was met.

**53. Amendment and revocation-**(1) The Commission:

(a) may by notice to the person to whom the authorisation was given, amend or revoke an authorisation if satisfied that -

(i) information provided in respect of the application for the authorisation was incomplete, false or misleading in a material particular; or

(ii) there has been a material change of circumstances since the authorisation was given; or

(iii) a condition of the authorisation has not been complied with; and

(b) may, by notice to the person to whom the authorisation was given, amend or revoke an authorisation if the Commission considers it expedient to do so; and

**52. Taimi faatapulaaina-**(1) Afai e le i logoina e le Komisi se tagata talosaga mo se faatagaga o lana faaiuga i le talosaga i totonu o le vaitaimi na faia ai le faaiuga, ua avea lava e faapea ua teena le tuuina atu o le faatagaga.

(2) O le vaitaimi e faia ai le faaiuga e:

(a) tasi (1) le masina i le tuanai ai ona faia o le talosaga; po o

(b) se vaitaimi e umi atu, pe afai e tau fai malilie i ai le Komisi ma le tagata talosaga.

(3) O le vaitaimi e faia ai le faaiuga e ao ona fuafuaina, ina ia lē aofia ai le vaitaimi (pe afai e i ai) i le va o le taimi na faia ai o se manaoga i lalo o le fuaiupu 51(a) ma le taimi ina ua faapea ona faamalieina ai lea manaoga.

**53. Teuteuga ma le faalēaogāina-**(1) O le Komisi:

(a) e mafai, e ala i se faasilasilaga i le tagata, o ia lea na tuuina atu i ai le faatagaga, ona teuteu pe faalēaogā o se faatagaga, pe afai ua faamalieina e faapea o -

(i) faamatalaga na tuuina mai e tusa ai ma le talosaga mo le faatagaga sa le i atoatoa, sese po o e tau faasese i se faamatalaga maumaututu; po o

(ii) sa i ai o se suiga ogaoga o tulaga aliae mai talu ona tuuina atu o le faatagaga; po o

(iii) se tuutuuga o le faatagaga e le i tausisia; ma

(b) e mafai, e ala i se faasilasilagal i le tagata, o ia lea na tuuina atu i ai le faatagaga, ona teuteu pe faalēaogā o se faatagaga, pe afai e manatu le Komisi ina ia faanatinati ona faia faapea; ma

- (c) must, by notice to the person to whom the authorisation was given, revoke an authorisation if all persons to whose conduct the authorisation relates so request in writing.

(2) The Commission must not amend or revoke an authorisation unless:

- (a) the person to whom the authorisation was granted, and any other person who in the opinion of the Commission is likely to have an interest in the matter, is given a reasonable opportunity to make any submissions to the Commission; and
- (b) the Commission has had regard to the submissions made.

**54. Expiry of authorisations** - An authorisation remains in force until the earlier of:

- (a) the time when it is revoked; and
- (b) the date, if any, specified in the authorisation as the day it expires.

#### **PART 4 CONSUMER PROTECTION**

##### *Division 1 - Misleading or deceptive conduct*

**55. Misleading or deceptive conduct generally**-(1) A person must not, in trade, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

(2) Sections 56 to 91 do not limit subsection (1).

- (c) e tatau, e ala i se faasilasilaga i le tagata o ia lea na tuuina atu i ai le faatagaga, ona faalēaogā o se faatagaga, pe afai o tagata uma, o i latou ia e faasino i ai le faatagaga e tusa o le latou faatinoga e pei ona talosagaina i se faiga tusitusia.

(2) E lē tatau i le Komisi ona teuteu pe faalēaogāina se faatagaga, seia vagana ai:

- (a) o le tagata, o ia lea na tuuina atu i ai le faatagaga, ma so o se isi lava tagata o ia lea i le manatu o le Komisi e ona i ai o se aia i le mataupu, ua tuuina atu i ai o se avanoa talafeagai e faia ai o so o se talosaga tusitusia i le Komisi; ma
- (b) sa faapea ona amanaia e le Komisi talosaga tusitusia na faia.

**54. Faamutaina o le aogā o faatagaga** - E tumau pea ona faamalositia o se faatagaga, seia vagana ai le tulaga muamua atu o:

- (a) le taimi na faalēaogāina ai; ma
- (b) le aso, pe afai e i ai, na faamaotiina i le faatagaga na aveva o le aso e muta ai lona aogā.

#### **VAEGA 4 PUIPUIGA O TAGATA E FAAAOGĀINA OLOA MA AUAUNAGA**

##### *Vaevaega 1 - Faatinoga tau faasese pe tau faavalea*

**55. Faatinoga tau faasese pe tau faavalea i se tulaga lautele**-(1) E lē tatau i se tagata, i fefaatauaiga, ona auai i se faatinoga e tau faasese pe tau faavalea po o e ono tulai mai e tau faasese pe tau faavalea.

(2) O fuaiupu 56 e oo i le 91, e le o faatapulaaina ai le faafuaiupu (1).

**56. Misleading or deceptive conduct in relation to employment-**(1) A person must not engage in conduct that is misleading or deceptive, or is likely to mislead or deceive, as to any matter relating to employment that is, is to be or may be offered by that or some other person.

(2) Subsection (1) extends to matters relating to the availability, nature, terms and conditions of the employment.

**57. Limited application of sections 55 and 56 to news media-**(1) The publication of information or matter in a newspaper by the publisher of that newspaper does not contravene section 55 or 56.

(2) Subsection (1) does not apply to:

- (a) the publication of an advertisement; or
- (b) the publication of information or matter relating to -

- (i) the supply, possible supply or promotion of the supply or use of goods or services; or

- (ii) the sale or grant, possible sale or grant or promotion of the sale or grant of an interest in land,

by -

- (iii) the publisher or, if the publisher is a body corporate, a related body corporate of the publisher; or

- (iv) a party to an agreement with the publisher or a related body corporate of the publisher relating to the nature or content of the information or matter.

**56. Faatinoga tau faasese pe tau faavalea e faasino i galuega-**(1) E lē tatau i se tagata ona auai i se faatinoga e tau faasese pe tau faavalea, po o e ono tulai mai e tau faasese pe tau faavalea, e tusa ai ma so o se mataupu e faasino i galuega lea ua, o le a, po o, e mafai ona ofoina e lena, po o nisi lava tagata.

(2) O le faafuaiupu (1) e tatala atu i mataupu e faasino i le avanoa, uiga, tuutuuga ma aiaiga o le galuega.

**57. Faatapulaaina o le faaaogāina o fuaiupu 55 ma le 56 i le vaega faasalalau-**(1) O le lomiga faasalalau o faamatalaga po o mataupu i se nusipepa, e le o solia ai le fuaiupu 55 po o le 56.

(2) O le faafuaiupu (1) e lē faaaogāina i:

- (a) le lomiga faasalalau o se faasalalauga faatosina; po o
- (b) le lomiga faasalalau o faamatalaga po o se mataupu e faasino i -

- (i) oloa tuuina atu, oloa e ono tuuina atu po o le faalauiloa o oloa po o le faaaogāina o oloa po o auaunaga; po o

- (ii) le faatauina atu po o le faamatuu atu, faatau atu po o le faamatuu atu e ono mafai ona faia po o le faalauiloa o le faatau atu po o le faamatuu atu o se aia i se fanua,

e -

- (iii) le tagata e lomua faasalalau po o, pe afai o le tagata e lomua faasalalau o se faalapotopotoga ua tuufaatasia faaletulafono, o se faalapotopotoga ua tuufaatasia faaletulafono e fesootai i ai a le tagata e lomua faasalalau; po o

- (iv) se vaega auai i se maliega ma le tagata e lomua faasalalau, po o se faalapotopotoga ua tuufaatasia faaletulafono e fesootai i ai a le tagata e lomua faasalalau, e faasino i le uiga po o mea o aofia ai i le faamatalaga po o se mataupu.

(3) The broadcasting of information or matter by a service provider does not contravene section 55 or 56.

(4) Subsection (3) does not apply to:

- (a) the broadcasting of an advertisement; or
- (b) the broadcasting of information or matter relating to -

- (i) the supply, possible supply or promotion of the supply or use of goods or services; or

- (ii) the sale or grant, possible sale or grant or promotion of the sale or grant of an interest in land,

by -

- (iii) the service provider or, if the service provider is a body corporate, a related body corporate of the service provider; or

- (iv) a party to an agreement with the service provider or a related body corporate of the service provider relating to the nature or content of the information or matter.

(5) In this section:

“newspaper” has the same meaning as in section 2 of the Newspapers and Printers Act 1993;

“publisher”, for a newspaper, means its owner;

“service provider” has the same meaning as in section 2 of the Broadcasting Act 2010.

(3) O le faasalalauina o faamatalaga po o se mataupu e se kamupani o tuuina atu le auaunaga, e le o solia ai le fuaiupu 55 po o le 56.

(4) O le faafuaiupu (3) e lē faaaogāina i:

- (a) le faasalalauina o se faasalalauga faatosina; po o
- (b) le faasalalauina o faamatalaga po o se mataupu e faasino i -

- (i) oloa tuuina atu, oloa e ono tuuina atu po o le faalauiloa o oloa tuuina atu po o le faaaogāina o oloa po o auaunaga; po o

- (ii) le faatauina atu po o le faamatuu atu, faatau atu po o le faamatuu atu e ono mafai ona faia po o le faalauiloa o le faatau atu po o le faamatuu atu o se aia i se fanua,

e -

- (iii) le kamupani e tuuina atu le auaunaga po o, pe afai o le kamupani e tuuina atu le auaunaga o se faalapotopotoga ua tuufaatasia faaletulafono, o se faalapotopotoga ua tuufaatasi faaletulafono e fesootai i ai a le kamupani o tuuina atu le auaunaga; po o

- (iv) se vaega auai i se maliega ma le kamupani e tuuina atu le auaunaga po o se faalapotopotoga ua tuufaatasia faaletulafono e fesootai i ai a le kamupani e tuuina atu le auaunaga, e faasino i le uiga po o mea o aofia ai i le faamatalaga po o se mataupu.

(5) I totonu o lenei fuaiupu:

“nusipepa” e i ai le uiga tutusa e pei ona i ai i le fuaiupu 2 o le Tulafono o Nusipepa ma le Au Lolomi Nusipepa 1993;

“tagata e lomía faasalalau”, mo se nusipepa, o lona uiga o lē e ona le nusipepa;

“kamupani e tuuina atu le auaunaga” e i ai le uiga tutusa e pei ona i ai i le fuaiupu 2 o le Tulafono o Faasalalauga 2010.



*Division 2 - Unfair practices*

**58. Offering gifts and prizes** - A person must not offer gifts, prizes or other free items:

- (a) in connection with the supply or possible supply in trade of goods or services or with the promotion by any means of the supply or use of goods or services; or
- (b) in connection with the sale or grant or the possible sale or grant of an interest in land or with the promotion by any means of the sale or grant of an interest in land,

if either of the following apply:

- (c) the person does not intend to provide them, or to provide them as offered; or
- (d) the person does not have reasonable grounds to believe that he or she will be able to provide them, or to provide them as offered.

**59. Bait advertising**-(1) A person must not, in trade, advertise for supply, at a specified price, goods or services that the person does not intend to offer for supply at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.

(2) A person must not, in trade, advertise for supply, at a specified price, goods or services if the person does not have reasonable grounds for believing that they can be supplied by that person at that price for a period that is, and in quantities that are,

*Vaevaega 2 - Faiga masani e lē amiotonu*

**58. Ofoina atu o meaalofa ma faailoga** - E lē tatau i se tagata ona ofoina atu ni meaalofa, faailoga po o isi mea taitasi e tuuina atu saoloto:

- (a) e faatatau i le tuuina atu o oloa, po o le tuuina atu o oloa e ono mafai ona faia i feaatauaiga o oloa po o auaunaga po o le faalauiloaina e ala i so o se faiga o tuuina atu ai oloa po o le faaaogāina o oloa po o auaunaga; po o
- (b) e faatatau i le faatau atu po o le faamatuu atu po o le ono mafai ona faatau atu po o le faamatuu atu o se aia i se fanua po o i le faalauiloaina i so o se faiga o le faatau atu po o le faamatuu atu o se aia i se fanua,

pe afai o so o se tasi o itu nei e faaaogā:

- (c) e le o faamoemoe le tagata e saunia ia meaalofa ma faailoga, po o le saunia o ia mea e pei ona ofoina atu; po o
- (d) e leai ni mafuaaga talafeagai a le tagata, e talitonu ai e faapea, o le a mafai e le tagata ona saunia ia mea, po o le tuuina atu o ia mea e pei ona ofoina atu.

**59. Faasalalauga faatosina e maunu mai ai**-(1) E lē tatau i se tagata, i feaatauaiga, ona faasalalau faatosina ni oloa tuuina atu i se tau ua faamaotiina, oloa po o auaunaga ia e le o faamoemoe le tagata e ofoina atu mo oloa i lona tau mo se vaitaimi lea e, ma i aofaiga o lo o talafeagai, i le amanaia ai o le uiga o le maketi lea o lo o tauaveina ai e le tagata o se pisinisi ma le uiga o le faasalalauga faatosina.

(2) E lē tatau i se tagata, i feaatauaiga, ona faasalalau faatosina ni oloa, i se tau ua faamaotiina, oloa po o auaunaga, pe afai e leai ni mafuaaga tatau a le tagata e talitonuina ai e faapea, e mafai ona tuuina atu ia oloa e lena tagata i lea tau mo se vaitaimi

reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.

(3) A person who has advertised goods or services for supply at a specified price must offer the goods or services for supply at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.

(4) In proceedings against a person for a failure to offer goods or services to a person (“customer”) under subsection (3), it is a defence if it is established that:

(a) the person offered to supply to the customer immediately, or to procure another person to supply to the customer within a reasonable time -

(i) goods or services of the kind advertised, in a reasonable quantity and at the advertised price; or

(ii) equivalent goods or services in a reasonable quantity and at the advertised price,

and, if the offer was accepted by the customer, that the person so supplied, or procured another person so to supply, the goods or services offered; or

(b) both -

(i) the advertisement mentioned in subsection (3) stated the quantity of the goods available for sale at the specified price; and

lea e, ma i aofaiga o lo o, talafeagai, i le amanaia ai o le uiga o le maketi, lea o lo o tauaveina ai e le tagata se pisinisi ma le uiga o le faasalalauga faatosina.

(3) O se tagata, o ia lea ua na faasalalauina faatosina oloa po o auunaga mo oloa tuuina atu i se tau ua faamaotiina e ao ona ofoina atu oloa po o auunaga mo le tuuina atu i lea tau mo se vaitaimi lea e, ma i aofaiga o lo o, talafeagai, i le amanaia ai o le uiga o le maketi lea o lo o tauaveina ai e le tagata se pisinisi ma le uiga o le faasalalauga faatosina.

(4) I taualumaga e faasaga i se tagata mo le lē mafaia ona ofoina atu oloa po o auunaga i se tagata (“tagata e faaogāina oloa ma auunaga”) i lalo o le faafuaiupu (3), o se tetee lea pe afai ua faamautuina e faapea:

(a) na ofo atu le tagata e tuuina atu i le tagata e faaogāina oloa ma auunaga i lea lava taimi, po o le sailia o se isi tagata e tuuina atu i le tagata e faaogāina oloa ma auunaga, i totonu o se taimi talafeagai lelei -

(i) oloa po o auunaga o se ituaiga na faasalalauina, i se aofaiga talafeagai ma i le tau na faasalalauina; po o

(ii) oloa po o auunaga e tutusa i se aofaiga talafeagai ma i le tau na faasalalauina ai,

ma, pe afai na taliaina le ofo e le tagata o faaogāina oloa ma auunaga, o lena tagata na faapea ona tuuina atu i ai, po o le sailia o se isi tagata, ina ia faapea ona tuuina atu, o oloa po o auunaga ua ofoina atu; po o

(b) o ia itu e lua -

(i) o le faasalalauga faatosina o taua i le faafuaiupu (3) o lo o taua ai le aofaiga o oloa o lo o mafai ona maua mo le faatau atu i le tau ua faamaotiina; ma

(ii) the person was offering for sale, at the relevant time, at that price, at least that quantity of the goods.

**60. Referral selling-**(1) A person must not, in trade, induce another person (“customer”) to acquire goods or services by representing that the customer will, after the agreement for the acquisition is made, receive a rebate, commission or other benefit in return for giving the person the names of prospective customers, or otherwise assisting the person to supply goods or services to other persons, if receipt of the rebate, commission, or other benefit is contingent on an event occurring after the agreement is made.

(2) Subsection (1) does not apply if the acquisition of goods is for resupply.

**61. Forged, etc., trade marks-**(1) A person must not, in trade:

- (a) forge a trade mark; or
- (b) falsely apply to goods a trade mark or sign so nearly resembling a trade mark as to be likely to mislead or deceive; or
- (c) falsely use, in relation to the provision of services, a trade mark or sign so nearly resembling a trade mark as to be likely to mislead or deceive.

(2) In this section, a person is taken to forge a trade mark if the person:

- (a) without the consent of the proprietor of the trade mark, makes that trade mark or a sign so nearly

(ii) na ofoina e le tagata mo le faatau atu, i le taimi talafeagai, i lena tau, a itiiti mai o lena aofaiga o oloa.

**60. Faatauga e faasee atu i isi tagata-**(1) E lē tatau i se tagata, i fefaatauaiga, ona tauanauina se isi tagata (“tagata e faaaogāina oloa ma auaunaga”) ina ia maua oloa po o auaunaga e ala i le aveā ai ma sui, e faapea ai o le a tatau i le tagata e faaaogāina oloa ma auaunaga, i le tuanai ai ona faia o le maliega e faaaogāina oloa ma auaunaga e ono mafai ona maua, po o le fesoasoani i le tagata i se isi faiga e ese ai, i le tuuina atu o oloa po o auaunaga i isi tagata, pe afai o le mauaina o le tupe totogi e toe faafoi, tupe o komisi, po o isi faamanuiaga sa lē mailoa ona tulai mai i se mea na tupu, i le tuanai ai ona faia o le maliega.

(2) O le faafuaiupu (1) e lē faaaogāina, pe afai o le mauaina o oloa e mo le toe tuuina atu o oloa.

**61. Faailoga tau fefaatauaiga ua faia faagaoui, ma isi tulaga faapena-**(1) E lē tatau i se tagata, i fefaatauaiga:

- (a) ona sainia faagaoui se faailoga tau fefaatauaiga; po o
- (b) le faaaogā seseina i oloa o se faailoga tau fefaatauaiga po o se faailoilo i se tulaga e toeitiiti lava a atagia lelei ai foliga o se faailoga tau fefaatauaiga, e ono aveā ai ma itu e faaseseina pe tau faavaleaina ai; po o
- (c) le faaaogā seseina, e tusa ai ma le tuuina atu o auaunaga, o se faailoga tau fefaatauaiga po o se faailoilo e toeitiiti lava a atagia lelei ai foliga o se faailoga tau fefaatauaiga, e ono faaseseina pe tau faavaleaina ai.

(2) I totonu o lena fuaiupu, ua aveā se tagata e faapea ua na sainia faagaouia se faailoga tau fefaatauaiga, pe afai o le tagata:

- (a) i le aunoa ai ma le maliega a lē e ona se faailoga tau fefaatauaiga, ua ia faia o lena faailoga tau

resembling that trade mark as to be likely to mislead or deceive; or

(b) falsifies a genuine trade mark, whether by alteration, effacement or otherwise.

(3) In this section, “sign” or “trade mark” has the same respective meaning in the Intellectual Property Act 2011.

**62. Demanding or accepting payment without intending to supply as ordered** - A person must not, in trade, demand or accept payment or other consideration for goods or services if, at the time of the demand or acceptance, the person:

- (a) does not intend to supply the goods or services; or
- (b) intends to supply materially different goods or services; or
- (c) does not have reasonable grounds to believe that he or she will be able to supply the goods or services within a specified period or, if no period is specified, within a reasonable period.

**63. Misleading representations about certain businesses-**  
 (1) A person must not, in trade, make a representation that is false or misleading concerning the profitability or risk, or any other material aspect, of a business activity that the person represents as one that can be, or can be to a substantial extent, carried on at or from a person’s place of residence.

feafaatauaiga po o se faailoilo, ina ia faapea ona toeitiiti lava a atagia ai foliga o le faailoga tau feafaatauaiga, e ono avea ai ma itu e faaseseina pe tau faavaleaina ai; po o

(b) le faaseseina o se faailoga tau feafaatauaiga moni, e tusa lava pe ala i le suiga ua faia i ai, sui o foliga po o i se isi faiga e ese ai.

(3) I totonu o lenei fuaiupu “faailoilo” po o “faailoga tau feafaatauaiga”, e i ai o la uiga tutusa i le Tulafono o Meatotino Tau le Atunuu 2011.

**62. Tapa faamalosī po o le taliaina o tupe totogi e aunoa ma le faamoemoe e tuuina atu oloa e pei ona okaina** - E lē tatau i se tagata, i se feafaatauaiga, ona tapa faamalosī po o le taliaina o tupe totogi po o isi tau tupe mo oloa po o auunaga, pe afai, i le taimi na tapaina ai faamalosī po o le taliaina, o le tagata:

- (a) e le o faamoemoe e tuuina atu oloa po o auunaga; po o
- (b) ua faamoemoe e faataua le tuuina atu o oloa po o auunaga eseese; po o
- (c) e leai ni ana mafuaaga talafeagai lelei e talitonu ai e faapea o le a ia mafai ona tuuina atu oloa po o auunaga i totonu o se vaitaimi ua faamaotiina po o, pe afai e leai se vaitaimi ua faamaotiina, i totonu o se vaitaimi talafeagai.

**63. Faamatalaga tau faasese e uiga i nisi pisinisi-**(1) E lē tatau i se tagata, i feafaatauaiga, ona faia o se faamatalaga e sese pe tau faasese, e uiga i le tulaga manuia po o lamatiaga, po o so o se isi lava itu taua, o se gaoioiga tau pisinisi lea o lo o avea ai le tagata ma sui e mafai ona, po o e mafai, i se tulaga mautu, ona tauaveina i po o mai se nofoaga o lo o nofomau ai le tagata.

(2) A person who invites, whether by advertisement or otherwise, persons to engage or participate, or to offer or apply to engage or participate, in a business activity requiring:

- (a) the performance by the persons concerned of work; or
- (b) the investment of money by the persons concerned and the performance by them of work associated with the investment,

must not make a representation that is false or misleading in a material particular with respect to the profitability or risk or any other material aspect of the business activity.

**64. Harassment and coercion** - A person must not use physical force, harassment or coercion in connection with the supply or possible supply of goods or services in trade or payment for goods or services.

**65. Pyramid selling and similar schemes**-(1) A person must not promote or operate a scheme for the supply of goods or services for reward if:

- (a) to many participants in the scheme, the scheme constitutes primarily an opportunity to buy or sell an investment opportunity, whether personally or through an agent, rather than an opportunity to buy or supply goods or services; and
- (b) the scheme is or is likely to be unfair to many of the participants in the scheme in that -
  - (i) the financial rewards for many of those participants are dependent on the recruitment of additional participants (whether or not at successively lower levels); and

(2) O se tagata, o ia lea ua na valaaaina, e tusa lava pe e ala i se faasilasilaga faatasoina po o i se isi faiga e ese ai, ni tagata e galulue pe auai, po o e ofo atu po o e talosaga ina ia galue pe auai, i se gaoioiga tau pisinisi o manaomia ai:

- (a) le faatinoga e tagata o aafia ai i le galuega; po o
- (b) le teufaafalagaina o tupe e tagata o aafia ai ma le faatinoga e i latou o le galuega e fesootai ma tupe teufaafalagaina,

e lē tatau ona faia o se faamatalaga e sese pe tau faasese i se mau autu e tusa ai o le tulaga manuia po o se lamatiaga po o so o se isi lava itu taua o le gaoioiga tau pisinisi.

**64. Faasoesa ma le uunaia faamalosi** - E lē tatau i se tagata ona faaogā le malosi faaletino, faasoesa po o le uunaia faamalosi e tusa ai ma le tuuina atu po o le tulaga o le ono mafai ona tuuina atu oloa po o auunaga, i feaatauaiga po o tupe tofogi mo oloa po o auunaga.

**65. Faatauina atu i faiga faatafatolu ma polokalame e foliga tutusa**-(1) E lē tatau i se tagata ona uunaia pe faagaoioia o se polokalame mo le tuuina atu o oloa po o auunaga mo ni tau, pe afai:

- (a) i le toatele o tagata auai i le polokalame, o le polokalame ua faavaeina ai se tulaga taua o se avanoa e faatau mai po o le faatau atu o se avanoa o tupe teufaafalagaina, e tusa lava pe faia e le tagata lava ia po o e ala i se sooupu, i lo se avanoa e faatau mai pe tuuina atu oloa po o auunaga; ma
- (b) o le polokalame e, pe e ono tulai mai e faaituau, i le toatele o tagata auai i le polokalame, e faapea ai -
  - (i) o tau tau tupe mo le toatele o na tagata auai, o lo o faalagolago i le faafalagaina o tagata auai faapoopo (e tusa lava pe i se tulaga tau soloaiga i vaega e maua atu pe leai foi); ma

(ii) the number of additional participants in the scheme that must be recruited to produce reasonable financial rewards to participants in the scheme is not attainable or is not likely to be attainable by many of the participants.

(2) A person must not promote or operate a scheme of the type commonly known as a chain letter scheme (whether or not it provides for the supply of goods or services) that is likely to be unfair to many of the participants in the scheme, in that:

- (a) the financial rewards for many of the participants are dependent on the recruitment of additional participants; and
- (b) the number of additional participants that must be recruited to produce reasonable financial rewards to participants in the scheme is not attainable or is not likely to be attainable by many of the participants.

*Division 3 - Consumer guarantees*

**66. When goods and services supplied** - For this Division:

- (a) goods are taken to be supplied at the time when the consumer acquires the right to possession of the goods; and
- (b) services are taken to be supplied at the time when they are provided.

**67. Division does not limit other laws** - This Division applies in addition to any other law.

(ii) le aofaiga o tagata auai faaopoopo i le polokalame, ia e tatau ona faafaigaluegaina ina ia maua ai o tau tau tupe talafeagai, i tagata auai i le polokalame e le o mafai ona ausia po o e lē ono mafai ona ausia e le toatele o tagata auai.

(2) E lē tatau i se tagata ona uunaia pe faagaoioia se polokalame o se ituaiga e masani ona iloa o se polokalame o tusi soofaatasi (e tusa lava pe o lo o ia saunia le tuuina atu o oloa po o auaunaga pe leai foi), lea e ono tulai mai e faaituau i le toatele o tagata auai i le polokalame i le itu e faapea:

- (a) o tau tau tupe mo le toatele o tagata auai, e faalagolago i le faafaigaluegaina o tagata auai faaopoopo; ma
- (b) le aofaiga o tagata auai faaopoopo lea e ao ona faafaigaluegaina, ina ia maua ai o tau tau tupe talafeagai a tagata auai i le polokalame, e lē mafai ona ausia pe e lē ono mafai ona ausia e le toatele o tagata auai.

*Vaevaega 3 - Faamalumaluga a tagata e faaaogāina oloa ma auaunaga*

**66. Taimi e tuuina atu ai oloa ma auaunaga** - Mo lenei Vaega:

- (a) o le a faatatauina oloa e faapea ua tuuina atu, i le taimi na mauaina ai e le tagata e faaaogāina oloa ma auaunaga, le aia tatau e umia ai oloa; ma
- (b) o le a faatatauina auaunaga e faapea ua tuuina atu, i le taimi lava na tuuina atu ai.

**67. E lē faatapulaaina e le Vaevaega isi tulafono** - E faaaogā lenei Vaevaega e faaopoopo i so o se isi lava tulafono.

**68. Application** - This Division:

- (a) applies despite any provision to the contrary in any agreement; and
- (b) does not apply to goods supplied by auction; and
- (c) does not give a person a remedy against a charitable organisation in respect of the supply by the organisation of goods or services for the principal purpose of benefiting the person to whom the supply is made.

**69. Title to goods**-(1) If goods are supplied, in trade, to a person who acquires them as a consumer, there is:

- (a) a guarantee that the supplier has a right to transfer the title to the goods to the consumer; and
- (b) a guarantee that the goods are free from any security interest other than one -
  - (i) disclosed to the consumer before the consumer agreed to the supply; or
  - (ii) created by, or with the express consent of, the consumer; and
- (c) a guarantee that the consumer has the right to undisturbed possession of the goods.

(2) Subsection (1)(a) and (b) does not apply to a supply of goods by lease or hire.

**68. Faaaogāina** - O lenei Vaevaega:

- (a) e faaaogā, e ui lava i so o se aiaiga e feteenai i so o se maliega; ma
- (b) e lē faaaogāina i oloa ua tuuina atu e ala i tauofoga; ma
- (c) e lē tuuina atu ai i se tagata se auala e foia ai e faasaga i se faalapotopotoga o galuega fesoasoani, e tusa ai o le tuuina atu e le faalapotopotoga o oloa po o auaunaga mo le faamoemoe autu ia manuia ai le tagata, o ia lea ua faatino i ai le tuuina atu o oloa po o auaunaga.

**69. Pule e umia ai oloa**-(1) Afai e tuuina atu oloa, i fefaatauaiga, i se tagata, o ia lea ua na mauaina oloa, i le avea ai ma tagata e faaaogāina oloa ma auaunaga, o lo o i ai:

- (a) se faamalumaluga e faapea, e i ai le aia tatau a le tagata o tuuina atu oloa, e faaliliuina atu ai le pule e umia ai oloa i le tagata o faaaogāina oloa ma auaunaga; ma
- (b) se faamalumaluga e faapea, o lo o saoloto oloa mai so o se aia tau faamalumaluga, e ese mai ai i lo lea -
  - (i) na faailoa atu i le tagata e faaaogāina oloa ma auaunaga, a o le i malie le tagata e faaaogāina oloa ma auaunaga i le tuuina atu o oloa; po o
  - (ii) ua faia e, po o faatasi ai ma le maliega ua faaalua manino a, le tagata e faaaogāina oloa ma auaunaga; ma
- (c) se faamalumaluga e faapea, e i ai le aia tatau a le tagata e faaaogāina oloa ma auaunaga e umia ai e aunoa ma le faalavelaveina, o oloa.

(2) O le faafuaiupu (1)(a) ma le (b) e lē faaaogāina i le tuuina atu o oloa e ala i se lisi po o le totogi faalisi.

(3) If the supply is by way of lease or hire, subsection (1)(c) applies but only for the term of the lease or hiring.

(4) Subsection (1)(c) does not apply so far as the right to undisturbed possession is expressly varied:

- (a) if the supply is by a hire purchase agreement, by a provision of the agreement; or
- (b) by a security, or a term of the agreement for supply, in respect of which the consumer has received -

(i) oral advice, acknowledged in writing by the consumer, as to the way in which the consumer's right to undisturbed possession of the goods could be affected, sufficient to enable a reasonable consumer to understand the general nature and effect of the variation; and

(ii) a written copy of the agreement for supply or security, or a written copy of the part of the agreement that provides for the variation.

**70. Goods to be of acceptable quality-**(1) If goods are supplied, in trade, to a person who acquires them as a consumer, there is a guarantee that the goods are of acceptable quality.

(3) Afai o le tuuina atu o oloa, e faia e ala i se lisi po o se totogi faalisi, e faaaogā le faafuaiupu (1)(c) peitai, e mo na o le vaitaimi o le lisi po o le totogiina faalisi.

(4) O le faafuaiupu (1)(c) e lē faaaogāina, i le a lava le tulaga e fetuunai ai ma le manino le aia tatau e umia ai, e aunoa ma le faalavelaveina:

- (a) pe afai o le tuuina atu o oloa e faia i se feagaiga o le lisiina ma le faatauina atu, e ala i se aiaiga o le feagaiga; po o
- (b) i se faamalumaluga, po o se vaitaimi o le feagaiga mo le tuuina atu o oloa, e tusa ai ma ia oloa tuuina atu sa mauaina e le tagata e faaaogāina oloa ma auaunaga -

(i) se fautuaga tuufofoga, ua faamauina aloaia i se faiga tusitusia e le tagata e faaaogāina oloa ma auaunaga, e tusa ai ma le auala e ono mafai ona aafia ai le aia tatau a le tagata e faaaogāina oloa ma auaunaga, e umia ai oloa e aunoa ma le faalavelaveina, i se tulaga ua lava atoatoa e mafai ai e le tagata talafeagai e faaaogāina oloa ma auaunaga, ona malamalama i le tulaga lautele o le uiga ma le aafiaga o le fetuunaiga; ma

(ii) se ata tusitusia o le feagaiga mo le tuuina atu o oloa po o le faamalumaluga, po o se ata tusitusia o le vaega o le feagaiga o lo o aiaia ai mo le fetuunaiga.

**70. Tulaga manaomia aupito lelei e taliaina ai oloa-**(1) Afai e tuuina atu oloa, i se fefaatauiga, i se tagata, ua ia mauaina ia oloa, o ia o se tagata e faaaogāina oloa ma auaunaga, o lo o i ai se faamalumaluga e faapea o oloa o lo o i ai i se tulaga manaomia aupito lelei e taliaina ai.



(2) For this section, goods are of acceptable quality if they are:

- (a) as fit for all the purposes for which goods of the type in question are commonly supplied; and
- (b) as acceptable in appearance and finish; and
- (c) as free from minor defects; and
- (d) as safe; and
- (e) as durable,

as a reasonable consumer, fully acquainted with the state and condition of the goods, including any hidden defects, would regard as acceptable, having regard to:

- (f) the nature of the goods; and
- (g) the price, where relevant; and
- (h) any statement made about the goods on any packaging or label on the goods; and
- (i) any representation made about the goods by the supplier or the manufacturer; and
- (j) all other relevant circumstances of the supply of the goods.

(3) If any defects in goods have been specifically drawn to the consumer's attention before he or she agreed to the supply then, even though a reasonable consumer may not have regarded those goods as acceptable with those defects, the goods do not fail to comply with the guarantee as to acceptable quality merely because of those defects.

(2) Mo lenei fuaiupu, o oloa o lo o i ai i se tulaga manaomia aupito lelei e taliaina ai, pe afai o ia oloa:

- (a) e talafeagai lelei mo faamoemoega uma ia e masani ona tuuina atu ai le ituaiga o oloa ua taua; ma
- (b) e mafai ona taliaina i o latou foliga vaaia ma laasaga faaiu o le gaosiga; ma
- (c) e aunoa ma itu laiti o tulaga faaletonu; ma
- (d) e saogalemu; ma
- (e) e anagata,

o le a faapea ona amanaia le taliaina lelei, e se tagata talafeagai e faaaogāina oloa, ua atoatoa ona masani lelei ma le tulaga ma itu ua oo i ai oloa, e aofia ai o so o se tulaga faaletonu o natia, i le amanaia ai o:

- (f) le uiga o oloa; ma
- (g) le tau, i itu e talafeagai ai; ma
- (h) so o se faamatalaga ua faia e uiga i oloa i luga o so o se pusa o tuuina ai po o igoa faapipii i luga o oloa; ma
- (i) so o se faamatalaga tusitusia ua faia e uiga i oloa, e le tagata na tuuina atu oloa po o lē na gaosia oloa; ma
- (j) isi tulaga uma talafeagai e aliae mai i le tuuina atu o oloa.

(3) Afai o so o se tulaga faaletonu i oloa ua faapea ona faailoa atu i se tulaga faapitoa mo le silafia o le tagata e faaaogāina oloa ma auaunaga, a o lumanai ai ona tuuina atu lana maliega i le tuuina atu o oloa i lea taimi, e ui lava ina lē mafai ai e se tagata talafeagai e faaaogāina oloa ma auaunaga, ona aveva o na oloa e faapea, e mafai ona taliaina faatasi ma na tulaga faaletonu, o oloa e le o mafai ona tausisia le faamalumaluga e tusa ai ma le tulaga manaomia aupito lelei e taliaina ai, i le na o le mafuaaga o na tulaga faaletonu.

(4) For subsection (3), for goods displayed for sale or hire, defects disclosed on a written notice displayed with the goods are taken to have been specifically drawn to the consumer's attention.

(5) If the consumer examined the goods before he or she agreed to the supply, the goods do not fail to comply with the guarantee as to acceptable quality merely because of a defect that the consumer ought to have discovered in the course of that examination even though a reasonable consumer may not have regarded those goods as acceptable with that defect.

(6) In determining whether goods comply with the guarantee of acceptable quality, the consumer may ignore the effect of any use of the goods, or extent of use of the goods, that is inconsistent with the way in which or the extent to which a reasonable consumer would expect to use the goods.

(7) In this section, "defect", for goods, means a failure of the goods to comply with the guarantee as to acceptable quality.

**71. Goods to be fit for particular purpose-**(1) If goods are supplied, in trade, to a person who acquires them as a consumer, there is:

- (a) a guarantee that the goods are reasonably fit for any particular purpose that the consumer makes known, expressly or by implication, to the supplier as the purpose for which the goods are being acquired by the consumer; and

(4) Mo le faafuaiupu (3), mo oloa ua faalauiloa mo le faatauina atu po o le lisiina atu, o tulaga faaletonu ua faailoa i se faasilasilaga tusitusia ua faalauiloa faatasi ma oloa, ua faatatauina e faapea sa faapitoa lava ona faailoa atu mo le silafia o le tagata e faaaogāina oloa ma auaunaga.

(5) Afai ua suesueina e le tagata e faaaogāina oloa ma auaunaga, ia oloa a o le i tuuina atu lana maliega i le tuuina atu o oloa, o oloa e le o mafai ona tausisia le faamalumaluga e tusa ai o le tulaga manaomia aupito lelei e taliaina ai, i le na o se tulaga faaletonu, e ao i le tagata e faaaogāina oloa ma auaunaga, ona ia mauaina a o faagasolo o lena suesuega, e ui lava ina faapea, e lē mafai e le tagata talafeagai e faaaogāina oloa ma auaunaga, ona avefa na oloa e faapea e mafai ona taliaina faatasi ma lena tulaga faaletonu.

(6) I le fuafuaina pe o tausisia e oloa le faamalumaluga o le tulaga manaomia aupito lelei e taliaina ai, e mafai e le tagata e faaaogāina oloa ma auaunaga ona lē amanaia le aafiaga o so o se faaaogāina o oloa, po o le tulaga e oo i ai le faaaogāina o oloa, lea e lē ogatasi ma le auala lea e, po o le tulaga e oo i ai lea e ono manaomia e se tagata talafeagai e faaaogāina oloa ma auaunaga, e faaaogā ai oloa.

(7) I totonu o lenei fuaiupu, "tulaga faaletonu", mo oloa, o lona uiga, o le lē mafaia e se oloa ona tausisia le faamalumaluga e tusa ai o le tulaga manaomia aupito lelei e taliaina ai.

**71. Ia talafeagai lelei oloa mo faamoemoega faapitoa-**(1) Afai e tuuina atu oloa, i se feaatauaiga, i se tagata na te mauaina ia oloa, i le avefa ai ma tagata e faaaogāina oloa ma auaunaga, o lo o i ai:

- (a) se faamalumaluga e faapea o lo o talafeagai lelei oloa mo so o se faamoemoega faapitoa lea ua faailoa e le tagata e faaaogāina oloa ma auaunaga, i le faailoa manino po o i se tulaga faa-ataata i le tagata o tuuina atu oloa, e faapea o le faamoemoe lea na mafua ai ona mauaina oloa, e le tagata e faaaogāina oloa ma auaunaga; ma

(b) a guarantee that the goods are reasonably fit for any particular purpose for which the supplier represents that they will be fit.

(2) Those guarantees do not apply if:

(a) the consumer did not rely on the supplier's skill or judgment; or

(b) it would have been unreasonable for the consumer to have relied on the supplier's skill or judgment.

(3) This section applies whether or not the purpose is a purpose for which the goods are commonly supplied.

**72. Goods to comply with description-**(1) If goods are supplied by description, in trade, to a person who acquires them as a consumer, there is a guarantee that the goods correspond with the description.

(2) A supply of goods is not prevented from being a supply by description by reason only that, being exposed for sale or hire, they are selected by a consumer.

**73. Goods to comply with sample -** If goods are supplied, in trade, to a person who acquires them as a consumer by reference to a sample or demonstration model:

(a) there is a guarantee that the goods correspond with the sample or demonstration model in quality; and

(b) there is a guarantee that the consumer will have a reasonable opportunity to compare the goods with the sample or demonstration model.

(b) se faamalumaluga e faapea, o lo o talafaegai lelei oloa mo so o se faamoemoe faapitoa, lea o lo o avea ai ma sui le tagata o tuuina atu oloa, e faapea o oloa o le a talafaegai lelei.

(2) E lē faaaogāina o na faamalumaluga, pe afai:

(a) e le i faalagolago le tagata e faaaogāina oloa ma auaunaga, i tomāi po o le faaiuga a le tagata o tuuina atu oloa; po o

(b) e lē ono talafaegai mo le tagata e faaaogāina oloa ma auaunaga, ona faalagolago i tomāi po o le faaiuga a le tagata o tuuina atu oloa.

(3) O lenē fuaiupu e faaaogā, e tusa lava pe o le faamoemoe, o se faamoemoe e masani ona tuuina atu ai oloa, pe leiāi foi.

**72. Oloa ia tausisia o faamatalaga-**(1) Afai o oloa e tuuina atu e tusa ma faamatalaga, i se feafaatauaiga, i se tagata ua na mauaina i a oloa, o ia o se tagata e faaaogāina oloa ma auaunaga, o lo o i ai se faamalumaluga e faapea, o lo o tutusa lava oloa ma le faamatalaga.

(2) E le o taofia le tuuina atu o oloa, mai le tulaga o oloa tuuina atu e tusa ma faamatalaga, ona o se mafuaaga e tasi e faapea, ua faailoaina mo le faatau atu po o le lisiina, ua filifilia ai ia oloa e se tagata e faaaogāina oloa ma auaunaga.

**73. Oloa ia tausisi i oloa faataitai -** Afai ua tuuina atu oloa, i se feafaatauaiga, i se tagata ua na mauaina ia oloa, o ia o se tagata e faaaogāina oloa ma auaunaga, e ala i le faasinomaga i se oloa faataitai po o se ata ua fai ma faataitaiga:

(a) o lo o i ai se faamalumaluga e faapea o lo o tutusa lava oloa ma le oloa faataitai po o se ata ua fai ma faataitaiga i le itu manaomia e aupito sili ona lelei; ma

(b) o lo o i ai se faamalumaluga e faapea o le a maua e le tagata e faaaogāina oloa ma auaunaga se avanoa talafaegai lelei e faatusatusa ai oloa ma le oloa faataitai po o le ata ua fai ma faataitaiga.

**74. Consumer's remedies for goods that do not comply with guarantee-**

(1) If goods supplied in trade to a person who acquires them as a consumer do not comply with a consumer guarantee (in this section and section 75, a "failure"), the consumer may, by notice to the supplier, require the supplier to remedy the failure.

(2) The notice may be oral or in writing.

(3) The notice must be given as soon as reasonably practicable, and in any event not more than four (4) weeks, after the consumer became aware of the failure or ought reasonably have become aware of the failure.

(4) A supplier may comply with a requirement to remedy a failure by (at the supplier's election):

- (a) repairing the goods; or
- (b) if the failure relates to title, curing the defect in title;  
or
- (c) replacing the goods with goods of identical type; or
- (d) providing a refund to the consumer of any money paid, and the value of any other consideration provided, by the consumer in respect of the goods.

(5) This section does not limit any other right that the consumer may have at general law (including a right to damages).

**74. Faiga e foia ai a le tagata e faaaogāina oloa ma auaunaga mo oloa e le o tausisia faamalumaluga-**

(1) Afai o oloa ua tuuina atu i se fefaatauaiga i se tagata na ia mauaina ia oloa, o ia o se tagata e faaaogāina oloa ma auaunaga, e le o tausisia se faamalumaluga mo tagata e faaaogāina oloa ma auaunaga (i totonu o lenei fuaiupu ma le fuaiupu 75, o se "itu ua lē mafaia"), e mafai e le tagata e faaaogāina oloa ma auaunaga, e ala i se faasilasilaga i le tagata o tuuina atu oloa, ona manaomia le tagata o tuuina atu oloa ina ia foia le itu ua lē mafaia ona fai.

(2) O le faasilasilaga e mafai ona tuufofoga po o le faia i se faiga tusitusia.

(3) E ao ona tuuina atu le faasilasilaga i se taimi vave talafeagai e mafai ai ona faatino, ma i so o se tulaga e tulai mai, ia lē silia le fa (4) vaiaso, i le tuanai ai ona iloa e le tagata e faaaogāina oloa ma auaunaga, le itu o le lē mafai po o sa tatau i se tulaga talafeagai lelei ona ia iloina le itu o le lē mafaia.

(4) E mafai e le tagata e tuuina atu oloa ona tausisia se manaoga e foia ai se itu o le lē mafai e (i le filifiliga a le tagata e tuuina atu oloa):

- (a) toe faaleleia o oloa; po o
- (b) pe afai o le itu o le lē mafaia e fesootai i le pule e umia ai, e foia o le itu faaletonu i le pule; po o
- (c) le toe suia o oloa i oloa o le ituaiga lava e tutusa lelei; po o
- (d) le tuuina atu o se tupe toe faafoi i le tagata e faaaogāina oloa ma auaunaga o so o se tupe ua totogi, ma le tau aogā o so o se isi lava tau tau tupe ua aiaia, e le tagata e faaaogāina oloa ma auaunaga, e tusa ai ma oloa.

(5) O lenei fuaiupu e lē faatapulaaina ai so o se isi lava aia tatau lea e mafai ona i ai i le tagata e faaaogāina oloa ma auaunaga, i tulafono lautele (e aofia ai se aia tatau i tupe totogi o mea ua faalegaina).

(6) If a consumer receives goods under subsection (4)(c), the replacement goods are, for the purposes of this Act, taken to be supplied by the supplier and the consumer guarantees, and the obligations under this Act, for a supply of goods to a person who acquires them as a consumer, apply.

(7) A consumer does not have a right to require a remedy under this section if:

- (a) the goods have been disposed of by the consumer or have been lost or destroyed while in the possession of a person other than the supplier or an agent of the supplier; or
- (b) the non-compliance of the goods with the relevant consumer guarantee occurred after delivery to the consumer for reasons not related to their state or condition at the time of supply; or
- (c) the goods have been attached to or incorporated in real or personal property and cannot be detached or isolated without damaging them or the property.

**75. Rejection of goods-**(1) If the supplier has not complied with a requirement under section 74 within a period that is reasonable (having regard to the nature of the goods and the nature of the failure), the consumer may, by notice to the supplier, reject the goods.

(6) Afai e mauaina oloa e se tagata e faaaogāina oloa ma auaunaga, i lalo o le faafuaiupu (4)(c), o oloa ua toe suia ua, mo faamoemoega o lenei Tulafono, faatatauina e faapea na tuuina atu e le tagata e tuuina atu oloa ma ua i ai le faamalumaluga a le tagata e faaaogāina oloa ma auaunaga, ma e faaaogā noataga i lalo o lenei Tulafono, mo le tuuina atu o oloa i se tagata na ia mauaina ia oloa, o ia o se tagata e faaaogāina oloa ma auaunaga.

(7) E leai se aia tatau a le tagata e faaaogāina oloa ma auaunaga e manaomia ai se faiga e foia ai i lalo o lenei fuaiupu, pe afai:

- (a) ua maea ona lafoaiina e le tagata e faaaogāina oloa ma auaunaga po o e faapea na leiloa po o ua faaleagaina a o lo o umiaina e se tagata, e ese mai i lo le tagata e tuuina atu oloa po o se soupu a le tagata e tuuina atu oloa; po o
- (b) o le lē tausisia e oloa o faamalumaluga talafeagai ua tulai mai mo tagata e faaaogāina oloa ma auaunaga, i le tuanai ai ona faaoo atu i le tagata e faaaogāina oloa ma auaunaga ona o mafuaaga e lē fesootai i le tulaga po o itu ua oo i ai ia oloa, i le taimi na tuuina atu ai; po o
- (c) o oloa sa faapipiina atu i po o sa tuufaatasia i meatotino moni po o meatotino e patino i le tagata lava ia, ma e lē mafai ona toe aveesea pe vavaeeseina e aunoa ma le faaleagaina o ia oloa po o le meatotino.

**75. Teena o oloa-**(1) Afai e le i tausisia e le tagata e tuuina atu oloa, se manaoga i lalo o le fuaiupu 74, i totonu o se vaitaimi ua talafeagai lelei (i le amanaia ai o le uiga o oloa ma le uiga o le tulaga o le lē mafaia), e mafai e le tagata e faaaogāina oloa ma auaunaga, e ala i se faasilasilaga i le tagata e tuuina atu oloa, ona teena oloa.

## (2) The notice:

- (a) may be oral or in writing; and
- (b) may require the supplier to refund to the consumer any money paid and the value of any other consideration provided by the consumer for the goods; and
- (c) must include a statement of the grounds for rejection; and
- (d) must be given as soon as reasonably practicable, and in any event not more than four (4) weeks, after the period mentioned in subsection (1) has ended.

(3) If a consumer exercises a right to reject goods, the consumer must return the goods to the supplier unless:

- (a) the goods have already been returned to, or retrieved by, the supplier; or
- (b) because of the nature of the failure of the goods to comply with the relevant guarantee, the goods cannot be returned, moved or transported without significant cost to the consumer, in which case the supplier may collect the goods at its expense.

(4) If ownership in the goods has passed to the consumer before the consumer exercises the right to reject the goods, the ownership in the goods re-vests in the supplier when the supplier receives the notice of rejection.

## (2) O le faasilasilaga:

- (a) e mafai ona faia i le tuufofoga po o i se faiga tusitusia; ma
- (b) e mafai ona manaomia le tagata e tuuina atu oloa ina ia toe faafoi i le tagata e faaaogāina oloa, o so o se tupe na totogi ma le tau aogā o so o se isi lava tau i tau tupe na tuuina atu e le tagata e faaaogāina oloa mo oloa ma auaunaga; ma
- (c) e ao ona aofia ai se faamatalaga o mafuaaga mo le teena; ma
- (d) e ao ona tuuina atu i se taimi vave e talafeagai lelei ona mafai ona faatino ai, ma i so o se tulaga e tulai mai, e lē silia le fa (4) vaiaso, i le tuanai ai ona faamutaina le vaitaimi ua taua i le faafuaiupu (1).

(3) Afai ua faatinoina e se tagata e faaaogāina oloa ma auaunaga se aia tatau e teena ai oloa, e ao i le tagata e faaaogāina oloa ma auaunaga ona toe faafoi oloa i le tagata na tuuina atu oloa, seia vagana ai:

- (a) ua maea ona toe faafoi oloa i, po o ua toe aumaia e, le tagata na tuuina atu oloa; po o
- (b) talu ai ona o le uiga o le lē mafaia e oloa ona tausisi i faamalumaluga talafeagai, e lē mafai ona toe faafoiina oloa, fesiitai pe felauaiina e aunoa ma se tupe tele e totogiina e le tagata e faaaogāina oloa ma auaunaga, ma i lea itu, e mafai e le tagata e tuuina atu oloa ona toe aoina mai oloa i ana lava tupe alu.

(4) Afai ua faasee atu le pule e umia ai oloa i le tagata e faaaogāina oloa ma auaunaga, a o le i faatinoina e le tagata e faaaogāina oloa ma auaunaga le aia tatau e teena ai oloa, o le pule e umia ai oloa ua toe faaee atu i le tagata e tuuina atu oloa, pe afai ua mauaina e le tagata e tuuina atu oloa, le faasilasilaga o le teena o oloa.

(5) A consumer does not have a right to reject goods under this Act if:

- (a) the goods have been disposed of by the consumer or have been lost or destroyed while in the possession of a person other than the supplier or an agent of the supplier; or
- (b) the non-compliance of the goods with the relevant consumer guarantee occurred after delivery to the consumer for reasons not related to their state or condition at the time of supply; or
- (c) the goods have been attached to or incorporated in real or personal property and cannot be detached or isolated without damaging them or the property.

(6) If a consumer exercises a right to reject goods, the supplier must provide a refund in cash of the money paid or the value of any other consideration provided, or both, as the case may require.

(7) The obligation to refund cannot be satisfied by permitting the consumer to acquire goods from the supplier.

**76. Services to be supplied with care and skill** - If services are supplied, in trade, to a person who acquires them as a consumer, there is a guarantee that the services will be provided with reasonable care and skill.

(5) E leai se aia tatau a se tagata e faaaogāina oloa ma auaunaga e teena ai oloa i lalo o lenei Tulafono, pe afai:

- (a) ua maea ona lafoaia oloa e le tagata e faaaogāina oloa ma auaunaga po o ua leiloa po o ua faaleagaina, a o lo o umiaina e se tagata, e ese mai ai i lo le tagata e tuuina atu oloa po o se sooupu a le tagata e tuuina atu oloa; po o
- (b) ua tulai mai le tulaga o le lē tausisia e oloa, o le faamalumaluga talafeagai mo tagata e faaaogāina oloa ma auaunaga, i le tuanai ai ona faaoo atu i le tagata e faaaogāina oloa ma auaunaga, ona o mafuaaga e lē fesootai i le tulaga po o itu ua oo i ai ia oloa, i le taimi na tuuina atu ai; po o
- (c) o oloa sa faapipiina i po o sa tuufaatasia i meatotino moni po o meatotino e patino i le tagata lava ia, ma e lē mafai ona toe aveesea pe vavaeeseina, e aunoa ma le faaleagaina o ia oloa po o meatotino.

(6) Afai e faatino e se tagata e faaaogāina oloa ma auaunaga, se aia tatau e teena ai oloa, e ao i le tagata e tuuina atu oloa, ona tuuina atu o se tupe toe faafoi i tinoitupe, o le tupe sa totogiina po o le tau aogā o so o se isi lava tau tupe ua aiaia, po o ia mea uma e lua, e pei ona mafai ona manaomia e le mataupu.

(7) E lē mafai ona faamalieina le noataga e toe faafoi ai tupe, i le faatagaina o le tagata e faaaogāina oloa ma auaunaga ina ia maua oloa mai le tagata e tuuina atu oloa.

**76. Ia faaoo atu auaunaga ma le faaeteete faatasi ai ma tomai** - Afai e faaoo atu auaunaga, i se feafaatauaiga, i se tagata, o ia lea ua na mauaina ia auaunaga, o ia o se tagata e faaaogāina oloa ma auaunaga, o lo o i ai se faamalumaluga e faapea, o auaunaga o le a tuuina atu ma le faaeteete faatasi ai ma tomai, i se tulaga talafeagai lelei.

**77. Services to be fit for particular purpose-**(1) If services are supplied, in trade, to a person who acquires them as a consumer, there is a guarantee that the services, and any product resulting from the services, will be:

- (a) reasonably fit for any particular purpose; and
- (b) of such a nature and quality that they can reasonably be expected to achieve a particular result,

that the consumer makes known to the supplier, before or at the time of making the agreement for the supply of the services, as the purpose for which the services are to be provided or the result that the consumer desires to achieve.

- (2) Subsection (1) does not apply if:
  - (a) the consumer did not rely on the supplier's skill or judgment; or
  - (b) it would be unreasonable for the consumer to have relied on the supplier's skill or judgment.

**78. Services to be completed in reasonable time - If:**

- (a) services are supplied, in trade, to a person who acquires them as a consumer; and
- (b) the agreement for the supply of the services does not specify the time for the services to be completed, or does not specify how that time is to be determined,

there is a guarantee that the services will be completed within a reasonable time.

**77. Ia talafeagai lelei auaunaga mo faamoemoega faapitoa-**(1) Afai e faaoo atu auaunaga, i se fefaatauaiga, i se tagata, o ia lea ua na mauaina ia auaunaga, o ia o se tagata e faaaogāina oloa ma auaunaga, o lo o i ai se faamalumaluga e faapea, o auaunaga, ma so o se taunuuga e afua mai i auaunaga tuuina atu, o le a:

- (a) talafeagai lelei mo so o se faamoemoega faapitoa; ma
- (b) i sea uiga ma le tulaga manaomia aupito sili ona lelei, lea e mafai ona faamoemoe i se tulaga talafeagai e ausia ai se taunuuga faapitoa,

e faapea, ua faailoa e le tagata e faaaogāina oloa ma auaunaga i le tagata o tuuina atu, a o lumanai ai po o i le taimi na faia ai le feagaiga mo le faaooina atu o auaunaga, e tusa ai ma faamoemoega o le tuuina atu o le auaunaga po o le taunuuga lea na manaomia e le tagata o faaaogāina oloa ma auaunaga ina ia ausia.

- (2) O le faafuaiupu (1) e lē faaaogāina pe afai:
  - (a) e le i faalagolago le tagata e faaaogāina oloa ma auaunaga i tomā po o se faaiuga a le tagata e tuuina atu auaunaga; po o
  - (b) o le a lē talafeagai lava mo le tagata o faaaogāina oloa ma auaunaga ona faalagolago i le tomā ma le faaiuga a le tagata e tuuina atu le auaunaga.

**78. Ia faamaea lelei auaunaga i taimi talafeagai lelei - Afai:**

- (a) ua faaoo atu auaunaga, i se fefaatauaiga, i se tagata, o ia lea ua na mauaina ia auaunaga, o ia o se tagata e faaaogāina oloa ma auaunaga; ma
- (b) o le feagaiga mo le faaooina atu o auaunaga e le o faamaotiina ai le taimi e ao ona faamaea ai auaunaga, po o e le o faamaotiina ai foi pe faapefea ona fuafuaina o lea taimi,

o lo o i ai se faamalumaluga e faapea, o auaunaga o le a faamaeaina i totonu o se taimi talafeagai lelei.



**79. Consumer’s remedies for services that do not comply with consumer guarantee-**(1) If services supplied in trade to a person who acquires them as a consumer do not comply with a consumer guarantee (in this section and section 80, a “failure”), the consumer may, by notice to the supplier, require the supplier to remedy the failure.

(2) The notice:

(a) may be oral or in writing; and

(b) must be given as soon as reasonably practicable, and in any event not more than four (4) weeks, after the consumer became aware of the failure or ought reasonably have become aware of the failure.

(3) A supplier may comply with the requirement by (at the supplier’s election):

(a) the supply of the services again; or

(b) a refund to the consumer of any money paid, and the value of any other consideration provided, by the consumer in respect of the services.

**80. Cancelling agreement for services-**(1) If the supplier has not complied with a requirement under section 79 within a period that is reasonable (having regard to the nature of the services and the nature of the failure), the consumer may, by notice to the supplier, cancel the agreement for supply of the services.

**79. Faiga e foia ai a le tagata e faaaogāina oloa ma auaunaga mo auaunaga e le o tausisia faamalumaluga mo le tagata e faaaogāina oloa ma auaunaga-**(1) Afai ua faaoo atu auaunaga, i se fefaatauaiga, i se tagata, o ia lea ua mauaina ia auaunaga, o ia o se tagata e faaaogāina oloa ma auaunaga, e le o tausisia se faamalumaluga mo le tagata o faaaogāina oloa ma auaunaga (i totonu o lenei fuaiupu ma le fuaiupu 80, “o se tulaga o le lē mafaia”), e mafai e le tagata o faaaogāina oloa ma auaunaga, e ala i se faasilasilaga i le tagata o tuuina atu auaunaga, ona manaomia le tagata o tuuina atu auaunaga, e foia le tulaga o le lē mafaia.

(2) O le faasilasilaga:

(a) e mafai ona tuufofoga po o le faia i se faiga tusitusia; ma

(b) e ao ona tuuina atu i se taimi vave e talafeagai lelei ona mafai ona faatino ai, ma i so o se tulaga e tulai mai, ia lē silia le fa (4) vaiaso, i le tuanai ai ona iloa e le tagata o faaaogāina oloa ma auaunaga le tulaga o le lē mafaia.

(3) E mafai e le tagata e tuuina atu auaunaga ona tausisia manaoga, e ala (i le filifiliga a le tagata e tuuina atu auaunaga):

(a) le toe faaooina atu o auaunaga; po o

(b) se tupe toe faafoi i le tagata o faaaogāina oloa ma auaunaga o so o se tupe na totogiina, ma le tau aogā o so o se isi lava tau tau tupe ua aiaia, e le tagata e faaaogāina oloa ma auaunaga mo auaunaga.

**80. Faalēaogāina o feagaiga mo auaunaga-**(1) Afai ua lē tausisia e le tagata e tuuina atu auaunaga se manaoga i lalo o le fuaiupu 79, i totonu o se vaitaimi e talafeagai lelei (i le amanaia ai o le uiga o le auaunaga ma le uiga o le tulaga o le lē mafaia), e mafai e le tagata o faaaogāina oloa ma auaunaga, e ala i se faasilasilaga i le tagata e tuuina atu auaunaga, ona faalēaogāina le feagaiga mo le faaoo atu o auaunaga.

## (2) The notice:

- (a) may be oral or in writing; and
- (b) may require the supplier, orally or in writing, to refund to the consumer any money paid, and the value of any other consideration provided, by the consumer for the services; and
- (c) must be given as soon as reasonably practicable, and in any event not more than four (4) weeks, after the period mentioned in subsection (1) has ended.

(3) If a supplier supplies services again under subsection (1), the new services are, for the purposes of this Act, taken to be supplied by the supplier and the consumer guarantees, and the obligations under this Act, in respect of a supply of services to a person who acquires them as a consumer apply.

## (4) Cancellation of an agreement for the supply of services:

- (a) may be made known by words, or by conduct indicating an intention to cancel, or both, and it is not necessary to use any particular form of words so long as the intention to cancel is made known; and
- (b) cannot take effect -
  - (i) before the time at which the cancellation is made known to the supplier; or

## (2) O le faasilasilaga:

- (a) e mafai ona tuufofoga po o le faia i se faiga tusitusia; ma
- (b) e mafai ona manaomia le tagata e tuuina atu auaunaga, i se faiga tuufofoga pe tusitusia, ina ia toe faafoi i le tagata e faaaogāina oloa ma auaunaga o so o se tupe na totogiina, ma le tau aogā o so o se isi lava tau tau tupe ua aiaia, e le tagata e faaaogāina oloa ma auaunaga mo auaunaga; ma
- (c) e ao ona tuuina atu i se taimi vave e talafeagai lelei ona mafai ona faatino ai, ma i so o se tulaga e tulai mai e lē silia le fa (4) vaiaso, i le tuanai ai ona maea le vaitaimi ua taua i le faafuaiupu (1).

(3) Afai ua toe faaoo atu auaunaga e se tagata e tuuina atu auaunaga, i lalo o le faafuaiupu (1), e faaaogā o auaunaga fou, mo faamoemoega o lenei Tulafono, ua ave e faapea na faaoo atu e le tagata e tuuina atu auaunaga, ma e faaaogā le faamalumaluga a le tagata e faaaogāina oloa ma auaunaga, ma noataga i lalo o lenei Tulafono, e tusa ai ma le faaoo atu o auaunaga i se tagata, o ia lea ua na mauaina ia auaunaga, o ia o se tagata e faaaogāina oloa ma auaunaga.

(4) O le faalēaogāina o se feagaiga mo le faaoo atu o auaunaga:

- (a) e mafai ona faailoa i upu, po o e ala i le faatinoga ua faaalua ai se faamoemoe e faalēaogā, po o ia itu uma e lua, ma e lē talafeagai ona faaaogā o so o se faatulagaga faapitoa o upu i le a lava le tulaga e i ai le faailoaina o le faamoemoe e faalēaogāina ai; ma
- (b) e lē mafai ona aloaia -
  - (i) a o lumanai ai le taimi lea na faaalua ai le faalēaogāina i le tagata e tuuina atu auaunaga; po o

(ii) if it is not reasonably practicable to communicate with the supplier, before the time at which the consumer indicates, by means that are reasonable in the circumstances, the consumer's intention to cancel the agreement.

(5) This section does not limit any other right that the consumer may have at general law (including a right to damages).

**81. Effects of cancellation-**(1) If a consumer cancels, under this Act, an agreement for the supply of services:

- (a) the consumer is entitled to recover from the supplier the amount of money paid, and the value of any other consideration provided, by the consumer for the services; and
- (b) subject to paragraph (a), so far as the agreement has been performed at the time of the cancellation, neither party to the agreement is to be divested, because of the cancellation, of any property transferred or money paid under the agreement; and
- (c) so far as the agreement is unperformed at the time of the cancellation, neither party to the agreement is obliged or entitled to perform it.

(ii) pe afai e lē talafeagai ona mafai ona faatino le fesootai ma le tagata e tuuina atu auaunaga, a o lumanai ai le taimi lea na faaalāia ai e le tagata e faaaogāina oloa ma auaunaga, i auala e faapea e talafeagai lelei ma tulaga aliae mai, o le faamoemoe o le tagata e faaaogāina oloa ma auaunaga ina ia faalēaogā le feagaiga.

(5) O lenei fuaiupu e lē faatapulaaina ai so o se isi lava aia tatau lea e mafai ona i ai i le tagata e faaaogāina oloa ma auaunaga, i tulafono lautele (e aofia ai se aia tatau i tupe totogi o mea ua faalēaogāina).

**81. Aafiaga o le faalēaogāina-**(1) Afai, e faalēaogāina e se tagata e faaaogāina auaunaga i lalo o lenei Tulafono, se feagaiga mo le faaoo atu o auaunaga:

- (a) e agavaa le tagata e faaaogāina oloa ma auaunaga i le toe faaola mai i le tagata na tuuina atu auaunaga le aofaiga o tupe na totogi, ma le tau aogā o tau tau tupe ua aiaia, e le tagata e faaaogāina oloa ma auaunaga mo auaunaga; ma
- (b) i le noatia ma le fai fuafua i le parakalafa (a), i le a lava le tulaga ua faatinoina ai le feagaiga, i le taimi o le faalēaogāina o so o se tasi o vaega auai i le feagaiga, o le a faapea ona ia lē mauaina, o so o se meatotino ua faaliliuina atu po o tupe na totogiina i lalo o le feagaiga, talu ai ona o le faalēaogāina o le feagaiga; ma
- (c) i le a lava le tulaga ua lē faatinoina ai le feagaiga i le taimi o le faalēaogāina o so o se tasi o vaega auai i le feagaiga e noatia pe agavaa ina ia faatino le feagaiga.

- (2) Subsection (1) does not affect:
- (a) a right of a party to the agreement to recover damages for misrepresentation or repudiation or breach of the agreement; or
  - (b) a right of the consumer to recover damages for non-compliance with a consumer guarantee; or
  - (c) a right of the consumer under this Act to reject goods.

**82. Ancillary power of the Court to grant relief-**(1) If a consumer cancels, under this Act, an agreement for the supply of services, the Court may make any of the orders under subsection (2), in any proceedings by, or on application made for the purpose by:

- (a) the consumer; or
  - (b) the supplier; or
  - (c) a person claiming through or under the consumer or the supplier; or
  - (d) another person if it is material for the other person to know whether relief under this section will be granted.
- (2) For subsection (1), the orders are:
- (a) an order that some or all of the property that was the subject of the agreement, or the consideration, be returned or repaid;
  - (b) an order vesting that property in a specified person;
  - (c) an order awarding damages in respect of a breach of the agreement;

- (2) O le faafuaiupu (1) e lē aafia ai:
- (a) se aia tatau a se vaega auai i le feagaiga e toe faaola mai ai tupe totogi o mea ua faaleagaina mo se faamatalaga sese po o le teena o se noataga po o le solia o le feagaiga; po o
  - (b) se aia tatau a le tagata e faaaogāina oloa ma auunaga e toe faaola mai ai tupe totogi o mea ua faaleagaina mo le lē tausisia o se faamalumaluga mo le tagata e faaaogāina oloa ma auunaga; po o
  - (c) se aia tatau a le tagata e faaaogāina oloa ma auunaga i lalo o lenei Tulafono e teena ai oloa.

**82. Malosiaga faapoopo o le Faamasinoga e faamatuu atu ai se faamama avega-**(1) Afai ua faalēaogāina e se tagata e faaaogāina oloa ma auunaga, i lalo o lenei Tulafono, se maliega mo le faaoina atu o auunaga, e mafai e le Faamasinoga ona faia o so o se poloaiga i lalo o le faafuaiupu (2), i so o se tualumaga e, po o i luga o se talosaga ua faia mo le faamoemoe o:

- (a) le tagata e faaaogāina oloa ma auunaga; po o
  - (b) le tagata e tuuina atu auunaga; po o
  - (c) se tagata o talosagaina e ala i po o i lalo o le tagata o faaaogāina oloa ma auunaga po o se tagata o tuuina atu auunaga; po o
  - (d) se isi tagata pe afai e taua mo le isi tagata ona iloa pe o le faamama avega i lalo o lenei fuaiupu o le a faapea ona faamatuu atu.
- (2) Mo le faafuaiupu (1), o poloaiga nei:
- (a) o se poloaiga e faapea o nisi po o o meatotino uma na ave ma mataupu autu o le maliega, po o tau tau tupe, ia toe faafoi pe toe totogi;
  - (b) o se poloaiga e faaee atu ai o lena meatotino i se tagata ua faamaotiina;
  - (c) o se poloaiga e tuuina atu ai tupe totogi o mea ua faaleagaina e tusa ai o se soliga o le feagaiga;

(d) an order directing a party to the proceedings to do or not do a specified thing in relation to another party to the proceedings;

(e) any other order that the Court considers appropriate.

(3) An order under this section may be subject to conditions specified in the order.

(4) The matters to be considered in determining whether to make an order under this section include:

(a) the benefit obtained or intended to be obtained from the agreement by a party to the agreement; and

(b) the costs incurred by a party in connection with the agreement, including in connection with preparing to give effect to the agreement.

(5) No order may be made under this section contrary to Article 14 of the Constitution.

**83. Agreements for work and materials-**(1) The consumer guarantees for goods apply whether or not the goods are supplied in connection with a service.

(2) The consumer guarantees for services apply whether or not the services are supplied with or in conjunction or in relation to goods.

(3) If a service to be supplied under an agreement is merely incidental to the supply of goods, the consumer cannot cancel the agreement under this Act if the consumer has or had the right to reject the goods under this Part.

(d) o se poloaiga e faatonuina ai se vaega auai i tualumaga ina ia faia pe lē faia foi o se mea ua faamaotiina e faasino i se isi vaega auai i tualumaga;

(e) so o se isi lava poloaiga e manatu le Faamasinoga ua talafeagai.

(3) O se poloaiga i lalo o lenei fuaiupu e mafai ona noatia i tuutuuga ua faamaotiina i le poloaiga.

(4) O mataupu e ao ona iloiloina i le faia o se faaiuga pe faia o se poloaiga i lalo o lenei fuaiupu e aofia ai:

(a) o faamanuiaga ua mauaina po o ua faamoemoe o le a maua mai le feagaiga e se vaega auai i le feagaiga; ma

(b) o tupe totogi ua faatupulaia e se vaega auai, e fesootai ma le feagaiga, e aofia ai i le fesootaiga ma le sauni atu e faamamalu aloaia le feagaiga.

(5) E leai se poloaiga e mafai ona faia i lalo o lenei fuaiupu, e feteenai ma le Mataupu 14 o le Faavae.

**83. Feagaiga mo galuega ma meafaitino-**(1) E faaaogā faamalumaluga mo tagata e faaaogāina oloa ma auaunaga, mo oloa, e tusa lava pe na tuuina atu oloa pe leai foi, e faatatau i se auaunaga.

(2) E faaaogā faamalumaluga a tagata e faaaogāina oloa ma auaunaga, mo auaunaga, e tusa lava pe na faaoo atu faatasi ma pe leai foi, po o e fesootai po o e faasino i oloa.

(3) Afai o se auaunaga o le a faaoo atu i lalo o se feagaiga ua na o se itu na aliae mai i le tuuina atu o oloa, e lē mafai e le tagata e faaaogāina oloa ma auaunaga ona faalēaogāina le feagaiga i lalo o lenei Tulafono, pe afai o lo o i ai pe sa i ai i le tagata e faaaogāina oloa ma auaunaga, le aia tatau e lē taliaina ai oloa, i lalo o lenei Vaega.

*Division 4 - Obligations of traders*

**84. Traders to display prices-**(1) A trader commits an offence if:

- (a) the trader displays goods for sale; and
- (b) the price of the goods is not displayed pursuant to this section,

and is liable on conviction to:

- (c) for an individual, a fine not exceeding 20 penalty units; and
  - (d) for a body corporate, a fine not exceeding 30 penalty units.
- (2) The price is to be exhibited by:
- (a) affixing or noting the price on the goods; or
  - (b) displaying the price on the shelf or stand on which the goods are displayed for sale.
- (3) The price displayed:
- (a) is to include all amounts payable by a buyer in respect of the sale of the goods; and
  - (b) is to be the maximum amount to be charged to any purchaser indicating a willingness to purchase the goods and tendering the amount displayed.

**85. Traders to issue receipt-**(1) A trader commits an offence who:

- (a) sells goods; and
- (b) does not, on demand, issue to the buyer a receipt setting out -
  - (i) the date of sale; and
  - (ii) the quantity of goods sold; and
  - (iii) the amount paid; and

*Vaevaega 4 - Noataga o tagata e fefaatauaia oloa*

**84. Ia faalauiloa tau o oloa e tagata e fefaatauaia oloa-**(1)

Ua faia e se tagata e fefaatauaia oloa, se soligatulafono pe afai:

- (a) ua faalauiloa e le tagata e fefaatauaia oloa, oloa e faatau atu; ma
- (b) ua lē faalauiloaina tau o oloa, e tusa ai ma lenei fuaiupu,

ma e noatia i luga o se moliaga ua faamaonia faaetulafono i:

- (c) se sala tupe e lē silia le 20 iunite tau faasalaga, mo se tagata taitoatasi; ma
  - (d) o se sala tupe e lē silia le 30 iunite tau faasalaga mo se faalapopotoga ua tuufaatasia faaetulafono.
- (2) O tau o oloa e ao ona faalauiloa e ala i le:
- (a) faapipiina po o le tusia o le tau i luga o oloa; po o
  - (b) le faalauiloa o tau o oloa i luga o fata po o fausaga o lo o faalauiloaina ai oloa mo le faatauina atu.
- (3) O tau o oloa ua faalauiloa:
- (a) ia aofia ai o aofaiga uma o tupe e totogiina e se tagata faatau, e tusa ai o le faatauina atu o oloa; ma
  - (b) ia avea ma tapulaa maualuga o le aofaiga e ao ona totogi e so o se tagata faatau, e faailoa ai le agaga naunau e faatau oloa ma tuuina atu ai le aofaiga e pei ona faalauiloa.

**85. Ia tuuina atu risiti e tagata e fefaatauaia oloa-**(1) Ua

faia e se tagata e fefaatauaia oloa, se soligatulafono, o ia lea ua:

- (a) faatauina atu oloa; ma
- (b) ua lē tuuina atu se risiti i le tagata faatau pe a tapaina, o lo o faatulaga atu ai -
  - (i) le aso na faia ai le faatau; ma
  - (ii) le aofaiga o oloa na faatauina atu; ma
  - (iii) le aofaiga o tupe na totogi; ma

(iv) the name of the trader.

(2) A trader convicted of an offence under subsection (1) is liable to:

- (a) for an individual, a fine not exceeding 20 penalty units; and
- (b) for a body corporate, a fine not exceeding 30 penalty units.

**86. Traders to have notice boards-**(1) A trader must display on a notice board in a conspicuous place in his or her place of business a copy of each of the following that is in force in relation to the trader:

- (a) an order under section 82;
- (b) a price control order that relates to the trader;
- (c) a warning notice issued to the trader;
- (d) an enforceable undertaking entered into by the trader;
- (e) a cease and desist notice issued to the trader;
- (f) an injunction under section 120 binding the trader;
- (g) a pecuniary penalty order issued against the trader.

(2) A trader who contravenes subsection (1) commits an offence.

(3) A person commits an offence who:

- (a) removes from a notice board under this section a document that this Act requires to be displayed on the notice board; or

(iv) le igoa o le tagata e faia fefaatauaiga.

(2) O se tagata e faia fefaatauaiga ua faamaonia se moliaga i se soligatulafono i lalo o le faafuaiupu (1) e noatia i:

- (a) se sala tupe e lē silia le 20 iunite tau faasalaga mo se tagata e toatasi; ma
- (b) se sala tupe e lē silia le 30 iunite tau faasalaga mo se faalapopotoga ua tuufaatasia faaetulafono.

**86. Ia i ai ni laupapa mo faasilasilaga a tagata e faia fefaatauaiga-**(1) E tatau i se tagata e faia fefaatauaiga ona faalauiloa i luga o se laupapa mo faasilasilaga, i se tulaga matilatila e iloa lelei, i totonu o lona nofoaga o pisinisi, se ata o meataitasi nei o lo o faamamaluina, e faasino i le tagata e faia fefaatauaiga:

- (a) se poloaiga i lalo o le fuaiupu 82;
- (b) se poloaiga o le faatonutonuina ai tau o oloa lea e faasino i le tagata e faia fefaatauaiga;
- (c) se faasilasilaga tau lapataiga na tuuina atu i le tagata e faia fefaatauaiga;
- (d) se feagaiga ua faamalosi ua sainia e le tagata e faia fefaatauaiga;
- (e) se faasilasilaga e faamuta ma taofia ai na tuuina atu i le tagata e faia fefaatauaiga;
- (f) se poloaiga e taofia ai i lalo o le fuaiupu 120, o noatia ai le tagata e faia fefaatauaiga;
- (g) se poloaiga o faasalaga tau tupe na tuuina atu e faasaga i le tagata e faia fefaatauaiga.

(2) O se tagata e faia fefaatauaiga, o ia lea ua na solia le faafuaiupu (1), ua ia faia o se soligatulafono.

(3) Ua faia e se tagata se soligatulafono o ia lea:

- (a) ua na aveesea mai se laupapa o faasilasilaga, i lalo o lenei fuaiupu, se pepa aloaia lea e manaomia e lenei Tulafono ina ia faalauiloa i luga o le laupapa mo faasilasilaga; po o

(b) otherwise interferes with document on a board under this section.

(4) A person convicted of an offence under subsection (2) or (3) is liable to:

- (a) for an individual, a fine not exceeding 20 penalty units; and
- (b) for a body corporate, a fine not exceeding 30 penalty units.

*Division 5 - Information and safety standards*

**87. Consumer information standards-**(1) Subject to this section, the Minister may, with the approval of the Cabinet, make orders (“consumer information standards”) prescribing, for specified goods or services, standards in relation to:

- (a) the provision of information about the kind, grade, quantity, origin, performance, care, construction, design, composition, contents, use, price, finish, packaging, promotion or supply of the goods or services; and
- (b) how that information is to be provided in relation to the supply or possible supply of the goods or services.

(2) A consumer information standard may adopt some or all of a published standard, and may do so with specified modifications.

(3) Before making a consumer information standard, the Minister must consult as widely as practicable, but a failure to do so does not affect the validity of the standard.

(b) ua faalavelaveina i se isi faiga e ese ai se pepa aloaia i luga o le laupapa i lalo o lenei fuaiupu.

(4) O se tagata ua faamaonia sona moliaga faaletulafono i se soligatulafono i lalo o le faafuuiupu (2) po o le (3), e noatia i:

- (a) se sala tupe e lē silia le 20 iunite tau faasalaga, mo se tagata e toatasi; ma
- (b) se sala tupe e lē silia le 30 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaletulafono.

*Vaevaega 5 - Tulaga faataatitia o faamatalaga ma le saogalemu*

**87. Faiga faataatitia o faamatalaga o tagata e faaaogāina oloa ma auaunaga-**(1) I le noatia ma le fai fuafua i lenei fuaiupu, e mafai e le Minisita, i le i ai faatasi ma le faamaoniga a le Kapeneta, ona faia poloaiga (“faiga faataatitia o faamatalaga o tagata e faaaogāina oloa ma auaunaga”) e faatonuina ai, mo oloa ma auaunaga ua faamaotiina, tulaga faataatitia e faasino i:

- (a) le tuuina atu o faamatalaga e uiga i le ituaiga, tulaga o le lelei, aofaiga, faapogai, faatinoga, tausiga, fausaga, mamamu, tuufaatasiga, mea o aofia ai, faaaogāina, tau, laasaga mulimuli, teuina i pusa, faalauiloaina po o le tuuina atu o oloa po o auaunaga; ma
- (b) pe faapefea ona tuuina mai o lena faamatalaga e faasino i le tuuina atu po o le tuuina atu o oloa po o auaunaga e ono mafai ona faia.

(2) O se faiga faataatitia o faamatalaga o tagata e faaaogāina oloa ma auaunaga e mafai ona faaaogā ai nisi po o vaega uma o se faiga faataatitia ua lomua faasalalau, ma e mafai ona faia faapea i suiga ua faamaotiina.

(3) A o le i faia o se faiga faataatitia o faamatalaga o tagata e faaaogāina oloa ma auaunaga, e ao i le Minisita ona feutagai i se tulaga lautele e mafai ai ona faatino, peitai o le lē mafai ona faatino o lea itu, o le a lē aafia ai le tulaga aloaia o le faiga faataatitia.



(4) A consumer information standard comes into force on publication in the *Savali*.

(5) A consumer information standard does not apply to goods to which an order under section 7A of the Food and Drugs Act 1967 applies (whether the order is made before or after the commencement of this Part).

(6) If:

(a) a consumer information standard for any particular goods or services is in force; and

(b) a person who supplies, in trade, in Samoa, those goods or services; and

(c) the supply is contrary to the requirements of the standard,

the person commits an offence and is liable on conviction to:

(d) for an individual, a fine not exceeding 200 penalty units, or imprisonment for a term not exceeding two (2) years, or both; and

(e) for a body corporate, a fine not exceeding 1,000 penalty units.

(7) It is a defence to an offence against subsection (6) that:

(a) the defendant made all reasonable inquiries to determine whether or not the supply was contrary to the requirements of the consumer information standard; and

(b) having regard to the outcome of those inquiries, the defendant reasonably believed that the supply was not contrary to the requirements of the standard.

(4) E amata faamamaluina se faiga faataatia o faamatalaga o tagata e faaaogāina oloa ma auaunaga, pe a lomia faasalalau i totonu o le *Savali*.

(5) E lē faaaogāina se faiga faataatia o faamatalaga e faatatau i tagata e faaaogāina oloa ma auaunaga, i oloa ia e faaaogā i ai se poloaiga i lalo o le fuaiupu 7A o le Tulafono o Taumafa ma Vailaau Oona 1967 (tusa lava pe na faia le poloaiga, a o lumanai ai po o i le tuanai ai o le amata faamamaluina o lenei Vaega).

(6) Afai:

(a) o se faiga faataatia o faamatalaga o tagata e faaaogāina oloa ma auaunaga mo so o se oloa po o auaunaga faapitoa o lo o faamalosi; ma

(b) se tagata o ia lea o lo o tuuina atu oloa, i se fefaatauaiga i totonu o Samoa, o na oloa po o auaunaga; ma

(c) o oloa tuuina atu e feteenai ma manaoga o le faiga faataatia,

ua faia e le tagata se soligatulafono ma e noatia i luga o se moliaga ua faamaonia faaletulafono i:

(d) se sala tupe e lē silia le 200 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o ia faasalaga uma e lua, mo tagata taitoatasi (1); ma

(e) se sala tupe e lē silia le 1,000 iunite tau faasalaga, mo se faalapotopotoga ua tuufaatasia faaletulafono.

(7) O se tetee i se soligatulafono e faasaga i le faafuaiupu (6) le itu e faapea:

(a) na faia e le tagata ua molia o suesuega uma talafeagai e fuafuaina ai pe fetuunai oloa na tuuina atu ma manaoga o le faiga faataatia o faamatalaga o tagata e faaaogāina oloa ma auaunaga, pe leai foi; ma

(b) i le amanaia ai o le tuutuuga o na suesuega, ua talitonu le tagata ua molia, i se tulaga talafeagai, e faapea, e le i feteenai oloa na tuuina atu ma manaoga o le faiga faataatia.

**88. Product safety standards for goods-**(1) Subject to this section, the Minister may, with the approval of the Cabinet, make orders (“product safety standards”) prescribing, for specified goods, standards in relation to preventing or reducing the risk of injury to persons.

(2) A product safety standard may provide for any of the following:

- (a) the performance, composition, contents, manufacture, processing, design, construction, finish or packaging of the goods;
- (b) testing the goods during or after manufacture or processing;
- (c) markings, warnings, or instructions to accompany the goods.

(3) A product safety standard may adopt some or all of a published standard, and may do so with specified modifications.

(4) Before making a product safety standard, the Minister must consult as widely as practicable, but a failure to do so does not affect the validity of the standard.

(5) A product safety standard does not apply to goods to which an order under section 7A of the Food and Drugs Act 1967 applies (whether the order is made before or after the commencement of this Part).

(6) A product safety standard comes into force on publication in the *Savali*.

(7) If:

- (a) a product safety standard for any particular goods is in force; and
- (b) a person supplies, in trade, in Samoa, those goods; and

**88. Faiga faataatitia o le saogalemu o oloa gaosi mo oloa-**

(1) I le noatia ma le fai fuafua i lenei fuaiupu, e mafai e le Minisita, i le i ai faatasi ma le faamaoniga a le Kapeneta, ona faia poloaiga (“faiga faataatitia o le saogalemu o oloa gaosi”) o faatonuina ai, mo oloa ua faamaotiina, o faiga faataatitia e faasino i le puipuiga po o le faaititia o lamatiaga e afaina ai tagata.

(2) O se faiga faataatia o le saogalemu o oloa gaosi e mafai ona aiaia ai mo so o se tasi o itu nei:

- (a) le faatinoga, tuufaatasiga, mea e aofia ai, gaosiga, faagaoioiga, mamanu, fausaga, laasaga faaiu po o le teuina o oloa i pusa;
- (b) suesueina o oloa a o faagasolo po o i le maea ai ona gaosia po o le faagaoioiga;
- (c) faailoga, lapataiga, po o faatonuga e tuuina atu faatasi ma oloa.

(3) E mafai ona faaogā i se faiga faataatia o le saogalemu o oloa gaosi, nisi po o faiga faataatitia uma ua lomua faasalalau, ma e mafai ona faia faapea i suiga faapitoa.

(4) A o le i faia o se faiga faataatia o le saogalemu o oloa gaosi, e ao i le Minisita ona feutagai i se tulaga lautele e mafai ai ona faatino, peitai, o le lē mafaia ona fai faapena, e lē aafia ai le tulaga aloaia o le faiga faataatia.

(5) E lē faaogāina se faiga faataatia o le saogalemu o oloa gaosi i oloa ia o lo o faaogā i ai se poloaiga i lalo fuaiupu 7A o le Tulafono o Taumafa ma Vailaau Oona 1967 (tusa lava pe na faia le poloaiga, a o lumanai ai po o i le tuanai ai o le amata faamamaluina o lenei Vaega).

(6) E amata faamamaluina se faiga faataatia o le saogalemu o oloa gaosi pe a lomua faasalalau i totonu o le *Savali*.

(7) Afai:

- (a) o se faiga faataatia o le saogalemu o oloa gaosi mo so o se oloa faapitoa ua faamalosia; ma
- (b) ua tuuina atu e se tagata, i se fefaatauaiga, i totonu o Samoa, o na oloa; ma

(c) the supply is contrary to the requirements of the standard,  
the person commits an offence and is liable on conviction to:

(d) for an individual, a fine not exceeding 200 penalty units, or imprisonment for a term not exceeding two (2) years, or both; and

(e) for a body corporate, a fine not exceeding 1,000 penalty units.

(8) It is a defence to an offence against subsection (7) that:

(a) the defendant made all reasonable inquiries to determine whether or not the supply was contrary to the requirements of the product safety standard; and

(b) having regard to the outcome of those inquiries, the defendant reasonably believed that supply was not contrary to the requirements of the standard.

**89. Product safety notices-**(1) If it appears to the Minister that:

(a) goods or services of a particular kind will or may cause injury to persons; or

(b) a reasonably foreseeable use (including a misuse) of goods or services of a particular kind will or may cause injury to persons,

the Minister may, by notice in the *Savali*, declare the goods or services to be unsafe (a “product safety notice”).

(c) o oloa tuuina atu e feteenai ma manaoga o le faiga faataatia,

ua faia e le tagata se soligatulafono ma e noatia i luga o se moliaga ua faamaonia faaetulafono i:

(d) se sala tupe e lē silia le 200 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o faasalaga uma e lua, mo tagata taitoatasi; ma

(e) se sala tupe e lē silia le 1,000 iunite tau faasalaga, mo se faalapotopotoga ua tuufaatasia faaetulafono.

(8) O se tetee i se soligatulafono e faasaga i le faafuiauupu (7) le itu e faapea:

(a) na faia e le tagata ua molia o suesuega uma talafeagai e fuafuaina ai pe feteenai oloa na tuuina atu ma manaoga o le faiga faataatia o faamatalaga o tagata e faaaogāina oloa ma auaunaga, pe leai foi; ma

(b) i le amanaia ai o le taunuuga o na suesuega, ua talitonu le tagata ua molia, i se tulaga talafeagai, e faapea, e le i feteenai oloa na tuuina atu ma manaoga o le faiga faataatia.

**89. Faasilasilaga o le saogalemu o oloa gaosi-**(1) Afai e foliga mai i le Minisita e faapea:

(a) o oloa po o auaunaga o se ituaiga faapitoa o le a po o e mafai ona tulai mai ai ni manuaga i tagata; po o

(b) le faaaogāina i se tulaga e ono tulai mai e talafeagai lelei (e aofia ai le faaaogā le tatau) o oloa po o auaunaga o se ituaiga faapitoa o le a, po o e mafai ona tulai mai ai ni manuaga i tagata,

e mafai e le Minisita, e ala i se faasilasilaga i le *Savali*, ona faaalua manino oloa po o auaunaga e faapea e lē saogalemu (o se “faasilasilaga o le saogalemu o oloa gaosi”).

(2) Unless sooner revoked, a product safety notice remains in force for 18 months, but the Minister may re-make the notice under this section.

(3) A product safety notice for particular goods may not be made (and, if made, is of no effect) if a product safety standard is in force for the goods.

(4) If product safety notice for particular goods or services is in force, a person who supplies, in trade, in Samoa, those goods or services commits an offence and is liable on conviction to:

- (a) for an individual, a fine not exceeding 200 penalty units, or imprisonment for a term not exceeding two (2) years, or both; and
- (b) for a body corporate, a fine not exceeding 1,000 penalty units.

**90. Compulsory product recalls-**(1) If the Minister is satisfied that:

- (a) a person has, in trade, supplied goods that -
  - (i) do not comply with an applicable product safety standard; or
  - (ii) are the subject of a product safety notice; or
  - (iii) are goods of a kind that will or may cause injury to a person; and
- (b) the person has not recalled the goods or taken appropriate action to recall the goods,

the Minister may, by notice to the person (a “product recall notice”), require the person to do any or all of the following, as specified in the notice, within a period specified in the notice:

(2) Ae vagana ai ua vave ona faalēaogāina, e tumau pea ona faamalasia se faasilasilaga o le saogalemu o oloa gaosi, mo le 18 masina, peitai e mafai e le Minisita ona toe faia le faasilasilaga i lalo o lenei fuaiupu.

(3) E lē mafai ona faia o se faasilasilaga mo le saogalemu o oloa gaosi mo oloa faapitoa (ma, pe afai e faia, e leai se tulaga aloaia) pe afai o lo o faamamaluina se faiga faataatia o le saogalemu o oloa gaosi, mo oloa.

(4) Afai o lo o faamamaluina se faasilasilaga o le saogalemu o oloa gaosi mo oloa po o auaunaga faapitoa, o se tagata o ia tuuina atu, i se feafaatauaiga, i totonu o Samoa, o na oloa po o auaunaga, ua ia faia o se soligatulafono ma e noatia i luga o se moliaga ua faamaonia faaetulafono i:

- (a) se sala tupe e lē silia le 200 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaietimi e lē silia le lua (2) tausaga, po o ia faasalaga uma e lua mo tagata taitoatasi; ma
- (b) se sala tupe e lē silia le 1,000 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaetulafono.

**90. Faamalasia o le toe faafoi atu o oloa-**(1) Afai ua faamalalaina le Minisita e faapea:

- (a) ua faaoo atu e se tagata e feafaatauaia oloa ni oloa ia -
  - (i) e le o usitaia se faiga faataatia talafeagai o le saogalemu o oloa gaosi; po o
  - (ii) o lo o atu i ai se faasilasilaga o le tulaga saogalemu o oloa gaosi; po o
  - (iii) o oloa o se ituaiga lea o le a, po o e mafai ona afaina ai se tagata; ma
- (b) e le i toe faafoiina e le tagata oloa po o, ua faia se gaoioiga talafeagai e toe faafoi atu ai oloa,

e mafai e le Minisita, e ala i se faasilasilaga i le tagata (o se, “faasilasilaga e toe faafoi atu ai oloa”), ona manaomia le faia e le tagata o so o se tasi po o itu uma nei e pei ona faamaoti atu i le faasilasilaga i totonu o se vaietimi ua faamaotiina:

(c) recall the goods, and repair or replace the goods, or refund to any person to whom the goods were supplied, the price paid for the goods or a lesser amount as may be reasonable having regard to the use that person has had of the goods;

(d) disclose to the public information relating to -

(i) the characteristics of the goods that render them unsafe; or

(ii) the circumstances in which use of the goods is unsafe; or

(iii) any other matters relating to the goods or the use of the goods as may be specified.

(2) A person who fails to comply with a requirement of a product recall notice given to the person commits an offence and is liable on conviction to:

(a) for an individual, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding two (2) years, or both; and

(b) for a body corporate, a fine not exceeding 1000 penalty units.

**91. Services safety standards-**(1) Subject to this section, the Minister may, with the approval of the Cabinet, make orders (“services safety standards”) prescribing, for specified services, standards in relation to preventing or reducing the risk of injury to persons.

(2) A services safety standard:

(a) may adopt some or all of a published standard, with specified modifications; and

(c) toe faafoi atu oloa, ma toe faaleleia po o le toe sui o oloa, po o le toe faafoi atu i so o se tagata lea na faaoo atu i ai o le tau na totogi mo oloa, po o se aofaiga e itiiti ifo e pei ona mafai ona talafeagai ai i le amanaia ai o le tulaga na faaaogāina ai e lea tagata oloa;

(d) ia faailoa atu i tagata lautele faamatalaga e uiga i -

(i) foliga vaaia o oloa ia ua mafua ai ona faapea e lē saogalemu; po o

(ii) tulaga na aliae mai e lē saogalemu ai ia oloa mo le faaaogāina; po o

(iii) nisi lava mataupu e faasino i oloa po o le faaaogāina o oloa e pei ona mafai ona faamaotiina.

(2) Ua faia e se tagata se soligatulafono o ia lea ua ia lē usitaia se faasilasilaga o le toe faafoi atu o oloa na faaooina i le tagata, ma e noatia i luga o moliaga ua faamaonia faaetulafono i:

(a) se sala tupe e lē silia le 200 iunite tau faasalaga po o le nofosalā i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o faasalaga uma e lua mo tagata taitoatasi; ma

(b) o se sala tupe e lē silia le 1000 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaetulafono.

**91. Faiga faataatitia o le saogalemu o auunaga-**(1) I le noatia ma le fai fuafua i lenē fuaiupu, e mafai e le Minisita, i le i ai faatasi ma le faamaoniga a le Kapeneta, ona faia poloaiga (“faiga faataatitia o le saogalemu o auunaga”) e faatonuina ai mo auunaga maoti, faiga faataatitia e faasino i le puipuga po o le faaitiitia ai o le tulaga lamatia o le afaina ai o tagata.

(2) O se faiga faataatia o le saogalemu o auunaga:

(a) e mafai ona faaaogāina nisi po o se faiga faataatia atoa ua lomā faasalalau faatasi ai ma suiga ua faamaotiina; ma

(b) comes into force on publication in the *Savali*.

(3) Before making a services safety standard, the Minister must consult as widely as practicable, but a failure to do so does not affect the validity of the standard.

(4) If:

- (a) a services safety standard for particular services is in force; and
- (b) a person supplies, in trade, in Samoa, those services; and
- (c) the supply is contrary to the services safety standard,

the person commits an offence and is liable on conviction to:

- (d) for an individual, a fine not exceeding 200 penalty units, or imprisonment for a term not exceeding two (2) years, or both; and
- (e) for a body corporate, a fine not exceeding 1,000 penalty units.

(5) It is a defence to an offence against subsection (4) that:

- (a) the defendant made all reasonable inquiries to determine whether or not the supply was contrary to the requirements of the services safety standard; and
- (b) having regard to the outcome of those inquiries, the defendant reasonably believed that supply was not contrary to the requirements of the services safety standard.

(b) e amata faamamaluina pe a lomia faasalalau i totonu o le *Savali*.

(3) A o lumanai ai le faia o se faiga faataatia o le saogalemu o auunaga, e ao i le Minisita ona feutagai i se tulaga faalauaitele e mafai ai ona faatino, peitai o le lē mafai ai ona faatinoia lea tulaga, o le a lē aafia ai le aloaia o le faiga faataatia.

(4) Afai:

- (a) ua faamalosia se faiga faataatia o le saogalemu o auunaga mo auunaga faapitoa; ma
- (b) ua faaoina atu e se tagata a o faia fefaatauaiga i totonu o Samoa ia auunaga; ma
- (c) e feteenai auunaga tuuina atu ma le faiga faataatia o le saogalemu o auunaga,

ua faia e le tagata se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaletulafono:

- (d) o se sala tupe e lē silia le 200 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o faasalaga uma e lua, mo tagata taitoatasi; ma
- (e) o se sala tupe e lē silia le 1,000 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaletulafono.

(5) O se tete e i se soligatulafono e faasaga i le faafuaiupu (4) le faapea:

- (a) na faia e le tagata ua molia suesuega talafeagai uma e fuafua ai po o feteenai auunaga tuuina atu ma manaoga o faiga faataatitia o le saogalemu o auunaga; ma
- (b) le amanaia ai o taunuuga o ia suesuega, ua talitonu le tagata ua molia i luga o mafuaaga talafeagai e faapea e le i feteenai auunaga tuuina atu ma manaoga o faiga faataatia o le saogalemu o auunaga.

(6) In this section, “services” means the performance of work by way of:

- (a) maintaining, repairing, cleaning, treating, processing, installing, assembling or altering goods; or
- (b) constructing, maintaining, repairing, cleaning, treating or altering a building or other fixture on land; or
- (c) developing land; or
- (d) transporting goods.

## PART 5 PRICE CONTROL

### *Division 1 - Price inquiries*

**92. Minister may require price inquiry report-**(1) The Minister may refer to the Commission for inquiry and report the prices of specified goods supplied in Samoa.

(2) The reference may be made at the Commission’s suggestion or on the Minister’s own initiative.

(3) The Minister may:

- (a) alter the terms of a reference; or
- (b) give the Commission directions about the order in which it is to deal with references.

(4) In conducting an inquiry, the Commission must consult as widely as practicable.

**93. Commission to report to Minister-**(1) A report under this Division must:

- (a) identify the goods, and the relevant markets; and
- (b) analyse the degree of competition in those markets; and

(6) I totonu o lenei fuaiupu, “auaunaga” o lona uiga o le faatinoga o galuega e ala i:

- (a) le faatumauiina, faaleleia, faamamaina, tagofiaina, gaosia, faapipiina, faapotopotoina po o le suia o oloa; po o
- (b) fausia, faatumauiina, faaleleia, faamamaina, tagofia po o le faafouina o se fale po o isi meatotino tumau e fausia i luga o le fanua; po o
- (c) le atiaaina o fanua; po o
- (d) le felauaiga o oloa.

## VAEGA 5 FAATONUTONUINA O TAU

### *Vaevaega 1 - Suesuega o tau o oloa*

**92. E mafai ona manaomia e le Minisita lipoti o le suesuega o le tau o oloa-**(1) E mafai ona tapaina e le Minisita le Komisi mo se suesuega ma lipoti atu tau o oloa maoti o lo o faatauina i totonu o Samoa.

(2) E mafai ona faia lea tulaga ua faasinomia e ala i se manatu faaalii o le Komisi po o, i luga o le sogasogalelei o le Minisita.

(3) E mafai e le Minisita:

- (a) ona suia tuutuuga o galuega; po o
- (b) le tuuina atu o faatonuga i le Komisi e uiga i le faasologa e ao ona tagofia ai galuega.

(4) I le faataunuaina ai o se suesuega, e ao i le Komisi ona feutagai i se tulaga faalauaitele e mafai ai ona faatino.

**93. Ia lipoti atu le Komisi i le Minisita-**(1) E ao i se lipoti i lalo o lenei Vaevaega ona:

- (a) faailoagofie ai oloa, ma maketi talafeagai; ma
- (b) auiliili ai le tulaga maualuga o tauvaga i ia maketi; ma

- (c) assess the likely future state of the competition; and
- (d) assess the impact on consumers or customers of prices and pricing behaviour in those markets; and
- (e) make recommendations as to measures, if any, that would or might improve competition in the relevant markets; and
- (f) make recommendations whether any further price inquiries should be carried out in the future and, if so, when; and
- (g) make recommendations whether a price control order should be made and, if so, the terms of the order.

(2) The Commission must make each report under this Division available for inspection by any person:

- (a) at the offices of the Commission during ordinary business hours;
- (b) through the internet or a similar electronic network; and
- (c) in any other manner the Commission considers appropriate.

*Division 2 - Price controls*

**94. Price control orders-**(1) Subject to this section, the Head of State, acting on the advice of the Cabinet, may make regulations (“price control orders”) specifying:

- (a) the maximum price that a supplier may charge for the supply of specified goods; or

- (c) fuafua le tulaga e ono tulai mai i le lumanai o faiga faatauvaga; ma
- (d) fuafuaina le aafiaga i tagata e faaaogāina oloa ma auunaga po o tagata faatau e uiga i tau ma aga tau le faia ai o tau o oloa i ia maketi; ma
- (e) faia fautuaga e faasino i faiga e faatonutonu, pe afai e i ai, ia o le a po o e ono mafai ona faalelei ai faiga faatauvaga i maketi talafeagai; ma
- (f) faia fautuaga pe tatau ona faatino nisi suesuega o tau o oloa i le lumanai ma, afai e faia faapea, o le taimi e faia ai; ma
- (g) faia fautuaga pe tatau ona faia se poloaiga e faatonutonu ai tau o oloa pe leai foi ma, afai e faia faapea, o tuutuuga o le poloaiga.

(2) E ao i le Komisi ona faaavanoa lipoti taitasi uma ua faia i lalo o lenei Vaega mo suesuega a so o se tagata:

- (a) i ofisa o le Komisi a o faagasolo itula faigaluega masani;
- (b) e ala i le initaneti po o fesootaiga faapena faaeletoni; ma
- (c) i so o se isi lava faiga e manatu le Komisi ua talafeagai ai.

*Vaevaega 2 - Faatonutonuina o tau o oloa*

**94. Poloaiga o le faatonutonuina o tau o oloa-**(1) I le noatia ma le fai fuafua i lenei fuaiupu, e mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, ona faia tulafono faatonutonu (“polaiga o le faatonutonuina o tau o oloa”) e faamaoti ai:

- (a) le tau aupito maualuga lea e mafai ai e se tagata e tuuina atu oloa ona faaee atu mo le tuuina atu o oloa ua faamaotiina; po o



(b) how the maximum price that a supplier may charge for the supply of specified goods is to be calculated.

(2) The Head of State is not to make a price control order in respect of specified goods unless a report of the Commission under Division 1:

(a) states that -

(i) there is no effective competition in the market for the goods; and

(ii) there is no reasonable prospect that there will be effective competition in that market within the next two (2) years; and

(b) recommends that the order be made.

(3) A price control order:

(a) may apply to the supply of goods in a particular area, or in any area; and

(b) comes into force on publication in the *Savali*.

(4) Unless sooner repealed, a price control order ceases to have effect after two (2) years from the date it comes into force.

(5) Subsection (4) does not prevent the Head of State from re-making a price control order, but the order is not to be re-made so that it has effect for more than four (4) years unless a report of the Commission under Division 1 has recommended that the order be so re-made.

(6) A person who:

(a) supplies or offers to supply, in trade, to another person as a consumer, goods which are subject to a price control order; and

(b) le faiga e mafai ai ona faatatauina se tagata e tuuina atu oloa, le tau aupito maualuga e faaee atu mo le tuuina atu o oloa ua faamaotiina.

(2) E lē faia e Le Ao o le Malo se poloaiga e faatonutonu ai tau o oloa e tusa ai ma oloa ua faamaotiina vagana ai o se lipoti a le Komisi i lalo o le Vaevaega 1:

(a) ua taua ai e faapea -

(i) e le o lelei faatino faiga faatauvaga i le maketi mo oloa; ma

(ii) e le o i ai se talitonuga talafeagai e faapea o le a i ai se faiga faatauvaga lelei atoatoa i lea maketi i totonu o le isi lua (2) tausaga o sosoo nei; ma

(b) fautuaina ai ia faia o le poloaiga.

(3) O se poloaiga e faatonutonuina ai tau o oloa:

(a) e mafai ona faaogāina i le tuuina atu o oloa i se nofoaga faapitoa, po o i so o se nofoaga; ma

(b) e amata faamamaluina i le taimi e lomina faasalalau ai i totonu o le *Savali*.

(4) Ae vagana ai ua soloaia i se taimi vave, e muta le aogā o se poloaiga e faatonutonu ai tau o oloa i le tuanai ai o le lua (2) tausaga talu mai le aso e amata faamamaluina ai.

(5) E le o taofia i le faafuuiupu (4) Le Ao o le Malo mai le toe faia o se poloaiga e faatonutonu ai tau o oloa, peitai e lē tataua ona toe faia le poloaiga ina ia aloaia ai mo le sili atu i le fa (4) tausaga vagana ai ua fautuaina i se lipoti a le Komisi i lalo o le Vaevaega 1 e faapea, ia faapena ona toe faia le poloaiga.

(6) O se tagata o ia lea:

(a) ua ia tuuina atu po o ua ofo e tuuina atu, i fefaatauaiga, i se isi tagata i le aveai ai o ia ma tagata e faaogāina oloa ma auaunaga, ni oloa ia e noatia i se poloaiga e faatonutonu ai le tau o oloa; ma

- (b) charges a price for the goods that exceeds the price specified in or calculated pursuant to the price control order,

commits an offence and is liable on conviction to:

- (c) for an individual, a fine not exceeding 50 penalty units; and
- (d) for a body corporate, a fine not exceeding 100 penalty units.

**95. Price control orders to be displayed-**(1) A person commits an offence if:

- (a) the person, in trade, supplies or offers to supply goods from premises to which customers have access for the purpose of acquiring the goods; and
- (b) the supply of the goods is subject to a price control order; and
- (c) a copy of the order is not displayed prominently on the notice board required by section 86.

(2) A person commits an offence if:

- (a) the person, in trade, supplies or offers to supply goods over the internet; and
- (b) the supply of the goods is subject to a price control order; and
- (c) the internet site the person uses to offer the goods does not draw attention to the existence of the price control order, and either state its terms or provide a working link to a copy of the order.

- (b) faaee atu se tau mo oloa ia ua sili atu le tau i le tau ua faamaotiina i, po o ua faataauina ina ia tusa ai ma le poloaiga o le faatonutonuina o tau o oloa,

ua ia faia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaetulafono i:

- (c) se sala tupe e lē silia le 50 iunite tau faasalaga mo tagata taitoatasi; ma
- (d) se sala tupe e lē silia le 100 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaetulafono.

**95. Ia faailoa atu poloaiga e faatonutonu ai tau o oloa-**(1) Ua faia e se tagata se soligatulafono pe afai:

- (a) ua tuuina atu e le tagata i le taimi o fefaatauaiga po o ua ofo e tuuina atu oloa mai fale ma nofoaga ia e avanoa i ai tagata e faaaogāina oloa ma auunaga mo le faamoemoe e mauaina mai oloa; ma
- (b) o le tuuina atu o oloa, e noatia i se poloaiga e faatonutonu ai tau o oloa; ma
- (c) e le o faailoaina faalauaitete se ata o le poloaiga i luga o le laupapa o faasilasilaga e pei ona manaomia ai i lalo o le fuaiupu 86.

(2) Ua faia e se tagata se soligatulafono pe afai:

- (a) ua tuuina atu e le tagata i le taimi o fefaatauaiga pe ofoina le tuuina atu o oloa i luga o le initaneti; ma
- (b) o oloa o lo o tuuina atu o lo o noatia i se poloaiga e faatonutonu ai tau; ma
- (c) o le nofoaga o fesootaiga tau initaneti o faaaogāina e le tagata e ofoina atu ai oloa, e le o taulai le silasila i le poloaiga e faatonutonu ai tau o oloa o lo o faaaogāina, ma e le o taua foi ana tuutuuga po o le tuuina atu o se sootaga tau galuega i se ata o le poloaiga.

(3) A person convicted of an offence under subsection (1) or (2) is liable to:

- (a) for an individual, a fine not exceeding 50 penalty units; and
- (b) for a body corporate, a fine not exceeding 100 penalty units.

**96. Traders to maintain records-**(1) A person commits an offence if:

- (a) the person, in trade, sells or offers for sale goods; and
- (b) the goods are subject to a price control order; and
- (c) the person does not make a record identifying the goods and the price charged.

(2) A person commits an offence if the person does not retain a record made under subsection (1) for at least seven (7) years after the transaction to which it relates.

(3) A person convicted of an offence under subsection (1) or (2) and is liable on conviction to:

- (a) for an individual, a fine not exceeding 10 penalty units; and
- (b) for a body corporate, a fine not exceeding 20 penalty units.

**PART 6  
COMPLAINTS, INVESTIGATIONS  
AND RELATED POWERS**

*Division 1 - Complaints and investigations*

**97. Complaints-**(1) A person may make a complaint with the Commission that a person has contravened, is contravening or is about to contravene a provision of this Act.

(3) O se tagata ua faamaonia faaletulafono i se soligatulafono i lalo o le faafuaiupu (1) po o le (2), e noatia i:

- (a) se sala tupe e lē silia le 50 iunite tau faasalaga, mo tagata taitoatasi; ma
- (b) se sala tupe e lē silia le 100 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaletulafono.

**96. Ia tausia e tagata e fefaatauaia oloa faamaumauga-**(1) Ua faia e se tagata se soligatulafono pe afai:

- (a) ua faatauina pe ofoina oloa mo le faatau atu e le tagata i fefaatauaiga; ma
- (b) o lo o noatia oloa i se poloaiga e faatonutonu ai tau; ma
- (c) e le o faia e le tagata se faamaumauga e faailoagofie ai oloa ma tau ua faaee atu.

(2) Ua faia e se tagata se soligatulafono pe afai na te le o teuina se faamaumauga ua faia i lalo o le faafuaiupu (1) mo se taimi, a itiiti mai e fitu (7) tausaga i le maea ai ona faia feuaiga faapisinisi ia e faasino i ai.

(3) O se tagata ua faamaonia faaletulafono i se soligatulafono i lalo o le faafuaiupu (1) po o le (2), ma e noatia i luga o moliaga ua faamaonia faaletulafono i:

- (a) se sala tupe e lē silia le 10 iunite tau faasalaga mo tagata taitoatasi; ma
- (b) se sala tupe e lē silia le 20 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaletulafono.

**VAEGA 6  
FAASEA, SUESUEGA MA MALOSIAGA  
E FESOOTAI I AI**

*Vaevaega 1 - Faasea ma suesuega*

**97. Faasea-**(1) E mafai e se tagata ona faia se faasea i le Komisi e faapea na solia, e se tagata o lo o solia po o, o le a solia e se tagata se aiaiga o lenei Tulafono.

(2) A complaint must:

- (a) be in the approved form; and
- (b) contain all the information required by the approved form and by relevant guidelines.

(3) The Commission must, if asked, assist a person to make a complaint.

**98. Power to carry out investigations-**(1) The Commission may, on its own initiative, carry out an investigation into any conduct that constitutes or may constitute a contravention of this Act.

(2) If the Minister refers specified conduct or alleged conduct to the Commission under this section, the Commission must:

- (a) carry out an investigation to determine whether the specified conduct or alleged conduct occurred and, if it did, whether it constitutes or may constitute a contravention of this Act; and
- (b) provide a report on the investigation to the Minister.

(3) If a complaint is made under section 97, the Commission must carry out an investigation into the conduct to determine whether it constitutes or may constitute a contravention of this Act.

(4) The Commission does not have to carry out an investigation of a complaint under section 97 if it does not consider it reasonable to do so and may, in particular, refuse to investigate a complaint if it is satisfied that:

- (a) the complaint is trivial, frivolous or vexatious; or
- (b) the complaint is misconceived or lacking in substance.

(2) E ao i se faasea ona:

- (a) faia i se pepa faatumu faamaonia; ma
- (b) aofia ai faamatalaga uma e manaomia i le pepa faatumu ma ia faia e tusa ma taiala talafeagai.

(3) E ao i le Komisi, pe afai e fesiligia, ona fesoasoani i se tagata e faia se faasea.

**98. Malosiaga e faatino ai suesuega-**(1) E mafai e le Komisi, i lona sogasoga lelei ona faatino se suesuega i so o se faatinoga lea ua mafua ai, po o e mafai ona afua mai ai se tulaga e le o solia ai lenei Tulafono.

(2) Afai e faasee atu e le Minisita faatinoga ua faamaotiina po o faatinoga ua tuuaia ai i le Komisi i lalo o lenei fuaiupu, e ao i le Komisi ona:

- (a) tauaveina se suesuega e fuafua ai pe na tulai mai le faatinoga ua faamaotiina po o le faatinoga ua tuuaia ai ma, afai na faia, pe na mafua ai po o e ono mafua ai se soliga o lenei Tulafono; ma
- (b) tuuina atu se lipoti o le suesuega i le Minisita.

(3) Afai ua faia se faasea i lalo o le fuaiupu 97, e ao i le Komisi ona tauaveina se suesuega o le faatinoga e fuafua ai po o ua mafua ai po o, e mafai ona afua mai ai se soliga o lenei Tulafono.

(4) E lē tau faatinoina e le Komisi se suesuega o se faasea ua faia i lalo o le fuaiupu 97 pe afai e manatu o ia ua lē talafeagai ai ona faia faapea ma e mafai, i se tulaga faapitoa ona ia teena le suesueina o se faasea pe afai ua faamalieina o ia e faapea:

- (a) e lē matuia, e lē taua po o, e faamaimau taimi le faasea; po o
- (b) e lē talitonuina po o e leai se taua o le faasea.

**99. Time limit for investigating acquisitions** - The Commission must not commence an investigation of an acquisition more than six (6) months after the day on which the Commission first became aware, or ought to have become aware, that the acquisition has taken place.

**100. Appointment of investigators**-(1) The Commission:

(a) may in writing, appoint a person to be an investigator; and

(b) must, in the approved form, issue an identity card to the investigator.

(2) An investigator must carry his or her identity card at all times when exercising a power or performing a function under this Act.

(3) If an investigator does not, as soon as practicable after ceasing to be an investigator, return his or her identity card to the Commission, the investigator, commits an offence and is liable on conviction to a fine not exceeding 5 penalty units.

(4) It is a defence to an offence against subsection (3) that the identity card is lost or destroyed.

(5) A person who interferes with or impedes an investigator exercising a power or performing a function under this Act commits an offence and is liable on conviction to:

(a) for an individual, a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both; and

(b) for a body corporate, a fine not exceeding 250 penalty units.

**99. Taimi faatapulaaina mo le suesueina o sea po o aseta ua mauaina** - E lē tatau i se Komisi ona amatalia se suesuega o sea po o aseta ua mauaina e sili atu i le ono (6) masina i le tuana'i ai o le aso na faatoa iloa ai e le Komisi po o sa tatau ona iloa ai e le Komisi e faapea na mauaina lava ia sea po o aseta.

**100. Tofiaina o tagata suesue**-(1) O le Komisi:

(a) e mafai i se faiga tusitusia ona ia tofia se tagata e avea ma tagata suesue; ma

(b) e ao ona ia tuuina atu se pepa e iloagofie ai i le tagata suesue, i se pepa faatumu faamaonia.

(2) E ao i se tagata suesue ona ia tauaveina i taimi uma lana pepa e iloagofie ai pe a faatinoina se malosiaga, po o le faatinoina ai o se galuega tauave i lalo o lenei Tulafono.

(3) Afai e lē toe faafoiina atu e se tagata suesue i le Komisi lana pepa e iloagofie ai i se taimi vave lava i le muta ai ona avea o ia ma tagata suesue, ua faia e ia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaetulafono i se sala tupe e lē silia le 5 iunite tau faasalaga.

(4) O se tetee i se soligatulafono e faia faasaga i le faafu'aiupu (3) pe afai ua leiloa pe faaleagaina le pepa e iloagofie ai.

(5) O se tagata o ia lea e faalavelaveina po o le teena o se tagata suesue o lo o faatino se malosiaga, po o faatinoina se galuega tauave i lalo o lenei Tulafono, ua ia faia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaetulafono i:

(a) se sala tupe e lē sili atu i le 50 iunite tau faasalaga po o, le nofosala i le falepuipui mo se taimi e lē silia le ono (6) masina, po o faasalaga uma e lua mo tagata taitoatasi; ma

(b) o se sala tupe e lē silia le 250 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaetulafono.

**101. Investigations - powers to require production of documents and things-**(1) An investigator may, by notice in writing, require a person to produce any document or thing relevant to an investigation at a time and place specified in the notice.

(2) The notice must indicate the subject matter and purpose of the investigation, and draw attention to the penalties under this Act for:

- (a) failing to comply with the requirement; and
- (b) providing false or misleading documents; and
- (c) destroying or falsifying documents.

(3) If a person produces a document or thing as required under subsection (1), an investigator may do either of the following:

- (a) make copies of it or take extracts or samples from it;
- (b) require the person to give an explanation of or further particulars about the document or thing.

(4) A person who fails or refuses to comply with a requirement under subsection (1) or (3)(b) commits an offence and is liable on conviction to:

- (a) for an individual, a fine not exceeding 50 penalty units, or imprisonment for a term not exceeding six (6) months, or both; and
- (b) for a body corporate, a fine not exceeding 250 penalty units.

(5) It is a defence to an offence under subsection (4) that the defendant had a reasonable excuse for failing or refusing to comply.

**101. Suesuega - malosiaga e manaomia ai le tuuina atu o pepa aloaia ma ni mea-**(1) E mafai e se tagata suesue, e ala i se faasilasilaga tusitusia, ona manaomia le tuuina atu e se tagata o so o se pepa aloaia po o ni mea e talafeagai i se suesuega, i se taimi ma se nofoaga ua faamaoti atu i le faasilasilaga.

(2) E ao ona faailoa i le faasilasilaga le mataupu autu ma le faamoemoe o le suesuega, ma faailoa ai mo le silafia o faasalaga ua faia i lalo o lenei Tulafono mo:

- (a) le lē mafai ai ona usitaia manaoga; ma
- (b) tuuina atu pepa aloaia sese pe tau faasese; ma
- (c) faaleagaina po o le faaseseina o pepa aloaia.

(3) Afai e tuuina atu e se tagata se pepa aloaia po o ni mea e pei ona manaomia i lalo o le faafuuiupu (1), e mafai e se tagata suesue ona faia se tasi o mea nei:

- (a) ia faia ata o ia pepa aloaia po o le aveina atu o ootoga po o mea faataitai mai ia mea;
- (b) ia manaomia le tagata e tuuina atu se faamatalaga o, po o nisi faamatalaga faapitoe e uiga i pepa aloaia po o ia mea.

(4) Ua faia e se tagata se soligatulafono, o ia lea ua ia lē mafai po o ua ia teena le usitaia o se manaoga i lalo o le faafuuiupu (1) po o le (3)(b), ma e noatia i luga o moliaga ua faamaonia faaletulafono i:

- (a) se sala tupe e lē silia le 50 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaiiami e lē silia le ono (6) masina, po o faasalaga uma e lua mo tagata taitoatasi; ma
- (b) se sala tupe e lē silia le 250 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaletulafono.

(5) O se tetee i se soligatulafono e faia i lalo o le faafuuiupu (4) le faapea na i ai le mafuaaga talafeagai a le tagata ua molia mo le le mafai ai po o le teena ai o le usitaia.

(6) If a requirement under subsection (3)(b) is made in writing, it may require the explanation and particulars to be provided in writing.

(7) A person who is required under subsection (3) to give an explanation of or further particulars about a document or thing commits an offence if the person:

- (a) gives an explanation that is, or particulars that are, inaccurate or incomplete; and
- (b) knew that the explanation or further particulars were inaccurate or incomplete, or was reckless whether they were accurate or complete,

and is liable on conviction to:

- (c) for an individual, a fine not exceeding 50 penalty units, or imprisonment for a term not exceeding six (6) months, or both; and
- (d) for a body corporate, a fine not exceeding 250 penalty units.

**102. Investigations - powers to question persons-**(1) An investigator may, by notice in writing, require a person to:

- (a) attend before an investigator, at a time and place specified in the notice, to answer questions relevant to the investigation; or
- (b) provide written responses to questions set out in the notice that are relevant to the investigation.

(2) The notice must indicate the subject matter and purpose of the investigation, and draw attention to the penalties under this Act for failing to comply with the requirement.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

(6) Afai ua faia se manaoga i lalo o le faafuaiupu (3)(b) i se faiga tusitusia, e mafai ona manaomia ai le faamatalaga ma itu taua e ao ona tuuina atu i totonu o le tusitusiga.

(7) Ua faia se soligatulafono e se tagata o ia lea ua manaomia i lalo o le faafuaiupu (3) e tuuina atu se faamatalaga o, po o nisi itu taua e uiga i se pepa aloaia po o ni mea pe afai o le tagata:

- (a) ua ia tuuina atu se faamatalaga lea e, po o faamatalaga auiliili ia e lē sao po o, e le atoatoa lelei; ma
- (b) ia iloa lelei e le sao pe e le atoatoa lelei le faamatalaga po o nisi faamatalaga auiliili, po o ua ia faatalale pe sao po o le atoatoa lelei,

ma e noatia i luga o moliaga ua faamaonia faaetulafono i:

- (c) se sala tupe e lē silia le 50 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o faasalaga uma e lua mo tagata taitoatasi; ma
- (d) se sala tupe e lē silia le 250 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaetulafono.

**102. Suesuega - malosia e fesiligia ai tagata-**(1) E mafai e se tagata suesue, e ala i se faasilasilaga tusitusia ona manaomia se tagata e:

- (a) auai atu i luma o se suesuega, i se taimi ma se nofoaga ua faamaoti mai i le faasilasilaga, e tali atu i fesili e talafeagai ma le suesuega; po o
- (b) le tuuina atu o tali tusitusia i fesili ua faatulaga atu i le faasilasilaga ia e talafeagai ma le suesuega.

(2) E ao ona faailoa atu i le faasilasilaga le mataupu autu ma le faamoemoega o le suesuega, ma faailoa mo le silafia o faasalaga i lalo o lena Tulafono mo le lē mafai ai ona usitaia le manaoga.

(3) Ua faia e se tagata se soligatulafono o ia lea ua ia lē usitaia le faafuaiupu (1), ma e noatia i luga o moliaga ua faamaonia faaetulafono i se sala tupe e lē silia le 50 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o faasalaga uma e lua.

(4) It is a defence to an offence against subsection (3) that the defendant had a reasonable excuse for failing or refusing to comply.

(5) A person who attends as required by a notice under subsection (1) and answers a question put to the person by an investigator, or who provides a written response to a question set out in a notice under subsection (1), commits an offence if—

- (a) the answer given by the person is inaccurate or incomplete; and
- (b) the person knew that the answer was inaccurate or incomplete, or was reckless whether it was accurate or complete,

and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**103. Investigations - power to administer oaths-(1)** An investigator may:

- (a) require a person to verify on oath or affirmation the accuracy and completeness of the answers the person gives to a question put by an investigator under section 102; and
- (b) administer the oath or affirmation for the purpose of paragraph (a).

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

(3) It is a defence to an offence against subsection (2) that the defendant had a reasonable excuse for failing or refusing to comply.

(4) O se tetee i se soligatulafono e faia faasaga i le faafuaiupu (3) le faapea na i ai se mafuaaga talafeagai a le tagata ua molia, mo le lē mafai ai po o le teena o le usitaia.

(5) Ua faia se soligatulafono e se tagata o ia lea ua auai atu e pei ona manaomia e ala i se faasilasilaga i lalo o le faafuaiupu (1), ma tali atu i se fesili ua tuuina atu ia te ia e se tagata suesue, po o le tuuina atu o se tali tusitusia i se fesili ua faatulaga atu i se faasilasilaga i lalo o le faafuaiupu (1), pe afai:

- (a) o le tali ua ia tuuina atu e lē sao po o, e lē atoatoa lelei; ma
- (b) na iloa lelei e le tagata e lē sao po o e lē atoatoa le tali, po o, ua ia faatalale e tusa lava pe sao pe atoatoa foi,

ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 100 iunite tau faasalaga, po o le nofosala i le falepuipui mo se viataimi e lē silia le 12 masina, po o faasalaga uma e lua.

**103. Suesuega - malosiaga e faatino ai tautoga-(1)** E mafai e se tagata suesue ona:

- (a) manaomia le faamaonia e se tagata i luga o se tautoga, po o se faamaoniga le sao ma le atoatoa lelei o tali na tuuina atu e le tagata i se fesili na fesiligia ai e se tagata suesue i lalo o le fuaiupu 102; ma
- (b) faatino le tautoga po o le faamaoniga mo le faamoemoe o le parakalafa (a).

(2) O le tagata ua ia solia le faafuaiupu (1), ua faia se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 50 iunite tau faasalaga, po o le nofosala i le falepuipui mo se viataimi e lē silia le ono (6) masina, po o faasalaga uma e lua.

(3) O se tetee i se soligatulafono ua faia faasaga i le faafuaiupu (2) le faapea na i ai se mafuaaga talafeagai a le tagata ua molia mo le lē mafai po o le teena ai o le usitaia.



**104. Confidentiality orders-**(1) The Commission may, on its own initiative or on application by a person, make a confidentiality order relating to any specified information (including information in a document), provided to or obtained by the Commission or an investigator in connection with:

- (a) an application for a clearance or an authorisation; or
- (b) an investigation; or
- (c) the performance of a function of the Commission.

(2) A confidentiality order is an order that prohibits disclosure of information specified in the order except as specified in the order.

(3) A confidentiality order may be expressed to have effect for such period as is specified in the order.

(4) The Commission may, on its own initiative or on application by a person bound by a confidentiality order, vary or revoke the order.

(5) If an order under this section is in effect, a person who discloses information contrary to the order commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

(6) It is a defence to an offence against subsection (5) that the defendant did not know, and could not reasonably have known, that the disclosure was contrary to the order.

**105. False or misleading statements-**(1) If:

- (a) a person makes a statement (whether orally, in a document or in any other way) to an investigator in relation to the exercise by the investigator of his or her powers under this Act; and

**104. Poloaiga o tulaga agatapuia-**(1) E mafai e le Komisi, i lona sogasoga lelei, po o luga o se talosaga a se tagata, ona faia se poloaiga o tulaga agatapuia e faasino i so o se faamatalaga maoti (e aofia ai faamatalaga i totonu o se pepa aloaia), ua tuuina atu i, po o ua maua mai e le Komisi po o se tagata suesue e fesootai ma:

- (a) se talosaga mo se faamaoniga po o se faatagaga; po o
- (b) se suesuega; po o
- (c) le faatinoga o se galuega tauave a le Komisi.

(2) O se poloaiga o le tulaga agatapuia o se poloaiga lea e faasaina ai ona faailoa atu se faamatalaga ua faamaoti mai i le poloaiga vagana ai ua faamaoti mai i totonu o le poloaiga.

(3) E mafai ona faamanino i se poloaiga o tulaga agatapuia e faamamaluina mo sea vaitami e pei ona faamaoti mai i le poloaiga.

(4) E mafai e le Komisi, i lona sogasoga lelei po o, i luga o se talosaga a se tagata ua noatia i se poloaiga o tulaga agatapuia, ona suia pe faalēaogāina le poloaiga.

(5) Afai ua aloaia se poloaiga i lalo o lenei fuaiupu, ua faia e se tagata o ia lea ua ia faailoa atu faamatalaga e feteenai ma le poloaiga, se soligatulafono, ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 50 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o faasalaga uma e lua.

(6) O se tetee i se soligatulafono e faia faasaga i le faafuuiupu (5) le faapea e le i iloaina e le tagata ua molia, ma e le i mafai i luga o mafuaaga talafeagai ona iloaina e faapea o le faailoaina atu e feteenai ai ma le poloaiga.

**105. Faamatalaga sese po o e tau faasese-**(1) Afai:

- (a) ua faia e se tagata se faamatalaga (tusa lava pe tuufofoga, totonu o se pepa aloaia, po o i so o se isi lava auala), i se tagata suesue e uiga i le faatinoga e le tagata suesue o ona malosiaga i lalo o lenei Tulafono; ma

(b) the statement is false or misleading in a material particular,  
the person commits an offence and is liable on conviction to:

(c) for an individual, a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both; and

(d) for a body corporate, a fine not exceeding 500 penalty units.

(2) It is a defence to an offence against subsection (1) that the defendant did not know, and could not reasonably be expected to have known, that the statement was false or misleading.

(3) If:

(a) a person makes a statement (whether orally, in a document or in any other way) to an investigator in relation to the exercise by the investigator of his or her powers under this Act; and

(b) the statement is false or misleading in a material particular; and

(c) the person knows or believes that the statement is false or misleading in a material particular,

the person is liable on conviction to:

(d) for an individual, a fine not exceeding 200 units or to imprisonment for a term not exceeding two (2) years, or both; and

(e) for a body corporate, a fine not exceeding 1,000 penalty units.

(4) For subsections (1) and (3), without limiting when a statement may be false or misleading, a statement may be false or misleading because it does not include some relevant matter.

(b) e sese po o e tau faasese le faamatalaga i se mau autu,

ua faia e le tagata se soligatulafono ma e noatia i luga o moliaga ua faamaonia faaletulafono i:

(c) se sala tupe e lē silia le 100 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le 12 masina, po o faasalaga uma e lua mo tagata taitoatasi; ma

(d) se sala tupe e lē silia le 500 iunite tau faasalaga mo se faalapotopotoga ua tuufaatasia faaletulafono.

(2) O se tetee i se soligatulafono ua faia faasaga i le faafuaiupu (1) le faapea e le i iloaina e le tagata ua molia, ma e lē mafai i luga o mafuaaga talafeagai ona faapea na ia iloaina e faapea e sese pe tau faasese le faamatalaga.

(3) Afai:

(a) ua faia e se tagata se faamatalaga (tusa lava pe tuufofoga, totonu o se pepa aloaia po o i so o se isi lava auala) i se tagata sutesue e uiga i lona faatinoga o ona malosiaga i lalo o lenei Tulafono; ma

(b) e sese po o e tau faasese le faamatalaga i se mau autu; ma

(c) o lo o iloa lelei po o ua talitonu le tagata e faapea e sese pe tau faasese le faamatalaga i se mau autu,

e noatia le tagata i luga o moliaga ua faamaonia faaletulafono i:

(d) se sala tupe e lē silia le 200 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o faasalaga uma e lua mo tagata taitoatasi; ma

(e) se sala tupe e lē silia le 1,000 iunite tau faasalaga mo se faalapotopotoga ua tuufatasia faaletulafono.

(4) Mo le faafuaiupu (1) ma le (3), e aunoa ma le faatapulaaina pe sese po o e tau faasese se faamatalaga, e ono mafai ona faapea e sese pe tau faasese ona e le o aofia ai ni mataupu talafeagai.

**106. Self-incrimination-**(1) A person is not excused from producing a document or thing as required by section 101, or from answering a question as required by section 102, on the ground that the contents of the document, or the thing or the answer, may tend to incriminate the person or render the person liable to a pecuniary penalty.

(2) If:

- (a) a person is required to produce a document or thing, or answer a question, under section 101 or 102; and
- (b) when so required, the person objected on the ground that the document, or the thing, or the answer, may tend to incriminate the person or render the person liable to a pecuniary penalty,

the contents of the document, the thing or the answer is not admissible in evidence in a prosecution of the person for an offence against a competition or consumer law, or in proceedings against the person for a pecuniary penalty.

(3) Subsection (2) does not apply to a prosecution of the person for false or misleading answers (including in respect of an offence against section 101, 102 or 105).

**107. Warnings-**(1) This section applies if an investigator suspects, or ought reasonably to suspect, that a person (a “relevant person”) is engaging or has engaged in conduct that is an offence against this Act, or that would make the relevant person liable to a pecuniary penalty under this Act.

(2) The investigator must not exercise a power to question the relevant person about the conduct unless the investigator, or

**106. O le faamaoniga patino o le tausalaina-**(1) E lē faatagaina se tagata mai le tuuina atu o se pepa aloaia po o se mea e pei ona manaomia ai i le fuaiupu 101, po o mai le tali atu ai i se fesili e pei ona manaomia ai i le fuaiupu 102, i luga o le mafuaaga e faapea o mea o aofia ai i le pepa aloaia, po o le mea po o tali, e mafai ona tulai mai ai e faamaonia le tausalaina o le tagata, po o e noatia ai le tagata i se faasalaga tau tupe.

(2) Afai:

- (a) ua manaomia le tuuina atu e se tagata o se pepa aloaia po o se mea, po o le tali atu i se fesili i lalo o le fuaiupu 101 po o le 102; ma
- (b) afai ua faapena ona manaomia ae ua tetee le tagata i luga o le mafuaaga e faapea, e mafai e le pepa aloaia, po o le mea, po o le tali ona mafua ai ona faamaonia le tausalaina o le tagata, po o e faatulai mai ai le noatia o le tagata i se faasalaga tau tupe,

e lē taliaina mea o aofia ai i le pepa aloaia, le mea po o le tali, ona aveva ma faamatalaga molimau i se faamasinoga o le tagata, mo se soligatulafono ua faia faasaga i se tulafono o faiga faatauva po o tulafono o tagata e faaaogāina oloa, po o i totonu o tualumaga ua faia faasaga i le tagata mo se faasalaga tau tupe.

(3) E lē faaaogāina le faafuaiupu (2) i se moliaga o le tagata mo tali sese pe tau faasese (e aofia ai i le tulaga o se soligatulafono ua faia faasaga i le fuaiupu 101, 102 po o le 105).

**107. Lapataiga-**(1) E faaaogā lenei fuaiupu pe afai ua masalomia e se tagata suesue, po o e i ai mafuaaga talafeagai e ono masalomia ai e faapea, o lo o auai se tagata (o se “tagata talafeagai”) pe na auai i faatinoga lea o se soligatulafono faasaga i lenei Tulafono, po o e faapea o le a mafua ai ona noatia le tagata talafeagai i se faasalaga tau tupe i lalo o lenei Tulafono.

(2) E lē tatau i le tagata suesue ona faatino se malosiaga e fesiligia ai le tagata talafeagai e uiga i le faatinoga vagana ai ua

another investigator, has warned the relevant person that the relevant person does not have to answer a question, or do anything else in response to a question, about the conduct, but that anything that the relevant person does say or do may be used in evidence.

(3) In:

(a) a prosecution of the relevant person for an offence against this Act; or

(b) a proceeding against the relevant person for a pecuniary penalty under this Act, evidence of what the person said or did when questioned in circumstances set out in subsection (1) is not admissible unless it is established that, before the question was asked, the warning required by subsection (2) was given.

(4) This section does not limit the grounds on which the evidence may be inadmissible.

*Division 2 - Search and warrants*

**108. Searches-**(1) For the purpose of conducting an investigation, an investigator may enter a place and search it for documents and things relevant to the investigation.

(2) An investigator may do so only:

(a) with the consent of the occupier of the place; or

(b) if authorised by a warrant issued by a Judge; or

(c) if the investigator or some other investigator believes on reasonable grounds that it is necessary to enter the place urgently to prevent the loss or destruction of a document or other thing that may

lapataia e le tagata suesue, po o se isi tagata suesue le tagata talafeagai e faapea, e lē tau tali atu le tagata talafeagai i se fesili, po o le faia o so o se isi mea e tali atu ai i le fesili e uiga i le faatinoga, peitai ane so o se mea e tautala i ai le tagata talafeagai po o, na te faia, e mafai ona faaaogāina e avea ma faamatalaga molimau.

(3) I totonu:

(a) o se moliaga o le tagata talafeagai mo se soligatulafono ua faia faasaga i lenei Tulafono; po o

(b) se taualumaga faasaga i le tagata talafeagai mo se faasalaga tau tupe i lalo o lenei Tulafono, e lē faatagaina faamatalaga molimau o mea na tautala ai pe na faia e le tagata ina ua fesiligia i tulaga aliae mai o lo o faatulaga atu i le faafuaiupu (1), vagana ai ua faamautuina e faapea, na tuuina atu le lapataiga o lo o manaomia i le faafuaiupu (2) a o lumanai ai tuuina atu o le fesili.

(4) O lenei fuaiupu e le o faatapulaaina ai mafuaaga ia e mafai ai ona faatagaina faamatalaga molimau.

*Vaevaega 2 - Sueina ma tusi faapoloaiga*

**108. Sueina-**(1) Mo le faamoemoe o le faataunuina o se suesuega, e mafai e se tagata suesue ona ulu atu i se nofoaga ma sueina mo pepa aloaia ma mea e talafeagai i le suesuega.

(2) E faatoa mafai e se tagata suesue ona faia faapea:

(a) i le i ai faatasi ma le maliega a le tagata o lo o nofoia le nofoaga; po o

(b) pe afai ua faatagaina e ala i se tusi faapoloaiga e tuuina atu e se Faamasino; po o

(c) pe afai e talitonu le tagata suesue po o nisi lava tagata suesue i luga o mafuaaga talafeagai e faapea, e alagatau le ulufale atu i le nofoaga i se taimi faanatinati ina ia puipuia ai le maimau po o le

afford evidence of a contravention of a competition or consumer law.

(3) If an investigator has the power to enter and search a place under this Act, the investigator or another investigator:

- (a) may use reasonable force to enter the place and conduct the search; and
- (b) is entitled to full and free access to the place to conduct the search; and
- (c) may do whatever is reasonably necessary to conduct a search; and
- (d) may examine any document or thing found during the search.

**109. Obstructing search** - A person who obstructs or interferes with the search conducted by another person exercising a power of search under a warrant commits an offence, and is liable on conviction to:

- (a) for an individual, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both; and
- (b) for a body corporate, a fine not exceeding 500 penalty units.

**110. Use of computers, etc., in searches**-(1) If:

- (a) an investigator has power to search for, or to examine, things at a place; and

faaleagaina o se pepa aloaia po o se isi mea lea e mafai ona faaaogā e avea ma faamatalaga molimau o se tulaga o le lē usitaia o se tulafono o faiga faatauvaaga po o tulafono o tagata e faaaogāina oloa.

(3) Afai o i ai i se tagata suesue le malosiaga e ulufale ai ma sailia se nofoaga i lalo o lenei Tulafono, o le tagata suesue po o se isi tagata suesue:

- (a) e mafai ona ia faaaogāina le malosi talafeagai e ulufale ai i le nofoaga ma sueina; ma
- (b) e agavaa e avanoa atoatoa ma saoloto i le nofoaga e faatino le sueina; ma
- (c) e mafai ona faia po o le a lava le tulaga e talafeagai ai i mafuaaga tata e sueina ai; ma
- (d) e mafai ona ia sueina so o se pepa aloaia po o se mea ua maua a o faagasolo le sueina.

**109. O le faalavelaveina o le sailiga** - Ua faia e se tagata se soligatulafono, o ia lea ua ia faalavelaveina po o ua ia aiaina le sailiga, ua faataunuu e se isi tagata o lo o faatinoina se malosiaga o sailiga i lalo o se tusi faapoloaiga, ma e noatia i luga o moliaga ua faamaonia faaetulafono:

- (a) mo tagata taitoatasi, o se sala tupe e lē silia le 100 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le 12 masina, po o faasalaga uma e lua; ma
- (b) mo se faalapotopotoga ua tuufaatasia faaetulafono, o se sala tupe e lē silia le 500 iunite tau faasalaga.

**110. Faaaogāina o komepiuta, ma isi tulaga faapena, i sailiga**-(1) Afai:

- (a) o i ai i se tagata suesue malosiaga e sailia ai, po o e suesueina ai mea i se nofoaga; ma

- (b) that or some other investigator believes on reasonable grounds that it is necessary to bring a tool or device, including a computer, to the place and use it for the search and examination,

that or some other investigator may bring the tool or device to the place and use it for the search or examination.

(2) If an investigator has power to search for, or to examine, a document at a place, that or some other investigator may operate a computer that is already at the place if that or some other investigator believes on reasonable grounds that:

- (a) it is necessary for an investigator to operate the computer to achieve any of the following purposes -
- (i) to search for the document;
  - (ii) to examine the document;
  - (iii) to put a document into readable form;
  - (iv) to copy a document to some other document to examine it or put it into readable form; and
- (b) the computer is suitable for the search or the examination; and
- (c) the search or the examination can be carried out without damage to the computer or to the document.

(3) The investigator does not have to ask permission before using the computer.

(4) If an investigator:

- (a) has power to search for, or to examine, a document at a place; and
- (b) is using a computer for the purpose of the search or examination,

- (b) faapea po o ua talitonu se isi lava tagata suesue i luga o mafuaaga talafeagai e faapea, e matua talafeagai le aveina o se meafaigaluega po o masini e aofia ai se komepiuta i le nofoaga ua faaaogā ai mo le sailiga ma le suesuega,

e faapea, e mafai e po o nisi lava tagata suesue ona aveina meafaigaluega po o masini i le nofoaga ma faaaogāina ai mo le sailiga po o le suesuega.

(2) Afai o i ai i se tagata suesue le malosiaga e sailia ai, po o le suesueina ai o se pepa aloaia i se nofoaga, o lea tagata po o se isi lava tagata suesue e mafai ona ia faaaogāina se komepiuta lea ua i ai i le nofoaga pe afai ua talitonu lea tagata po o se isi tagata suesue i luga o mafuaaga talafeagai e faapea:

- (a) e alagatau le faaaogāina e se tagata suesue o le komepiuta e ausia ai faamoemoe nei -

- (i) e sailia ai le pepa aloaia;
- (ii) e suesueina ai le pepa aloaia;
- (iii) ia faaliliu se pepa aloaia i se faiga e mafai ai ona faitauina;
- (iv) e fai se ata o se pepa aloaia i se isi lava pepa aloaia e suesueina ai po o le taumafai i se faiga e mafai ai ona faitauina; ma

(b) ia talafeagai lelei le komepiuta mo le sailiga po o le suesuega; ma

(c) ia faataunuu le sailiga po o le suesuega e aunoa ma le faaleagaina o le komepiuta po o le pepa aloaia.

(3) E lē tau faia se faanoi a le tagata suesue a o lumanai ai ona faaaogāina le komepiuta.

(4) Afai o se tagata suesue:

- (a) o lo o ia te ia le malosiaga e sailia ai, po o le suesueina ai o se pepa aloaia i se nofoaga; ma
- (b) o lo o ia faaaogāina se komepiuta mo le faamoemoe o le sailiga po o le suesuega,

then, for that purpose, the computer may be used to get access to any document that the computer can lawfully get access to, including a document held at another place.

**111. Powers to copy and take possession of documents and things-**(1) If an investigator finds a document or thing in the course of a search under this Act, an investigator may do any one or more of the following:

- (a) require the person to give an explanation of or further particulars about the document or thing;
- (b) make copies of it or take extracts from it;
- (c) take possession of and remove it to examine it.

(2) A person who refuses or fails to comply with a requirement under subsection (1)(a) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding six (6) months, or both.

(3) It is a defence to an offence against subsection (2) that the defendant had a reasonable excuse for failing or refusing to comply.

(4) A person who is required under subsection (1)(a) to give an explanation of or further particulars about a document or thing commits an offence if the person:

- (a) gives an explanation that is, or further particulars that are, inaccurate or incomplete; and
- (b) knows that the explanation or the further particulars are inaccurate or incomplete, or is reckless whether the explanation is or the particulars are accurate or complete,

ona faapea lea, mo lea faamoemoega, e mafai ona faaaogāina le komepiuta e avanoa ai i so o se pepa aloaia lea e mafai faaletulafono e le komepiuta ona mauaina e aofia ai se pepa aloaia o lo o i ai i se isi nofoaga.

**111. Malosiaga e faia ai ata ma umia pepa aloaia ma mea-**

(1) Afai ua maua e se tagata suesue se pepa aloaia po o se mea a o faagasolo se sailiga i lalo o lenei Tulafono, e mafai e se tagata suesue ona faia so o se tasi po o le sili atu o tulaga nei:

- (a) ia manaomia le tagata e tuuina atu se faamatalaga o, po o nisi faamatalaga faapitoa e uiga i le pepa aloaia po o mea;
- (b) ia faia ata o lea faamatalaga po o le aveina o ni ona ootoga;
- (c) ia umia ma aveeseina ootoga e suesueina.

(2) Ua faia se soligatulafono e se tagata o ia lea ua ia teena po o ua ia lē mafai ona usitaia se manaoga i lalo o le faafuuiupu (1)(a), ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 50 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le ono (6) masina, po o faasalaga uma e lua.

(3) O se tete e i se soligatulafono e faia faasaga i le faafuuiupu (2) le faapea na i ai i le tagata ua molia mafuaaga talafeagai mo se lē mafai ai po o le teena ai o le usitaia.

(4) Ua faia e se tagata se soligatulafono, o ia lea ua manaomia i lalo o le faafuuiupu (1)(a) e tuuina atu se faamatalaga o, po o nisi faamatalaga faapitoa e uiga i le pepa aloaia po o mea, pe afai o le tagata:

- (a) ua ia tuuina atu se faamatalaga po o nisi faamatalaga faapitoa ia e lē sao po o e lē atoatoa lelei; ma
- (b) o lo o ia iloa lelei e lē sao pe lē atoatoa le faamatalaga po o nisi faamatalaga faapitoa, po o ua ia faatalale pe sao pe atoatoa lelei le faamatalaga po o le faamatalaga faapitoa pe leai foi,

and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(5) If:

(a) an investigator is about to remove, or has removed, a document from a place under this Act; and

(b) the owner, or the person otherwise entitled to possession of the document, asks an investigator to provide a copy of the document,

the Commission is to give the person who asked, as soon as practicable, a copy of the document certified by an officer of the Commission to be a true copy.

(6) A copy certified under subsection (5) is taken for all purposes to be the document of which it is a copy and is admissible in all proceedings as if it were that document.

**112. Issue of warrants-**(1) A Judge may, on application, issue a warrant for the purpose of this Act.

(2) The application:

(a) is to be made by an investigator; and

(b) is to be made pursuant to the rules of the court for which the Judge is presiding; and

(c) is to be accompanied by oral or written information (given on oath or affirmation) in support of the application.

(3) The Judge may require further information.

(4) If it is impracticable to apply for the warrant in person, the application may be made by fax, telephone or other appropriate means. In such a case:

ma e noatia i luga o moliaga ua faamaonia faaletulafono i se sala tupe e lē silia le 100 iunite tau faasalaga po o, le nofosala i le falepuipui mo se vaitaimi e lē silia le 12 masina, po o faasalaga uma e lua.

(5) Afai:

(a) o le a aveeseina e se tagata suesue, po o ua ia maea ona aveeseina se pepa aloaia mai se nofoaga i lalo o lenei Tulafono; ma

(b) ua talosagaina e lē e ona, po o le tagata e agavaa i se isi faiga e ese ai i le pepa aloaia, se tagata suesue e tuuina atu ia te ia se ata o le pepa aloaia,

e tuuina atu e le Komisi i le tagata o ia lea ua talosagaina i se taimi vave lava e mafai ai, se ata o le pepa aloaia ua faamaonia e se tagata ofisa o le Komisi e ave ma ata moni.

(6) Ua faatatauina se ata ua faamaonia i lalo o le faafuuiupu (5) mo faamoemoga uma, e ave ma pepa aloaia lea o lona ata, ma e faatagaina i taualumaga uma e faapei ai o le pepa aloaia lea.

**112. Tuuina atu o tusi faapoloaiga-**(1) E mafai e se Faamasino i luga o se talosaga, ona tuuina atu se tusi faapoloaiga mo le faamoemoe o lenei Tulafono.

(2) O le talosaga:

(a) e ao ona faia e se tagata suesue; ma

(b) e ao ona faia ina ia tusa ai ma tulafono faafoe o le faamasinoga lea o lo o seei ai le Faamasino i le nofoa; ma

(c) e ao ona tuuina atu faatasi ma faamatalaga tuufofoga pe tusitusia (e tuuina atu i luga o tautoga po o faamaoniga) e lagolago ai le talosaga.

(3) E mafai ona manaomia e le Faamasino nisi faamatalaga.

(4) Afai e lē mafai ona talosaga patino mo le tusi faapoloaiga, e mafai ona faia le talosaga e ala i le masini fesi, telefoni po o isi auala talafeagai. I sea tulaga:



(a) the Judge is not to issue the warrant unless satisfied that it is impracticable for the applicant to apply in person for the warrant; and

(b) if the Judge issues the warrant -

(i) the Judge is to prepare and sign the warrant and tell the applicant its terms; and

(ii) the applicant is to prepare an instrument in the same terms as the warrant and write on it the Judge's name and the time at which and the day on which the warrant was signed; and

(iii) the applicant is to give to the Judge who signed the warrant, not later than 24 hours after it was signed, the application, any written information mentioned in subsection (2)(c) and the instrument mentioned in subparagraph(ii).

(5) Without limiting the matters that are relevant to determining whether it is impracticable to apply for the warrant in person, the following are relevant:

(a) the period for doing what the warrant authorised;

(b) the time that would be taken if an application were to be made in person.

(6) While the warrant remains in force, the instrument referred to in subsection (4)(b)(ii) may be used instead of the warrant.

(7) In any proceeding, a court is not to find that anything was done under a warrant issued as mentioned in subsection (4) unless the warrant, signed as mentioned in subsection (4)(b)(i), is admitted in evidence in the proceeding.

(a) e lē tuuina atu e le Faamasino le tusi faapoloaiga vagana ua faamalieina o ia e faapea e lē mafai e lē ua talosaga ona talosaga patino atu mo le tusi faapoloaiga; ma

(b) afai e tuuina atu e le Faamasino le tusi faapoloaiga -

(i) e ao i le Faamasino ona saunia ma sainia le tusi faapoloaiga ma logoina atu i lē o talosaga tuutuuga o lea tusi faapoloaiga; ma

(ii) e saunia e lē o talosaga se pepa faaletulafono i tuutuuga lava i ai e pei o le tusi faapoloaiga, ma tusia ai i ona luga le igoa o le Faamasino, ma le taimi ma le aso na sainia ai le tusi faapoloaiga; ma

(iii) e ao i le tagata talosaga ona tuuina atu i le Faamasino, o ia lea na sainia le tusi faapoloaiga, ia le sili atu i le 24 itula i le maea ai ona sainia, le talosaga ma so o se faamatalaga tusitusia ua taua i le faafuuiupu (2)(c), ma le pepa faaletulafono na taua i le parakalafa laitiiti (ii).

(5) E aunoa ai ma le faatapulaaaina o mataupu ia e talafeagai mo le faia ai o le faaiuga po o, e mafai ona talosaga patino se tagata mo se tusi faapoloaiga, o itu nei e talafeagai:

(a) o le vaitaimi mo le faia ai o tulaga ua faatagaina i le tusi faapoloaiga;

(b) le taimi lea o le faaaluina pe afai o le a faia patino e se tagata se talosaga.

(6) A o faamamaluina ai le tusi faapoloaiga, e mafai ona faaaogāina le pepa faaletulafono ua taua i le faafuuiupu (4)(b)(ii) na i lo le tusi faapoloaiga.

(7) I so o se tualumaga, e lē sueina e se faamasinoga le tulaga pe na faia so o se mea i lalo o se tusi faapoloaiga lea na tuuina atu o taua i le faafuuiupu (4) seia vagana ua faatagaina e ave ma faamatalaga molimau le tusi faapoloaiga e pei ona taua i le faafuuiupu (4)(b)(i) i tualumaga.

(8) A warrant under this Act to enter or search a place authorises the investigator named in the warrant, and any other investigator, to execute the warrant with any assistance as is necessary.

**113. Period of warrants-**(1) A warrant is to specify the day, not more than seven (7) days after its issue, on which it ceases to be in force.

(2) Another warrant may be issued before or after a warrant has ceased to be in force.

**114. Execution of warrants-**(1) A warrant to enter or search a place may be executed at any time of the day or night unless it specifies otherwise.

(2) A warrant to enter or search a place is not to be taken as having been discharged merely because an investigator, including the officer responsible for executing the warrant, leaves the place where it is being executed:

- (a) for not more than 1 hour between 8 am and 6pm; or
- (b) between 6 pm and 8 am; or
- (c) with the written consent of the occupier of the place.

(3) The execution of a warrant may be completed if:

- (a) a court orders the execution of the warrant to be stopped; and
- (b) the order is later reversed or revoked on appeal; and
- (c) the warrant is still in force.

(8) Ua faatagaina i se tusi faapoloaiga ua tuuina atu i lalo o lenei Tulafono le ulufale po o le sailia o se nofoaga, e se tagata suesue ua taua lona igoa i le tusi faapoloaiga, ma so o se isi lava tagata suesue, e faatino le tusi faapoloaiga faatasi ai ma so o se fesoasoani e pei ona talafeagai ai.

**113. Vaitaimi o tusi faapoloaiga-**(1) E ao ona faamaoti i se tusi faapoloaiga le aso, ia lē silia ma le fitu (7) aso i le maea ai ona tuuina atu, lea o le a muta ai lona aloaia.

(2) E mafai ona toe tuuina atu se isi tusi faapoloaiga a o lumanai ai po o, i le tuana'i ai ona muta le aloaia o se tusi faapoloaiga.

**114. Faatinoga o tusi faapoloaiga-**(1) E mafai ona faatino se tusi faapoloaiga e ulufale ai po o le sailia o se nofoaga, i so o se taimi o le ao po o le po vagana ai ua faamaoti mai i se isi faiga e ese ai.

(2) E lē faatatauina se tusi faapoloaiga e ulufale ai pe sailia se nofoaga e faapea ua maea ona faatinoina ona o le mafuaaga e faapea ua tuua le nofoaga lea na faatino ai e se tagata suesue, e aofia ai le tagata ofisa e nafa ma le faatinoga o le tusi faapoloaiga.

- (a) mo se taimi e lē silia le itula e 1 i le va o le 8 i le taeao ma le 6 i le afiafi; po o
- (b) i le va o le 6 i le afiafi ma le 8 i le taeao; po o
- (c) le i ai faatasi ma le maliega tusitusia a le tagata o lo o nofoia le nofoaga.

(3) E mafai ona maea le faatinoga o se tusi faapoloaiga pe afai:

- (a) e poloaia e se faamasinoga le taofia o le faatinoga o le tusi faapoloaiga; ma
- (b) ua toe faataatia ese mulimuli ane le poloaiga po o ua faalēaogāina i luga o se talosaga tetee; ma
- (c) o lo o aloaia pea le tusi faapoloaiga.

**PART 7  
ENFORCEMENT AND REMEDIES**

*Division 1 - Compensation*

**115. Compensation for contraventions of competition or consumer laws-**(1) A person (a “claimant”) who suffers loss or damage as a consequence of a contravention of a competition or consumer law by any other person may recover the amount of the loss or damage by action in a court against any of:

- (a) the other person; and
- (b) a person who was knowingly involved in the contravention.

(2) The action must be commenced within three (3) years after the day on which the cause of action that relates to the contravention accrued.

(3) The Court may, on application, extend the period of three (3) years, and may do so after it has ended.

**116. Commission may claim compensation in representative proceedings-**(1) The Commission may commence, in the Court, and conduct an action (called “representative action”) under section 115 on behalf of one (1) or more claimants if in its opinion it is proper to do so.

(2) The Court may make any appropriate order for the conduct of the representative action, including orders:

- (a) for advertising the institution of the representative action; and

**VAEGA 7  
FAAMAMALUINA MA AUALA E FOIA AI**

*Vaevaega 1 - Tau tau tupe*

**115. Tau tau tupe mo le lē usitaia o tulafono o faiga faatauvaga po o tulafono o tagata e faaaogāina auaunaga-**(1) E mafai e se tagata (se “tagata talosaga”) o ia lea ua afaina i mea ua maimau po o ua faaleagaina ona o se taunuuga o le lē usitaia ai o se tulafono o faiga faatauvaga po o se tulafono o tagata e faaaogāina oloa e so o se isi tagata, ona toe maua atu le aofaiga o mea ua maimau po o ua faaleagaina e ala i se tagi i se faamasinoga, e faia faasaga i so o se tasi o itu nei:

- (a) le isi tagata; ma
- (b) se tagata o ia lea ua iloa lelei na aafia ai i le tulaga lē usitaia.

(2) E ao ona amataina le tagi i totonu o le tolu (3) tausaga talu mai le aso na faatupulaia ai le mafuaaga o le tagi lea e faasino i le lē usitaia.

(3) E mafai e le Faamasinoga, i luga o se talosaga ona faaopopo le vaitaimi e tolu (3) tausaga, ma e mafai ona faia faapea i le maea ai o lea tulaga.

**116. E mafai e le Komisi ona talosagaina tau tau tupe i taualumaga e tulai ai sui-**(1) E mafai ona amatalia e le Komisi, i le Faamasinoga, ma faataunuu se tagi (ua taua o le “tagi e faia e lē o ave ma sui”) i lalo o le fuaiupu 115 e fai ma sui o le toatasi (1) po o le sili atu o tagata o tagi pe afai ua manatu o ia ua talafeagai ai ona faia faapea.

(2) E mafai e le Faamasinoga ona faia so o se poloaiga talafeagai mo le faia ai o se tagi e faia e lē o ave ma sui, e aofia ai poloaiga:

- (a) mo le faasilasilaina i le faalapotopotoga o le tagi e fai ai ma sui; ma

- (b) for the identification of claimants; and
- (c) for notifying claimants of their right to be excluded from the representative action.

(3) If it appears to the Court that a claimant does not wish to pursue the claim through the representative action, the Court must by order exclude the claimant from the representative action.

(4) If:

- (a) the Commission commences a representative action in respect of loss or damage suffered by a claimant; and
- (b) the claimant, either before or after the representative action is commenced but before it is determined, commences an action under section 115 for compensation in respect of loss or damage arising from the contravention (whether or not against the same parties as the representative action),

the claimant is excluded from the representative action, and the Court may make any appropriate order for the conduct of the relevant actions.

(5) The Commission:

- (a) has the conduct of a representative action to the exclusion of the claimants concerned; and
- (b) may withdraw, abandon or compromise the representative action, but a withdrawal or compromise of the representative action is subject to the approval of the Court.

(6) Without limiting the Court's powers, the Court may make orders for the publication of any judgment or order in the representative action.

- (b) mo le faailoagofieina o tagata o lo o faia tagi; ma
- (c) mo le logoina o tagata o tagi e uiga i a latou aia tatau e tuueseina ai i latou mai le tagi o lo o faia e lē o lo o avea ma o latou sui.

(3) Afai ua foliga mai i le Faamasinoga e faapea, e le o manao le tagata o tagi e tulituliloa le tagi e ala i le tagi o lo o faia e lē o avea ma sui, e ao i le Faamasinoga e ala i se poloaiga ona tuueseina mai le tagata o tagi mai le tagi o faia e lē o avea ma sui.

(4) Afai:

- (a) ua amatalia e le Komisi se tagi o faia e lē o avea ma sui e tusa ai ma mea ua maimau po o ua faaleagaina o afaina ai se tagata o tagi; ma
- (b) ua amatalia le tagi a se tagata o tagi, a le o le lumanai ai, po o le tuanai ai ona amataina le tagi a lē o avea ma ona sui peitai a o le i faia i ai se faaiuga, ae ua amatalia se tagi i lalo o le fuaiupu 115 mo tau tau tupe e tusa ai ma mea ua maimau po o ua faaleagaina ua tulai mai i le lē usitaia ai (tusa lava pe faia faasaga pe leai foi i itu faamasinoga lava ia e pei o se tagi a lē o avea ma sui),

e aveeseina le tagata o tagi mai le tagi a lē o avea ma sui, ma e mafai e le Faamasinoga ona faia so o se poloaiga talafeagai mo le faatinoina o gaoioiga talafeagai.

(5) O le Komisi:

- (a) e faafoeina se tagi a lē o avea ma sui e aveeseina ai tagata ua tagi o lo o aafia ai; ma
- (b) e mafai ona faai i tua, faalēaogāina po o le fetuutuunai le tagi a lē o avea ma sui, peitai o le faai i tua po o le fetuutuunai o le tagi a lē o avea ma sui e noatia i le faamaoniga a le Faamasinoga.

(6) E aunoa ma le faatapulaaina o malosiaga o le Faamasinoga, e mafai e le Faamasinoga ona faia poloaiga mo le lomua faasalalau o so o se faaiuga po o se poloaiga i le tagi a lē o avea ma sui.

(7) A judgment in a representative action binds all claimants other than those excluded under this section.

(8) A special purpose account must be established, in accordance with the Public Finance Management Act 2001 in respect of each representative action. For that Act:

(a) amounts recovered by the Commission in the representative action, and interest earned on those amounts, is special purpose account money; and

(b) the authorised purposes of the account are -

(i) to reimburse the Commission for its expenditure incurred in connection with the representative action (including in respect of making payments out of the account); and

(ii) so far as the account is in credit after the sub-paragraph (i) is applied, to pay claimants in the representative action amounts worked out as -

*(amount of claimant's loss ÷ total of all claimants' losses) x amount of the credit.*

(9) A person who was knowingly concerned in the contravention concerned is not entitled to a payment under subsection (8).

#### *Division 2 - Enforcement*

**117. Warning notices-**(1) The Commission may issue a notice (a “warning notice”) to a person if the Commission has reasonable cause to believe that:

(a) the person has engaged, is engaging or proposes to engage in conduct; and

(7) O se faaiuga o se tagi e faia a lē o avea ma sui e noatia ai tagata uma o aofia ai i le tagi e ese ai na i lo i latou ua aveeseina i lalo o lenei fuaiupu.

(8) E ao ona faavaeina se teugatupe o faamoemoega faapitoa e tusa ai ma le Tulafono o le Pulega o Tupe a le Malo 2001, e tusa ai ma tagi taitasi o avea ai ma sui. Mo lea Tulafono:

(a) o le aofai o tupe e maua mai e le Komisi i tagi a ē o avea ma sui, ma tului o lo o maua mai ia aofaiga, o tupe ia o le teugatupe mo faamoemoega faapitoa; ma

(b) o faamoemoega faatagaina o le teugatupe o le -

(i) toe faafoi atu lea i le Komisi, mo ana tupe alu faatupulaia e tusa ai ma tagi a ē o avea ma sui (e aofia ai le totogiina atu o tupe mai le teugatupe); ma

(ii) e tusa ai ma le tuuina i ai o tupe i le tuana ai o le faaaogāina o le parakalafa laitiiti (i), o le totogiina o tagata ua tagi i le tagi a lē o avea ma o latou sui e faatatauina e faapea

*(aofaiga o mea ua leiloloa a lē ua tagi ÷ aofaiga atoa o mea ua maimau) x le aofaiga o le aitalafu.*

(9) O se tagata o ia lea ua ia iloa lelei o lo o aafia ai i le lē usitaia ua taua, e lē agavaa o ia e totogi i ai se tupe i lalo o le faafuuiupu (8).

#### *Vaevaega 2 - Faamamaluina*

**117. Faasilasilaga tau lapataiga-**(1) E mafai e le Komisi ona tuuina atu se faasilasilaga (o se “faasilasilaga tau lapataiga”) i se tagata pe afai o i ai se mafuaaga talafeagai e talitonu ai e faapea:

(a) na auai le tagata, o lo o auai po o ua faamoemoe e auai i le faatinoga; ma

(b) the conduct contravenes or would contravene a competition or consumer law.

(2) A warning notice must:

(a) describe the conduct; and

(b) state the material facts that the Commission relies on; and

(c) require the person to cease engaging in the conduct within a specified period (which must be reasonable) (the “warning period”) and not to engage in the conduct again; and

(d) state that, if the person does not comply with the requirement, the Commission may commence proceedings against the person in respect of the conduct.

(3) The Commission may extend a warning period, and may do so after the period has ended.

(4) The Commission must not bring proceedings against the person for the conduct before the end of the warning period unless the Commission has reasonable grounds to believe that it is necessary to do so in the interest of safety of members of the public.

**118. Enforceable undertakings-**(1) The Commission may accept a written undertaking from a person in connection with any conduct, engaged in by the person, in respect of which the Commission has a function under a competition or consumer law.

(2) The person may with the Commission’s consent, withdraw or vary the undertaking at any time.

(b) ua lē usitaia po o le a lē usitaia ai le faatinoga o se tulafono o faiga faatauvaaga po o tulafono o tagata o lo o faaaogāina oloa ma auunaga.

(2) E ao i se faasilasilaga tau lapataiga ona:

(a) faamatalaina ai le faatinoga; ma

(b) taua ai mea moni autu ia o lo o faalagolago i ai le Komisi; ma

(c) manaomia ai le tagata e faamuta lona auai i le faatinoga i totonu o se vaitaimi ua faamaotiina (lea e ao ona talafeagai) (le “vaitaimi ua lapataia”) ma aua ne i toe auai atu i le faatinoga; ma

(d) taua ai e faapea, afai e lē usitaia e le tagata le manaoga, e mafai e le Komisi ona amatalia taulumaga faasaga i le tagata e tusa ai ma le faatinoga.

(3) E mafai e le Komisi ona faaopoopo atu se vaitaimi tau lapataiga, ma e mafai ona ia faia faapea i le maea ai ona muta le vaitaimi.

(4) E lē tatau i le Komisi ona faia ni taulumaga faasaga i le tagata mo le faatinoga a o lumanai ai le faaiuga o le vaitaimi tau lapataiga vagana ua i ai i le Komisi mafuaaga talafeagai e talitonu ai e matua talafeagai le faia faapea mo le tulaga saogalemu o tagata o le atunuu.

**118. O maliega e noatia ai e mafai ona faamamaluina-**(1) E mafai ona talia e le Komisi se maliega tusitusia e noatia ai mai se tagata e uiga i so o se faatinoga, ua auai ai se tagata e tusa ai ma lea o lo o i ai se matafaioi a le Komisi i lalo o se tulafono o faiga faatauvaaga po o tagata o lo o faaaogāina oloa ma auunaga.

(2) E mafai e le tagata i le i ai faatasi ma le maliega a le Komisi, ona faai i tua po o le suia o le maliega i so o se taimi.

## (3) The Commission:

(a) must publish the undertaking through the internet or a similar electronic network and make a copy of it available to a person who asks for it; and

(b) may delete from the published version, and any copies provided, information that the person who gave the undertaking has asked not to be released, if the Commission is satisfied that the information -

(i) is confidential information that has a commercial value that would be diminished if it were to be released generally; or

(ii) should not be disclosed because it would be against the public interest to do so; or

(iii) consists of personal details of an individual (except an individual giving the undertaking or an individual who engaged in the conduct to which the undertaking relates).

(4) If information is deleted under subsection (3) from a version or copy, the version or copy must include a note stating that information has been deleted.

(5) If the Commission considers that the person has contravened the undertaking, the Commission may apply to the Court for an order under subsection (6).

(6) If the Court is satisfied, on application by the Commission, that the person has contravened the undertaking, the Court may make any one (1) or more of the following orders:

(a) an order directing the person to comply with the undertaking;

## (3) O le Komisi:

(a) e ao ona ia lomía faasalalau le maliega e noatia ai e ala i le initaneti po o fesootaiga faaeletoroni faapena, ma faia sona ata ina ia avanoa i ai se tagata o ia lea o lo o ia talosagaina; ma

(b) e mafai ona tapeina mai le vaega ua lomía faasalalau, ma so o se ata ua tuuina atu, ni faamatalaga ia ua talosagaina e le tagata lea na ia tuuina atu le maliega e noatia ai e aua ne i faailoaina atu, pe afai ua faamalieina le Komisi e faapea o le faamatalaga -

(i) o se faamatalaga agatapuia lea e i ai sona aogā faapisinisi lea o le a faaititia pe afai o le a faailoaina atu faalauaitele; po o

(ii) e lē tataua ona faailoaina atu ona o le a lē talafeagai ai ma le manuía o tagata lautele le faia faapea; po o

(iii) o lo o aofia ai auililiga patino o tagata taitoatasi (vagana ai o se tagata e taitoatasi o lo o tuuina atu le maliega, po o se tagata e toatasi o ia lea o lo o auai i le faatinoga lea e faasino i ai le maliega).

(4) Afai ua aveesea le faamatalaga i lalo o le faafuaiupu (3) mai se vaega po o se ata, e ao ona aofia ai i le vaega po o se ata se faamatalaga e taua ai e faapea ua aveeseina le faamatalaga.

(5) Afai ua manatu le Komisi e faapea ua lē usitaia e le tagata le maliega e noatia ai, e mafai ona ia talosaga i le Faamasinoga mo se poloaiga i lalo o le faafuaiupu (6).

(6) Afai ua faamalieina le Faamasinoga i luga o se talosaga a le Komisi e faapea ua lē usitaia e le tagata le maliega, e mafai e le Komisi ona faia se tasi (1) po o le sili atu o poloaiga nei:

(a) se poloaiga e faatonu ai le tagata e usitaia le maliega;

- (b) an order directing the person to pay to the State an amount not exceeding the amount that the Court determines to be the amount of the financial benefit that the person has obtained directly or indirectly -
  - (i) from the conduct; and
  - (ii) from the contravention;
- (c) an order that the person compensate, as specified in the order, any person who has suffered loss or damage as a result of the conduct or the contravention;
- (d) an order directing the person to do a specified act, or refrain from doing a specified act, for one or more of the following purposes -
  - (i) to remedy the effects of the conduct or the contravention;
  - (ii) to ensure that the person does not contravene the undertaking again;
- (e) any other incidental order.

**119. Cease and desist notices-**(1) The Commission may, if satisfied that a person has engaged, is engaging or is proposing to engage in conduct that constitutes or would constitute a contravention of a competition or consumer law, by notice in writing (a “cease and desist notice”), require the person to cease engaging in the conduct.

(2) The Commission must not give a cease and desist notice unless it has given the person a reasonable opportunity to make submissions to it on the matter.

- (b) se poloaiga e faatonuina ai le tagata e totoi i le Malo se aofaiga e lē silia le aofai lea na faia i ai le faaiuga a le Faamasinoga e avea ma aofai o faamanuiaga tau tupe lea ua maua tuusao pe leai foi e le tagata -
  - (i) mai le faatinoga; ma
  - (ii) le lē usitaia ai;
- (c) se poloaiga e faapea e tau e le tagata, e pei ona faamaoti i le poloaiga, so o se tagata o ia lea ua afaina i mea ua maimau po o ua faaleagaina i se taunuuga o le faatinoga po o le lē usitaia ai;
- (d) se poloaiga e faatonu ai le tagata e faia se gaoioiga ua faamaoti mai, po o le aloese mai le faia ai o se gaoioiga ua faamaotiina, mo se tasi po o le sili atu o faamoemoega nei -
  - (i) ia foia aafiaga o le faatinoga po o le lē usitaia;
  - (ii) ia faamautinoa e faapea e le toe solia e le tagata le maliega;
- (e) so o se isi lava poloaiga e ono tulai mai.

**119. Faasilasilaga e faamuta ma taofia ai-**(1) E mafai e le Komisi, pe afai ua faamalieina e faapea sa auai se tagata, o lo o auai po o ua faamoemoe e auai i faatinoga ia e afua ai po o le a afua mai ai se tulaga e lē usitaia ai se tulafono o faiga faatauvaga po o tulafono o tagata o lo o faaogāina oloa ma auunaga, e ala i se faasilasilaga tusitusia (o se “faasilasilaga e faamuta ma taofia ai”), ona manaomia le faamutaina ona auai o le tagata i le faatinoga.

(2) E lē tataua ona tuuina atu e le Komisi se faasilasilaga e faamuta ma taofia ai vagana ai ua ia tuuina atu i le tagata se avanoa talafeagai e faia ai talosaga tusitusia i ai e uiga i le mataupu.



(3) Contravention of a requirement in a cease and desist notice is not an offence, but may be a ground for an injunction under section 120.

**120. Injunctions-**(1) If the Court is satisfied that a person has engaged, is engaging or is proposing to engage in conduct that contravenes or would be likely to contravene a competition or consumer law, the Court may, on application by the Commission or any other person, grant an injunction, in any terms the Court considers appropriate.

(2) The power to grant an injunction under subsection (1) restraining a person from engaging in conduct may be exercised:

- (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
- (b) whether or not the person has previously engaged in conduct of that kind; and
- (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

(3) If an application is made under subsection (1), the Court may, if it considers it is desirable to do so, grant an interim injunction pending the determination of the application.

(4) If the application is made by the Commission or an investigator, the Court must not require the applicant to give any undertaking as to damages as a condition of granting the interim injunction.

(3) E le o se soligatulafono le lē usitaia o se manaoga i se faasilasilaga e faamuta ma taofia ai, peitai e mafai ona avea ma mafuaaga mo se poloaiga e taofia ai a le faamasinoga i lalo o le fuaiupu 120.

**120. Poloaiga e taofia ai-**(1) Afai ua faamalieina le Faamasinoga e faapea ia auai se tagata, o lo o auai po o ua faamoemoe e auai i le faatinoga lea e lē usitaia ai po o, e ono lē usitaia ai se tulafono o faiga faatauvaga po o tulafono o tagata e faaaogāina oloa ma auaunaga, e mafai e le Faamasinoga i luga o se talosaga a le Komisi po o so o se isi lava tagata, ona faamatuu atu se poloaiga e taofia ai i so o se tuutuuga ua manatu le Faamasinoga ua talafeagai ai.

(2) O le malosiaga e faamatuu atu ai se poloaiga e taofia ai i lalo o le faafuaiupu (1) e taofia ai se tagata mai le auai ai i faatinoga, e mafai ona faatinoina:

- (a) tusa lava pe o foliga mai i le Faamasinoga pe leai foi o lo o faamoemoe le tagata e toe auai, po o e faaaauau pea ona auai i faatinoga o lea ituaiga; ma
- (b) pe sa auai talu ai pe leai foi le tagata i faatinoga o lea ituaiga; ma
- (c) pe o se tulaga e ono lamatia ai pe leai foi i se tulaga matuia i so o se isi tagata pe afai e auai le tagata i faatinoga o lea ituaiga.

(3) Afai e faia se talosaga i lalo o le faafuaiupu (1), e mafai e le Faamasinoga pe afai e manatu o ia e manaomia le faia faapea ona tuuina atu se poloaiga e taofia ai a o talia le faaiuga o le talosaga.

(4) Afai ua faia le talosaga e le Komisi po o se tagata suesue, e lē tatau i le Faamasinoga ona manaomia le tuuina atu e lē o talosaga o se maliega e noatia ai e uiga i mea ua faaleagaina e avea o se tuutuuga o le faamatuu atu o le poloaiga lē tumau.

**121. Injunctions for contraventions of acquisitions rule-(1)**

Without limiting the Court's power under section 120, an injunction under that section for conduct that contravenes or would be likely to contravene the acquisitions rule may impose requirements to ensure, or to assist in ensuring, that the acquisition will not have the effect of substantially lessening competition in a market in Samoa.

(2) Examples of the kinds of requirements include:

(a) requirements (including limitations, conditions and restrictions) as to the way any relevant business is conducted in Samoa;

(b) requirements for restructuring any relevant business in Samoa, including the following -

(i) requirements in relation to the transfer or disposal of relevant assets or shares;

(ii) requirements for the creation, allocation, surrender or cancellation of shares;

(iii) requirements as to the exercise of rights or powers by any person in respect of any relevant assets or shares;

(iv) requirements as to the creation, vesting, transfer or extinguishment of property rights, liabilities or obligations in respect of any relevant assets or shares;

(v) requirements as to the amendment of the rules of incorporation of a company;

(vi) requirements as to the adjustment of relevant agreements (whether by discharge or reduction of any liability or obligation or otherwise).

(3) A reference in subsection (2)(b)(i) to relevant assets or shares is not limited to the assets or shares that are the subject of the acquisition.

**121. Poloaiga lē tumau mo le lē usitaia ai o tulafono faafoe o le mauaina mai-(1)**

E aunoa ma le faatapulaaina o malosiaiga o le Faamasinoga i lalo o le fuaiupu 120, e mafai ona faaee atu manaoga o se poloaiga i lalo o lea fuaiupu mo faatinoga ua lē usitaia ai, po o e ono lē usitaia ai le tulafono faafoe o le mauaina mai, e faamautinoa ai, po o le fesoasoani ai e faamautinoa e faapea, o le a leai se aafiaga o le mauaina ma e faaitiitia tele ai faiga faatauvaga i se maketi i Samoa.

(2) O faataitaiga o ituaiga manaoga e aofia ai:

(a) manaoga (e aofia ai tapulaa, tuutuuga ma tulaga faasaina) e uiga i le auala e faatino ai so o se pisinisi talafeagai i totonu o Samoa;

(b) manaoga mo le toe faatulagaina o so o se pisinisi talafeagai i Samoa, e aofia ai itu nei -

(i) manaoga e faasino i le faaliliuina atu po o le faaaogāina o aseta talafeagai po o sea;

(ii) manaoga mo le faia, faasoasoina, ofoina atu po o le faalēaogāina o sea;

(iii) manaoga e uiga i le faatinoga o aia tatau po o malosiaiga e so o se tagata e tusa ai ma so o se aseta po o sea talafeagai;

(iv) manaoga e uiga i le faia, faaee atu, faaliliuina po o le leiloloa o meatotino, aia tatau, noataga po o noatiaga e tusa ai ma so o se aseta po o sea talafeagai;

(v) manaoga e uiga i le teuteuga o tulafono faafoe o le tuufaatasia ai faaletulafono o se kamupani;

(vi) manaoga e uiga i le faatonutonuina o maliega talafeagai (tusa lava pe ala i le tuueseina po o le faaitiitia o so o se noataga po o noatiaga po o se isi faiga e ese ai).

(3) E lē faatapulaaina se faasinomaga o i le faafuuiupu (2)(b)(i) i aseta po o sea talafeagai, i aseta po o sea ia o lo o noatia i le mauaina ai.

**122. Injunctions for contraventions of standards-(1)**

Without limiting the Court's power under section 120, an injunction under that section in respect of conduct that contravenes or would be likely to contravene a consumer protection rule, a consumer information standard, a product safety standard or a services safety standard may:

- (a) impose requirements -
  - (i) for the provision of corrective information or other information to the public, or to classes of persons, about relevant goods or services; or
  - (ii) for the provision of corrective information to the public, or to classes of persons, about relevant goods or services; or
  - (iii) for the refunding of money paid by purchasers of relevant goods or services; or
  - (iv) for the return of property; or
  - (v) for the repair or replacement of goods, the re-provision of services or the provision of corrective services; or
- (b) declare any relevant agreement in relation to relevant goods or services to be void, voidable at the election of the person who has been supplied relevant goods or services or to have terminated at a specified time; or
- (c) declare that the agreement is varied as specified by the Court.

**122. Poloaiga a le faamasinoga mo le lē usitaia o tulaga faataatitia-(1)**

E aunoa ma le faatapulaaina o malosiaga o le Faamasinoga i lalo o le fuaiupu 120, e mafai e se poloaiga a le faamasinoga i lalo o lea fuaiupu e tusa ai ma se faatinoga lea o lo o lē usitaia ai, po o le a lē usitaia ai se tulafono faafoe e puipuia ai le tagata o lo o faaaogāina oloa ma auunaga, tulaga faataatia o faamatalaga o tagata e faaaogāina oloa, se tulaga faataatia o le saogalemu o oloa, po o se tulaga faataatia o le saogalemu o auunaga ona:

- (a) faaee atu manaoga -
  - (i) mo le tuuina atu o faamatalaga e faasaoina ai po o isi faamatalaga i tagata lautele, po o i vasega o tagata, e uiga i oloa po o auunaga talafeagai; po o
  - (ii) mo le tuuina atu o faamatalaga e faasaoina ai i tagata lautele, po o i se vaega o tagata, e uiga i oloa po o auunaga talafeagai; po o
  - (iii) mo le toe faafoi atu o tupe ua totogi e tagata na faatauina mai oloa po o auunaga talafeagai; po o
  - (iv) mo le toe faafoi atu o meatotino; po o
  - (v) mo le toe faaleleia po o le toe suia o oloa, o le toe tuuina atu o auunaga po o le tuuina atu o auunaga e toe faaleleia ai; po o
- (b) le faailoa manino so o se maliega talafeagai e faasino i oloa po o auunaga talafeagai e ao ona faalēaogāina, e faalēaogāina i le filifiliga o le tagata o ia lea na ia tuuina atu oloa po o auunaga talafeagai po o, e faaleagaina i se taimi ua faamaotiina; po o
- (c) le faaalua manino e faapea, ua fetuunai le maliega e pei ona faamaotiina e le Faamasinoga.

(2) No injunction may be made under this section contrary to Article 14 of the Constitution.

**123. Injunctions for contraventions of price control orders**

- Without limiting the Court's power under section 120, an injunction under that section for conduct that contravenes or would be likely to contravene a price control order may impose requirements:

- (a) for the provision of information in relation to the contravention to the public, or to classes of persons; or
- (b) for the refunding of money paid by purchasers of relevant goods or services.

**124. Pecuniary penalties-**(1) If a person contravenes a competition or consumer law, or is knowingly concerned in the contravention of a competition or consumer law, the Court may, on application by the Commission, impose a pecuniary penalty on the person.

(2) The application must be made:

- (a) for a contravention of -
  - (i) a conduct rule;
  - (ii) a consumer protection rule;
  - (iii) a consumer information standard;
  - (iv) a product safety standard;
  - (v) a product safety notice;
  - (vi) a product recall notice;
  - (vii) a services safety standard; or

(2) E lē mafai ona faia se poloaiga a le Faamasinoga i lalo o lenei fuaiupu e feteenai ai ma le Mataupu 14 o le Faavae.

**123. Poloaiga a le faamasinoga mo le lē usitaia ai o poloaiga e faatonutonu ai le tau o oloa** - E aunoa ma le faatapulaaina o le malosiaga o le Faamasinoga i lalo o le fuaiupu 120, e mafai ona faaee atu manaoga i se poloaiga a le faamasinoga i lalo o lea fuaiupu mo faatinoga ia e lē usitaia ai po o e faaono lē usitaia ai se poloaiga e faatonutonu ai tau o oloa, e faapea:

- (a) mo le tuuina atu o faamatalaga e uiga i le lē usitaia ai e tagata lautele, po o e vasega o tagata; po o
- (b) mo le toe faafoi ai o tupe e totogi e tagata e faatauina mai oloa po o auaunaga talafeagai.

**124. Faasalaga totogi tupe-**(1) Afai e lē usitaia e se tagata se tulafono o faiga faatauava po o tulafono o tagata e faaaogāina oloa, e mafai e le Faamasinoga, i luga o se talosaga a le Komisi ona faaee atu se faasalaga e totogi tupe i le tagata.

(2) E ao ona faia le talosaga:

- (a) mo se lē usitaia ai o -
  - (i) se tulafono faafoe o faatinoga;
  - (ii) se tulafono faafoe o le puipuiga o le tagata e faaaogāina oloa;
  - (iii) se tulaga faataatia o faamatalaga o tagata e faaaogāina oloa;
  - (iv) se tulaga faataatia o le saogalemu o oloa;
  - (v) se faasilasilaga o le saogalemu o le oloa;
  - (vi) se faasilasilaga e toe tapa ai oloa;
  - (vii) se tulaga faataatia o le saogalemu o auaunaga; po o

(viii) a price control order,

within five (5) years after the day on which the contravention ceased or the Commission became aware of the contravention, whichever is later;

(b) for a contravention of the acquisitions rule, within six (6) months after the day on which the acquisition was completed or the Commission became aware of the acquisition, whichever is later; and

(c) in any other case, within seven (7) years after the contravention occurred.

(3) In proceedings for a pecuniary penalty:

(a) the standard of proof is the standard of proof applying in civil proceedings; and

(b) the rules of court and rules of evidence and procedure for civil proceedings apply.

(4) If a pecuniary penalty is imposed on a person in respect of a contravention:

(a) the person is not liable to be prosecuted for an offence under a competition or consumer law in respect of the same conduct; and

(b) a surcharge or other pecuniary penalty (however described) is not to be imposed on the person under a competition or consumer law in respect of the same conduct.

**125. Amounts of pecuniary penalties-**(1) In determining the amount of the pecuniary penalty to be imposed on a person, the matters that the Court is to take into account include the extent of any financial or commercial gain to the person, or a related body corporate of the person, resulting from the contravention.

(viii) se poloaiga e faatonutonu ai tau o oloa,

i totonu o le lima (5) tausaga i le maea ai o le aso lea ua muta ai ona lē usitaia, po o ua iloaina ai e le Komisi le lē usitaia, po o fea lava e mulimuli ona tulai mai;

(b) mo se lē usitaia o le tulafono faafoe o le mauaina mai, i totonu o le ono (6) masina i le tuanai o le aso lea na maea ai ona mauaina mai, po o ua iloaina e le Komisi le mauaina mai, po o fea lava e mulimuli mai; ma

(c) i so o se isi lava mataupu, i totonu o le fitu (7) tausaga i le tuanai ai ona tulai mai le lē usitaia.

(3) I taualumaga mo se faasalaga totogi tupe:

(a) o le tulaga tau faamaoniga, o le tulaga tau faamaoniga lea o lo o faaaogāina i taualumaga tau le va o tagata; ma

(b) e faaaogā tulafono faafoe o le faamasinoga ma tulafono faafoe o faamatalaga molimau ma taualumaga mo taualumaga tau le va o tagata.

(4) Afai ua faaee atu se faasalaga totogi tupe i se tagata e tusa ai o le lē usitaia:

(a) e lē noatia le tagata e molia mo se soligatulafono i lalo o le tulafono o faiga faatauvaga po o le Tulafono o tagata o lo o faaaogāina oloa e tusa ai o lea lava faatinoga; ma

(b) e lē faaeeina atu se sala tupe faaopoopo (po o le a lava lona faamatalaina) i le tagata i lalo o se tulafono o faiga faatauvaga po o tulafono o tagata o lo o faaaogāina oloa e tusa ai ma le faatinoga lava lea.

**125. Aofaiga o faasalaga tau tupe-**(1) I le fuafuaina o le aofaiga o le faasalaga tau tupe o le a faaee atu i se tagata, e ao i le Faamasinoga ona amanaia mataupu e aofia ai le tulaga o so o se tupe maua mai i tulaga tau tupe po o faiga faapisinisi a le tagata po o se faalapotopotoga ua tuu faatasia faaetutulafono e fesootai i ai i le tagata, e mafua mai i le solia ai o tulafono.

(2) The maximum amounts of pecuniary penalties are set out below:

- (a) if the pecuniary penalty is imposed for a contravention of any of the following -
- (i) a conduct rule;
  - (ii) the acquisitions rule;
  - (iii) a consumer protection rule;
  - (iv) a consumer information standard;
  - (v) a product safety standard;
  - (vi) a product safety notice;
  - (vii) a product recall notice;
  - (viii) a services safety standard;
  - (ix) a price control order,

the maximum amount of the penalty is:

- (x) if the penalty is imposed on an individual, an amount equal to 200 penalty units; and
- (xi) if the penalty is imposed on a body corporate, the higher of an amount equal to 500 penalty units and 15% of the turnover of the body corporate and of its related bodies corporate, as determined under subsection (3); and

(2) O le tapulaa maualuga o aofaiga o faasalaga tau tupe ua faatulagaina atu i lalo e faapea:

- (a) afai o le faasalaga tau tupe ua faaee atu mo se soliga o so o se tasi o itu nei -
- (i) o se tulafono faafoe o faatinoga;
  - (ii) o le tulafono faafoe o le mauaina o oloa;
  - (iii) o se tulafono faafoe o le puipuiga o tagata e faaaogāina oloa ma auunaga;
  - (iv) o se faiga faataatia o faamatalaga faatatau i tagata e faaaogāina oloa ma auunaga;
  - (v) o se faiga faataatia tau le saogalemu o oloa gaosi;
  - (vi) o se faasilasilaga o le saogalemu o oloa gaosi;
  - (vii) o se faasilasilaga e toe tapaina ai ni oloa gaosi;
  - (viii) o se faiga faataatia o le saogalemu o auunaga;
  - (ix) o se poloaiga e faatonutonu ai tau o oloa,

o le tapulaa maualuga o le aofaiga o le faasalaga e:

- (x) afai o le faasalaga ua faaee atu i se tagata e toatasi, o se aofaiga e tutusa ma le 200 iunite tau faasalaga; ma
- (xi) afai o le faasalaga ua faaee atu i se faalapotopotoga ua tuufaatasia faaletulafono, o se aofaiga e maualuga atu e tutusa ma le 500 iunite tau faasalaga, ma le 15% o tupe maua a le faalapotopotoga ua tuufaatasia faaletulafono mai ana faalapotopotoga e fesootai i ai ua tuufaatasia faaletulafono, e pei ona fuafuaina i lalo o le faafuuiupu (3); ma

- (b) if the pecuniary penalty is imposed for a contravention of a provision (not one mentioned in paragraph (a)), and this Act provides for a criminal penalty for the contravention, the maximum amount of the pecuniary penalty is 50% of the maximum criminal penalty; and
- (c) if the pecuniary penalty is imposed for any other contravention, the maximum amount of a pecuniary penalty is equal to 200 penalty units.

(3) For subsection (2)(a), the turnover of a body corporate and its related bodies corporate is the gross revenue receivable by those bodies corporate that is attributable to business activities in Samoa in the financial year immediately before the date of the contravention.

**126. Orders to pay costs-**(1) If the Court grants an injunction against, or imposes a pecuniary penalty on, a person under this Division, it may order the person to pay an amount, determined by the Court, for costs incurred by the Commission in connection with investigations into, and the conduct of the proceedings in relation to, the relevant contravention.

(2) In this section, “costs” includes fees, charges, disbursements, expenses or remuneration.

**127. No indemnity for pecuniary penalties, etc.-**(1) A person commits an offence if the person indemnifies or agrees to indemnify, wholly or partly, another person for any liability of the other person:

- (b) afai o le faasalaga tau tupe ua faaee atu mo se soliga o se aiaiga (e le o se tasi o aiaiga o taua i le parakalafa (a)), ma o lenei Tulafono o lo o aiaia ai mo se faasalaga tau solitulafono mo le soliga, o le tapulaa maualuga o le aofaiga o le faasalaga tau tupe e 50% o le tapulaa maualuga o le faasalaga tau solitulafono; ma
- (c) afai o le faasalaga tau tupe ua faaee atu mo so o se isi soliga, o le tapulaa maualuga o le aofaiga o se faasalaga tau tupe e tutusa ma le 200 iunite tau faasalaga.

(3) Mo le faafuaitupu (2)(a), o tupe e maua mai a se faalapotopotoga ua tuufaatasia faaletulafono ma ana faalapotopotoga ua tuufaatasia faaletulafono e fesootai i ai, o tupe maua atoa ua mauaina e na faalapotopotoga ua tuufaatasia faaletulafono mai galuega tau pisinisi i Samoa i le tausaga faaletupe i lea lava taimi, a o lumanai ai le aso o le soliga.

**126. Poloaiga ina ia totogi tau-**(1) afai ua faamatuu atu e le Faamasinoga se poloaiga e taofia ai faasaga i, po o e faaee atu ai se faasalaga tau tupe i luga o, se tagata i lalo o lenei Vaevaega, e mafai ona ia poloaia le tagata ina ia totogi se aofaiga, ua fuafuaina e le Faamasinoga, mo tau na faatupulaia e le Komisi e fesootai ma suesuega i, ma le faatinoga o tualumaga e faasino i, le soliga talafeagai.

(2) I totonu o lenei fuaitupu, “tau” e aofia ai totogifupauna, tau faaee atu, tupe faasoasoa atu, tupe alu po o totogi.

**127. E leai ni puipuiga mausali mo faasalaga tau tupe, ma isi tulaga faapena-**(1) Ua faia e se tagata se soligatulafono, po afai ua ia faia po o ua ia malie e faia se puipuiga mausali, i lona atoaga po o i sona vaega o se isi tagata mo so o se aitalafu a le isi tagata:

(a) to pay a pecuniary penalty; or  
 (b) to pay a pecuniary penalty, to pay costs or expenses incurred in defending or settling any proceeding relating to such a liability,  
 and is liable on conviction to a fine (whichever is the higher):

- (c) not exceeding 500 penalty units; or  
 (d) not exceeding twice the maximum amount that would have been payable under the indemnity.

(2) An indemnity given in contravention of subsection (1) is void.

**128. Immunity agreements-**(1) The Commission may, in exchange for a person's cooperation in an investigation or in proceedings under a competition or consumer law, agree with the person that:

- (a) proceedings against the person for an offence against or in relation to a competition or consumer law;  
 or  
 (b) proceedings against the person for a pecuniary penalty,  
 on the basis of specified conduct will not be brought or continued.

(2) The Commission is not to enter into an immunity agreement with a person if the person has, within the previous 7 years, entered into an immunity agreement, or an agreement to similar effect, in respect of a contravention of a competition or consumer law.

(3) An immunity agreement with a person may be expressed also to apply to any of the following:

- (a) specified employees of the person;  
 (b) specified agents of the person;

(a) ina ia totogi ai se faasalaga tau tupe; po o  
 (b) ina ia totogi ai se faasalaga tau tupe, ia totogi tau po o tupe alu na faatupulaia i le teteina po o le foia o so o se taualumaga e faasino i sea aitalafu,  
 ma e noatia i luga o se moliaga ua faamaonia faaetulafono i se sala tupe (po o le fea e maualuga atu):

- (c) e lē silia le 500 iunite tau faasalaga; po o  
 (d) e lē silia le faaluaina o le tapulaa maualuga o le aofaiga lea e ono mafai ona totogiina i lalo o le faamalumaluga.

(2) E faalēaogāina se puipuiga mausali ua tuuina atu e solia ai le faafuaiupu (1).

**128. Feagaiga tau puipuiga mausali-**(1) E mafai e le Komisi, i se faafesuaiga mo le lagolago a se tagata i se suesuega po o i taualumaga i lalo o se tulafono o faiga faatauvaga po o tulafono o tagata e faaogāina oloa, ona malilie faatasi ma le tagata e faapea:

- (a) o taualumaga faasaga i le tagata mo se soligatulafono ua faia faasaga i po o, e faasino i se tulafono o faiga faatauvaga po o se tulafono o tagata e faaogāina oloa ma auaunaga; po o  
 (b) taualumaga faasaga i le tagata mo se faasalaga tau tupe,

i luga o le faiga ua faamaotiina e faatino ai, o le a faapea ona le faatinoina pe faaauuina.

(2) Ia lē saina e le Komisi se feagaiga tau puipuiga mausali ma se tagata, pe afai na saina e se tagata se feagaiga tau puipuiga mausali, i totonu o le fitu (7) tausaga talu ai, po o se feagaiga e foliga tutusa lona aloaia, e tusa ai o se soliga o se tulafono o faiga faatauvaga po o se tulafono o tagata e faaogāina oloa ma auaunaga.

(3) E mafai foi ona faaalua manino se feagaiga tau puipuiga mausali ma se tagata, e faaogāina i so o se tasi o itu nei:

- (a) tagata faigaluega ua faamaotiina a le tagata;  
 (b) sooupu ua faamaotiina a le tagata;



(c) if the person is a body corporate - specified officers of the body corporate;

(d) specified partners of the person.

(4) An immunity agreement is to be on terms that the Commission considers appropriate.

(5) If an immunity agreement for a specified conduct applies to a person:

(a) proceedings against the person for an offence against or in relation to a competition or consumer law; or

(b) proceedings against the person for a pecuniary penalty,

for the conduct must not be brought or continued.

(6) The Commission may terminate an immunity agreement with a person if:

(a) the person agrees; or

(b) the Commission has reasonable grounds to believe that the information on which it based its decision to enter into the agreement was incomplete, false or misleading in a material particular; or

(c) the person is convicted or found guilty of an offence in relation to an investigation, or an offence against section 137 or 138; or

(d) the person has failed to comply with the agreement.

(7) The Commission may not terminate an immunity agreement unless the Commission has:

(a) notified the person of its intention to do so, and the reasons for termination; and

(b) given the person a reasonable period (at least 30 days) to make representations about the matter; and

(c) afai o le tagata, o se faalapotopotoga ua tuufaatasia faaletulafono, o tagata ofisa ua faamaotiina a le faalapotopotoga ua tuufaatasia faaletulafono;

(d) paaga ua faamaotiina a le tagata.

(4) E ao ona faia se feagaiga tau puipuiga mausali, i luga o tuutuuga ua manatu le Komisi ua talafeagai ai.

(5) Afai e faaogā i se tagata se feagaiga tau puipuiga mausali mo se faatinoga ua faamaotiina:

(a) o tualumaga e faasaga i le tagata mo se soligatulafono e faasaga i po o e faasino i se tulafono o faiga faatauvaga, po o se tulafono o tagata e faaogāina oloa ma auaunaga; po o

(b) o tualumaga e faasaga i le tagata mo faasalaga tau tupe,

mo le faatinoga, e lē tatau ona faatinoina pe faaauau.

(6) E mafai e le Komisi ona faamutaina se feagaiga tau puipuiga mausali ma se tagata pe afai:

(a) ua malie le tagata; po o

(b) e i ai mafuaaga talafeagai a le Komisi e talitonuina ai e faapea o lana faaiuga e sainia le feagaiga, sa lē atoatoa, sese po o e tau faasese i se mau autu; po o

(c) ua faamaonia le moliaga o le tagata po o ua faamaonia le nofosala i se soligatulafono e tusa ai o se suesuega, po o i se soligatulafono e faasaga i le fuaiupu 137 po o le 138; po o

(d) ua lē mafai e le tagata ona tausisia le feagaiga.

(7) E lē mafai e le Komisi ona faamutaina se feagaiga tau puipuiga mausali, seia vagana ai ua maea ona faia e le Komisi:

(a) le logoina o le tagata e tusa ma lona faamoemoe ua faia ai faapea, ma mafuaaga o le faamutaina; ma

(b) ua maea ona tuuina atu i le tagata se vaitaimi talafeagai (a itiiti mai e 30 aso), e faia ai ni faamatalaga e uiga i le mataupu; ma

- (c) taken into account any representations made by or for the person.

**129. Management banning orders-**(1) If the Court is satisfied that an individual has engaged in conduct that constitutes a contravention of any of the following:

- (a) a conduct rule;
- (b) the acquisitions rule;
- (c) a consumer protection rule;
- (d) a consumer information standard, a product safety standard or a services safety standard;
- (e) a product safety notice or a product recall notice;
- (f) a price control order,

on two (2) or more separate occasions within the previous five (5) years, the Court may, on application by the Commission, make a management banning order against the individual.

(2) If the Court is satisfied that:

- (a) an order has been made against an individual under law of a foreign country that corresponds to a competition or consumer law; and
- (b) the order prevents the individual from being involved in the management of a body corporate or an unincorporated body,

the Court may, on application by the Commission, make a management banning order against the individual.

- (c) ua amanaia so o se faamatalaga ua faia e po o, mo le tagata.

**129. Poloaiga tau pulega e faasaina ai-**(1) Afai ua faamalieina le Faamasinoga e faapea na auai se tagata e toatasi i se faatinoga ua mafua ai se soliga o so o se tasi o itu nei:

- (a) o se tulafono faafoe o faatinoga;
- (b) o le tulafono faafoe o le mauaina o oloa;
- (c) o se tulafono faafoe tau le puipuiga o tagata e faaaogāina oloa;
- (d) o se faiga faataatia o faamatalaga faataata i tagata e faaaogāina oloa, se faiga faataatia o le saogalemu o oloa gaosi, po o se faiga faataatia o le saogalemu o auunaga;
- (e) o se faasilasilaga o le saogalemu o oloa gaosi po o se faasilasilaga e toe tapa ai ni oloa gaosi;
- (f) o se poloaiga e faatonutonuina ai tau o oloa,

i le lua (2) po o le sili atu o mea eseese na tutupu i totonu o le lima (5) tausaga talu ai, e mafai e le Faamasinoga, i luga o se talosaga a le Komisi, ona faia se poloaiga tau pulega e faasaina ai faasaga i le tagata e toatasi.

(2) Afai ua faamalieina le Faamasinoga e faapea:

- (a) ua se poloaiga faasaga i se tagata e toatasi i lalo o le tulafono a se atunuu ese lea e uiga tutusa ma se tulafono o faiga faatauvaga po o se tulafono o tagata e faaaogāina oloa; ma
- (b) ua taofia i le poloaiga le tagata e toatasi mai le aafia ai i le puleaina o se faalapotopotoga ua tuu faatasia faaletulafono po o se faalapotopotoga e le i tuu faatasia faaletulafono,

e mafai e le Faamasinoga, i luga o se talosaga a le Komisi, ona faia se poloaiga tau pulega e faasaina ai, e faasaga i le tagata e toatasi.

(3) The Court may make a management banning order against an individual only if satisfied that it is necessary to do so having regard to the risk of contraventions of a provision mentioned in subsection (1) by the individual or by a body corporate or unincorporated body.

(4) A management banning order must prohibit the individual from being a director of a body, or otherwise being involved in the management of a body, that carries on a business in Samoa, without the leave of the Court.

(5) A management banning order has effect for the period specified in the order, which cannot be longer than five (5) years.

(6) An individual who contravenes a management banning order in force against him or her commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment not exceeding 12 months, or both.

*Division 3 - Matters relating to offences*

**130. States of mind, etc., of bodies corporate-**(1) In proceedings under this Act, if it is established that a director, employee or agent of a body corporate:

- (a) engaged in particular conduct within the scope of his or her actual or apparent authority; and

(3) E faatoa mafai lava e le Faamasinoga ona faia se poloaiga tau pulega e faasaina ai, e faasaga i se tagata e toatasi, pe afai ua faamalieina e faapea ua talafeagai ona faia faapea, i le amanaia ai o le lamatiaga o le soliga o se aiaiga ua taua i le faafuaitupu (1) e le tagata e toatasi po o, e se faalapotopotoga ua tuu faatasia faaletulafono po o se faalapotopotoga e le i tuu faatasia faaletulafono.

(4) E tatau i se poloaiga tau pulega e faasaina ai, ona faasaina ai le tagata e toatasi mai le ave ma faatonu o se faalapotopotoga, po o le aafia ai i se isi faiga e ese ai i le puleaina o se faalapotopotoga, lea o lo o tauaveina se pisinisi i totonu o Samoa, e aunoa ma le faatagaga a le Faamasinoga.

(5) E aloaia se poloaiga tau pulega e faasaina ai mo le vaitaimi ua faamaotiina i le poloaiga, lea e lē mafai ona umi atu i lo le lima (5) tausaga.

(6) O se tagata e toatasi, o ia lea ua solia se poloaiga tau pulega e faasaina ai o lo o faamalositia faasaga ia te ia, ua ia faia se soligatulafono ma e noatia i luga o se moliaga ua faamaonia faaletulafono, i se sala tupe e lē silia le 100 iunite tau faasalaga, po o le nofosala i le falepuipui e lē silia le 12 masina, po o ia faasalaga uma e lua.

*Vaevaega 3 - Mataupu e faasino i soligatulafono*

**130. Tulaga o le mafaufau, ma isi tulaga faapena, o faalapotopotoga ua tuu faataisa faaletulafono-**(1) I taualumaga i lalo o lenei Tulafono, afai ua faamautuina e faapea, o se faatonu, tagata faigaluega po o se sooupu a se faalapotopotoga ua tuu faatasia faaletulafono:

- (a) ua auai i se faatinoga faapitoa e tusa ai o le aotelega o lana pule faataga moni po o lo o manino lava; ma

(b) had a particular state of mind for the conduct, it is presumed that the body corporate engaged in the conduct and had the state of mind for the conduct unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

(2) In proceedings under this Act, if it is established that an employee or agent of an individual:

(a) engaged in particular conduct within the scope of his or her actual or apparent authority; and

(b) had a particular state of mind for the conduct,

it is presumed that the individual engaged in the conduct and had the state of mind for the conduct unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(3) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

(4) A reference in this section to the state of mind of a person includes a reference to:

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person's reasons for the knowledge, intention, opinion, belief or purpose.

(5) A reference in this section to having a state of mind for conduct includes having a state of mind in connection with that conduct.

(6) A reference in this Act to a decision of an association includes a decision made on behalf of the association by an agent or representative acting within the scope of his or her authority.

(b) na ese se tulaga o le mafaufau mo le faatinoga, ua avea e faapea, na auai le faalapotopotoga ua tuufaatasia faaletulafono i le faatinoga ma sa i ai le tulaga o le mafaufau mo le faatinoga, vagana ai ua faamautuina e le faalapotopotoga ua tuufaatasia faaletulafono e faapea, na ia faaaogāina lapataiga talafeagai lelei ma sailiili maeaea po o ua tatau ai, i le tulaga e alofia ai le faatinoga.

(2) I tualumaga i lalo o lenei Tulafono, pe afai ua faamautuina e faapea o se tagata faigaluega po o se sooupu a se tagata e toatasi:

(a) na auai i se faatinoga faapitoa e tusa ai ma le aotelega o lana pule faataga moni po o le pule faataga manino; ma

(b) na ese se tulaga o lona mafaufau mo le faia ai o le faatinoga,

ua avea e faapea, na auai le tagata e toatasi i le faatinoga ma sa i ai le tulaga o le mafaufau mo le faatinoga vagana ai ua faamautuina e le tagata e toatasi e faapea, na ia faaaogāina lapataiga talafeagai lelei ma faia sailiiliga maeaea po o ua tatau ai e alofia ai le faatinoga.

(3) O se faasinomaga i totonu o lenei fuaiupu i le auai ai i se faatinoga, e alofia ai se faasinomaga i le le mafaia po o le teena i le auai i le faatinoga.

(4) O se faasinomaga i totonu o lenei fuaiupu i le tulaga o le mafaufau o se tagata e alofia ai se faasinomaga i:

(a) le atamai, faamoemoe, manatu, talitonuga po o le faamoemoe o le tagata; ma

(b) mafuaaga a le tagata mo le atamai, faamoemoe, manatu, talitonuga po o le faamoemoe.

(5) O se faasinomaga i totonu o lenei fuaiupu, i le i ai o se tulaga o le mafaufau mo faatinoga, e alofia ai le i ai o se tulaga o le mafaufau e fesootai ma lena faatinoga.

(6) O se faasinomaga i totonu o lenei Tulafono i se faaiuga a se faalapotopotoga, e alofia ai se faaiuga ua faia e avea ai ma sui o le faalapotopotoga, e ala i se sooupu po o se sui o lo o galue e tusa ai ma le aotelega o lana pule faataga.

**131. Persons knowingly concerned in contravention** - If a person contravenes a provision of a competition or consumer law, each person who is knowingly concerned in the contravention also commits the offence.

**132. Commission, etc., may prosecute**-(1) Proceedings in relation to a contravention against or arising under a competition or consumer law may be commenced and continued by the Commission or a person authorised in writing by the Commission to do so.

(2) Subsection (1) does not limit the operation of any other law or the power of the Attorney General under Article 41 of the Constitution relating to institution and conduct of proceedings in relation to an offence.

## PART 8 MISCELLANEOUS

**133. Judicial review of authorisation decisions** - A decision of the Commission to refuse to give an authorisation, or to impose conditions on an authorisation, is subject to judicial review by the Supreme Court.

**134. Legal professional privilege**-(1) This Act does not affect the operation of the law relating to legal professional privilege.

(2) Subsection (1) does not affect any requirement under this Act to disclose the name and address of a client of a person.

**131. Tagata ua iloa lelei le aafia i se soliga o le tulafono** - Afai e solia e se tagata se aiaiga o se tulafono o faiga faatauvaga po o se tulafono o tagata e faaaogāina oloa ma auaunaga, ua faapea foi ona faia se soligatulafono e tagata taitoatasi uma ua iloa lelei le latou aafia ai i le soliga o le tulafono.

**132. E mafai e le Komisi, ma isi, ona faia moliaga**-(1) O taualumaga e faasino i se soliga o le tulafono e faasaga i, po o ua faatulai mai i lalo o se tulafono o faiga faatauvaga po o se tulafono o tagata e faaaogāina oloa, e mafai ona amatalia ma faaauau e le Komisi, po o se tagata ua faatagaina i se faiga tusingusia e le Komisi ina ia faia faapena.

(2) E lē faatapulaaina i le faafuaiupu (1) le faagaoioiga o so o se isi lava tulafono, po o le malosiaga o le Loia Sili i lalo o le Mataupu 41 o le Faavae, e faasino i faalapotopotoga ma le faatinoga o taualumaga e faasino i se soligatulafono.

## VAEGA 8 AIAIGA ESEESE

**133. Iloiloga faa-faamasinoga o faaiuga e tusa o faatagaga** - O se faaiuga a le Komisi e teena ai le tuuina atu o se faatagaga, po o le faaee atu o ni tuutuuga i se faatagaga, e noatia ma fai fuafua i iloiloga faa-faamasinoga e faia e le Faamasinoga Sili.

**134. Tulaga aloaia o tomai faapitoa faaletulafono**-(1) O lenei Tulafono o le a lē aafia ai le faagaoioiga o le tulafono e faasino i le tulaga aloaia o tomai faapitoa faaletulafono.

(2) O le faafuaiupu (1) o le a lē aafia ai so o se manaoga i lalo o lenei Tulafono, e faailoa ai le igoa ma le tuatusi o se tagata o fai i ai le auaunaga a se tagata.

**135. Commission may participate in proceedings** - The Commission may, with leave of the Court, or at the invitation of the Court, be joined as a party to or otherwise participate in proceedings involving any alleged contravention of a competition or consumer law.

**136. Court may give advisory opinions**-(1) The Court may, on the application of the Commission, make an order as to the interpretation, operation or effect of a provision of this Act.

(2) If it appears to the Court that a person has or may have an interest of any kind that may be affected by a proposed order, the Court must make any orders as it considers appropriate for the person to be notified of the application and to be joined in the proceeding.

(3) The Commission must give effect to any final order under this section.

**137. Incorrectly keeping records, etc.**-(1) A person required under this Act to keep a record commits an offence if:

- (a) the person does not keep the record; or
- (b) the person keeps a record that is not accurate and complete,

and is liable on conviction to:

- (c) for an individual, a fine not exceeding 20 penalty units; and
- (d) for a body corporate, a fine not exceeding 50 penalty units.

(2) It is a defence to an offence against subsection (1) that the defendant:

- (a) did not know that the record was not accurate or complete; and

**135. E mafai e le Komisi ona auai i taualumaga** - E mafai e le Komisi, i le i ai faatasi ma le faatagaga a le Faamasinoga, po o pe a valaauina e le Faamasinoga, ona soofaatasi e avea o se vaega auai i, po o le auai i se isi faiga e ese ai i taualumaga e aafia ai so o se soliga o se tulafono o faiga faatauvaga po o se tulafono o tagata e faaogāina oloa ma auaunaga ua molia ai.

**136. E mafai e le Faamasinoga ona tuuina atu manatu faafaufautua**-(1) E mafai e le Faamasinoga, i luga o se talosaga a le Komisi, ona faia se poloaiga, e uiga i le faauigaina, faagaoioiga, po o le tulaga aloaia o se aiaiga o lenei Tulafono.

(2) Afai e aliali mai i le Faamasinoga e faapea, o lo o i ai po o e ono i ai i se tagata se aia o so o se ituaiga lea e ono mafai ona aafia i se poloaiga ua fuafuaina, e ao i le Faamasinoga ona faia o so o se poloaiga e pei ona ia manatu ua talafeagai ai, mo logoina ai o le tagata e tusa ai o le talosaga ma ia auai i le taualumaga.

(3) E tatau i le Komisi ona tuuina atu se tulaga aloaia i so o se poloaiga mausali i lalo o lenei fuaiupu.

**137. O le sese ona teu o faamaumauga, ma isi tulaga faapena**-(1) O se tagata o manaomia i lalo o lenei Tulafono, e teuina se faamaumauga, ua ia faia o se soligatulafono pe afai:

- (a) e le o teuina e le tagata le faamaumauga; po o
- (b) o lo o teuina e le tagata se faamaumauga e le o sao ma atoatoa,

ma e noatia i luga o se moliaga ua faamaonia faaetulangafono i:

- (c) mo tagata taitoatasi, o se sala tupe e lē silia le 20 iunite tau faasalaga; ma
- (d) mo se faalapotopotoga ua tuufaatasia faaetulangafono, o se sala tupe e lē silia le 50 iunite tau faasalaga.

(2) O se tetee i se soligatulafono ua faia faasaga i le faafuaiupu (1) e faapea, o le tagata ua molia:

- (a) na te leiloaina e faapea e le sao pe lē atoatoa le faamaumauga; ma

- (b) took reasonable precautions and exercised all due diligence to ensure that the record was accurate and complete.

(3) A person required by or under this Act to keep a record commits an offence if:

- (a) the person keeps the record; and
- (b) the record is inaccurate or incomplete; and
- (c) the person knows, or is reckless whether, the record is, accurate or complete; and
- (d) the person intended thereby.
  - (i) to deceive or mislead; or
  - (ii) to hinder or obstruct the Commission or an investigator in performing duties under this Act, or otherwise to hinder or obstruct the investigation of a contravention of a competition or consumer law,

and is liable on conviction to:

- (e) for an individual, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding two (2) years, or both; and
- (f) for a body corporate, a fine not exceeding 1,000 penalty units.

**138. Destroying, falsifying, etc., documents** - A person required under this Act to produce a document or thing who intentionally or recklessly destroys, disposes of or falsifies the document or thing commits an offence and is liable on conviction to:

- (a) for an individual, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding two (2) years, or both; and

- (b) na ia faaaogāina lapataiga talafeagai ma sailiili maeaea po o ua tatau ai ina ia faamautinoa ai le sao po o le atoatoa o faamaumauga.

(3) O se tagata o manaomia i po o lalo o lenei Tulafono e teuina se faamaumauga, ua ia faia se soligatulafono pe afai:

- (a) ua teuina e le tagata le faamaumauga; ma
- (b) e le sao pe le atoatoa le faamaumauga; ma
- (c) ua ia iloa po o ua faatalale pe o sao ma atoatoa le faamaumauga; ma
- (d) ona o lea mafuaaga na faamoemoe ai le tagata -
  - (i) e faavalea pe tau faasese ai; po o
  - (ii) ia le mafai ai pe faalavelaveina ai le Komisi po o se tagata sutesue i le faatinoga o ona tiute i lalo o lenei Tulafono, po o ia le mafai pe faalavelaveina i se isi faiga e ese ai le sutesuega o se soliga o se tulafono o faiga faatauvaga po o se tulafono o tagata e faaaogāina oloa,

ma e noatia i luga o se moliaga ua faamaonia faaletulafono:

- (e) mo tagata taitoatasi, o se sala tupe e lē silia le 200 iunite tau faasalaga, po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o ia faasalaga uma e lua; ma
- (f) mo se faalapopotoga ua tuufaatasia faaletulafono, o se sala tupe e lē silia le 1,000 iunite tau faasalaga.

**138. Faaleagaina, faaseseina, ma isi tulaga faapena, o pepa aloaia** - O se tagata o manaomia i lalo o lenei Tulafono e tuuina atu se pepa aloaia po o se mea, o ia lea ua na faaleaga, lafoai pe faasese le pepa aloaia po o se mea, ma le faamoemoe i ai po o i se tulaga faatalale, ua na faia se soligatulafono ma e noatia i luga o se moliaga ua faamaonia faaletulafono i:

- (a) mo tagata taitoatasi, se sala tupe e lē silia le 200 iunite tau faasalaga po o le nofosala i le falepuipui mo se vaitaimi e lē silia le lua (2) tausaga, po o ia faasalaga uma e lua; ma

- (b) for a body corporate, a fine not exceeding 1,000 penalty units.

**139. Evidence** - In a proceeding under this Act, except a prosecution of an offence or an application for a pecuniary penalty, despite any rule of evidence, any evidence relevant to a question at issue in the proceeding is admissible unless the court determines that the probative value of the evidence is outweighed by the prejudicial effect.

**140. Registers**-(1) The Commission must establish and maintain registers of the following:

- (a) applications for clearances, clearance decisions and variations and revocations of clearances;
- (b) applications for authorisations, authorisation decisions, and variations and revocations of authorisations;
- (c) consumer information standards;
- (d) price control orders;
- (e) product recall notices;
- (f) product safety notices;
- (g) product safety standards;
- (h) services safety standards;
- (i) warning notices;
- (j) cease and desist notices;
- (k) enforceable undertakings;
- (l) immunity agreements;
- (m) management banning orders.

(2) The Commission may omit confidential information from an entry made in a register.

(3) If confidential information is omitted from an entry in a register, that fact must be disclosed on the register.

- (b) mo se faalapotopotoga ua tuufaatasia faaletulafono, o se sala tupe e lē silia le 1,000 iunite tau faasalaga.

**139. Faamatalaga molimau** - I se tualumaga i lalo o lenei Tulafono, ae vagana ai se moliaga o se soligatulafono po o se talosaga mo faasalaga tau tupe, e ui lava i so o se tulafono faafoe o faamatalaga molimau, e mafai ona taliaina so o se faamatalaga molimau e talafeagai i se mataupu o lo o suesueina i tualumaga, taliaina seia vagana ai ua fuafuaina e le faamasinoga e faapea, o le tulaga manaomia o le faamaonia aloaia ai o le mea moni o faamatalaga molimau ua sili atu ona taua i aafiaga e afaina ai.

**140. Tusi resitala**-(1) E tatau i le Komisi ona faavaeina ma tausia tusi resitala o mataupu nei:

- (a) talosaga mo faamaoniga, faaiuga o faamaoniga ma suiga ma le faalēaogāina o faamaoniga;
- (b) talosaga mo faatagaga, faaiuga o faatagaga, ma suiga ma le faalēaogāina o faatagaga;
- (c) faiga faataatitia o faamatalaga faatatau i tagata e faaaogāina oloa;
- (d) poloaiga e faatonotonuina ai tau o oloa;
- (e) faasilasila e toe tapa ai oloa gaosi;
- (f) faasilasilaga o le saogalemu o oloa gaosi;
- (g) faiga faataatitia o le saogalemu o oloa gaosi;
- (h) faiga faataatitia o le saogalemu o auunaga;
- (i) faasilasilaga tau lapataiga;
- (j) faasilasilaga e taofia ma tetee ai;
- (k) feagaiga e faamalosi ai;
- (l) feagaiga o puipuiga mausali;
- (m) poloaiga tau pulega e faasaina ai.

(2) E mafai e le Komisi ona aveese faamatalaga agatapuia mai se faamaumaga ua tusia i totonu o se tusi resitala.

(3) Afai ua aveesea se faamatalaga agatapuia mai se faamaumaga tusi i totonu o se tusi resitala, e ao ona faailoa atu lea mea moni i luga o le tusi resitala.



(4) The Commission must make the registers available for inspection by any person:

- (a) at the offices of the Commission during ordinary business hours;
- (b) through the internet or a similar electronic network; and
- (c) in any other manner the Commission considers appropriate.

**141. Regulations and forms-**(1) The Head of State, acting on the advice of Cabinet, may make regulations to give effect to the provisions or for the purposes of this Act, and in particular may make the following regulations:

- (a) with the approval of the National Revenue Board, to prescribe fees for the purposes of this Act, including the circumstances in which the fees may be waived or remitted;
- (b) to prescribe matters required to be prescribed under this Act.

(2) The Commission may approve forms for the purposes of this Act.

**142. Repeals and amendments** - The Schedule lists the Acts that are repealed or consequentially amended by this Act.

**143. Transitional and saving provisions-**(1) Any act, appointment, authority or approval made or issued under the Fair Trading Act 1998 and the Consumer Information Act 1989 (“repealed Acts”) continues as if they had been made or issued under this Act until it expires or is amended, replaced or cancelled under this Act.

(4) E ao i le Komisi ona faaavanoa le tusi resitala mo asiasiga e so o se tagata:

- (a) i ofisa o le Komisi i itula masani o galuega;
- (b) e ala i le initaneti po o se fesootaiga faaeletoroni faapena; ma
- (c) i so o se isi lava faiga e manatu le Komisi ua talafeagai ai.

**141. Tulafono faatonutonu ma pepa faatumu-**(1) E mafai e Le Ao o le Malo, i le faia i luga o le fautuaga a le Kapeneta, ona faia tulafono faatonutonu e aloaia ai aiaiga po o, mo faamoemoega o lenei Tulafono, aemaise ai, e mafai ona faia tulafono faatonutonu nei:

- (a) i le i ai faatasi ma le faamaoniga a le Komiti Faatino o Tupe Maua a le Atunuu, ia faatonuina totagifuapauina mo faamoemoega o lenei Tulafono, e aofia ai tulaga aliae mai ia e ono mafai ai ona tuusaunua pe faamagaloga totagifuapauina;
- (b) ia faatonuina mataupu manaomia e ao ona faatonuina i lalo o lenei Tulafono.

(2) E mafai e le Komisi ona faamaonia pepa faatumu mo faamoemoega o lenei Tulafono.

**142. Soloia ma teuteuga** - O lo o lisiina i le Faamatalaga Tulafono ua soloia po o ua teuteuina i se tulaga faatupulaia e ala i lenei Tulafono.

**143. Aiaiga tau soloaiga ma aiaiga faasaoina-**(1) So o se Tulafono, tofiga, pule faataga po o se faamaoniga ua faia po o ua tuuina atu i lalo o le Tulafono o Fefaatauaiga Talafeagai 1998 ma le Tulafono o Faamatalaga o Tagata e Faaaogāina Oloa 1989 (“Tulafono ua soloia”), e faaauau pea e faapei ai na faia po o na tuuina atu i lalo o lenei Tulafono, seia oo ina muta po o ua teuteuina, suia pe faalēaogāina i lalo o lenei Tulafono.

(2) Despite the repeal of the Fair Trading Act 1998:

(a) the following continue as if they were made under this Act until they are amended, replaced or repealed by regulations under this Act -

(i) the Fair Trading (Approved Eggs Standards) Regulations 2010;

(ii) the Fair Trading (Approved Toy Standards) Regulations 2013; and

(b) the General Price Order made under that Act that is in effect immediately before the repeal, continues and is taken to be a price control order made under this Act; and

(c) for section 94(5) of this Act, the four (4) years is taken to have commenced at the commencement of that section.

(3) Regulations may be made under section 141 within two (2) years from the commencement of this Act to deal with any other transitional or saving matters.

(2) E ui lava i le soloia ai o le Tulafono o Fefaatauaiga Talafeagai 1998:

(a) e faaaauau pea tulafono faatonutonu nei e faapei ai sa faia i lalo o lenei Tulafono, seia oo ina ua toe teuteuina, suia pe soloia e ala i tulafono faatonutonu i lalo o lenei Tulafono -

(i) o le Tulafono Faatonutonu o Fefaatauaiga Talafeagai (Faiga Faataatitia ua Faamaonia mo Fuamoa) 2010;

(ii) o le Tulafono Faatonutonu o Fefaatauaiga Talafeagai (Faiga Faataatitia o Meataalo Faamaonia) 2013; ma

(b) o le Poloaiga Lautele o le Tau o Oloa na faia i lalo o lena Tulafono lea na faamamaluina ai i lea lava taimi a o lumana ai le soloia, e faaaauau pea ma ua aveia e faapea o se poloaiga e faatonutonuina ai le tau o oloa ua faia i lalo o lenei Tulafono; ma

(c) mo le fuaiupu 94(5) o lenei Tulafono, o le fa (4) tausaga ua aveia e faapea, na amatalia i le amataga o lena fuaiupu.

(3) E mafai ona faia Tulafono Faatonutonu i lalo o le fuaiupu 141 i totonu o le lua (2) tausaga mai le aso e amata faamamaluina ai lenei Tulafono, e tagofia ai o so o se isi lava mataupu tau soloaiga po o se mataupu faasaoina.

**SCHEDULE**  
(section 142)

**REPEALS AND CONSEQUENTIAL AMENDMENTS**

**PART 1 - Repeals**

**1. Consumer Information Act** - The Consumer Information Act 1989 is repealed.

**2. Fair Trading Act**-(1) The Fair Trading Act 1998 is repealed.

**PART 2 - Consequential amendments**

**1. Broadcasting Act** - For the Broadcasting Act 2010:

(a) in section 27(1), after paragraph (b) insert:

“(ba) without limiting paragraph (b), the licensee contravenes the Competition and Consumer Act 2015 or fails to pay a pecuniary penalty imposed on the licence under that Act;”; and

(b) in section 31, for subsection (2) substitute:

“(2) If a provision of this Act and a provision of the Competition and Consumer Act 2015 are inconsistent, the provision of this Act prevails to the extent of the inconsistency.”.

**FAAMATALAGA**  
(fuaiupu 142)

**SOLOIA MA TEUTEUGA FAATUPULAIA**

**VAEGA 1 - Soloia**

**1. Tulafono o Faamatalaga Tau i Oloa o lo o faaaogāina e Tagata o le Atunuu** - Ua soloia le Tulafono o Faamatalaga Tau i Oloa o lo o faaaogāina e Tagata o le Atunuu 1989.

**2. Tulafono o Fefaatauaiga Talafeagai** - Ua soloia le Tulafono o Fefaatauaiga Talafeagai 1998.

**VAEGA 2 - Teuteuga Faatupulaia**

**1. Tulafono o Faasalalauga** - Mo le Tulafono o Faasalalauga 2010:

(a) i totonu o le fuaiupu 27(1), i le tuanai ai o le parakalafa (b) ia faaofi:

“(ba) e aunoa ma le faatapulaaaina o le parakalafa (b), ua solia e le kamupani ua laiseneina le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015 po o ua lē mafai ona totogiina se faasalaga tau tupe ua faaee atu i luga o le laisene i lalo o lena Tulafono;”; ma

(b) i totonu o le fuaiupu 31, mo le faafuaiupu (2) ia suia e faapea:

“(2) Afai e lē ogatasi se aiaiga o lena Tulafono ma se aiaiga o le Tulafono o Faiga Faatauvaga ma Tagata e Faaaogāina Oloa 2015, o le aiaiga o lena Tulafono e mausali ona aloaia i le maualuga o le tulaga lē ogatasi.”.

**2. Customs Act** - In the Customs Act 2014, for section 91(1), after paragraph (b) insert:

“(ba) goods that do not comply with a product safety standard under the Competition and Consumer Act 2015 applicable to goods of the relevant kind; or”.

**3. Export of Meat Act** - Section 23 of the Export of Meat Act 1997 is repealed.

**4. Electricity Act** - In the Electricity Act 2010, after section 49 insert:

“**49A. Relationship with Competition and Consumer Act** - If a provision of this Act and a provision of the Competition and Consumer Act 2015 are inconsistent, the provision of this Act prevails to the extent of the inconsistency.”.

**5. Foreign Investment Act** - In section 6A(4) of the Foreign Investment Act 2000, after paragraph (j) insert:

“(ja) the Chairperson of the Competition and Consumer Commission;”.

**6. Foreign Investment Regulations** - Without limiting the power under the Foreign Investment Act 2000 to make or amend regulations under that Act, in the Foreign Investment Regulations 2011, for regulation 4:

**2. Tulafono o le Ofisa o Tiute** - I totonu o le Tulafono o le Ofisa o Tiute 2014, mo le fuaiupu 91(1), i le tuanai ai o le parakalafa (b), ia faaofi e faapea:

“(ba) o oloa e le o tausisia le faiga faataatia o le saogalemu o oloa gaosi i lalo o le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015, e mafai ona faaaogā i oloa o le ituaiga talafeagai; po o”.

**3. Tulafono o le Auina atu i Fafu o Aano o Manufasi** - Ua soloia le fuaiupu 23 o le Tulafono o le Auina atu i Fafu o Aano o Manufasi 1997.

**4. Tulafono o le Eletise** - I totonu o le Tulafono o le Eletise 2010, i le tuanai ai o le fuaiupu 49, ia faaofi e faapea:

“**49A. Sootaga ma le Tulafono o Faiga Faatauvaga ma Tagata e Faaaogāina Oloa** - Afai e lē ogatasi se aiaiga o lenei Tulafono ma se aiaiga o le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015, o le aiaiga o lenei Tulafono e mausali ona aloaia i le tulaga o le lē ogatasi.”.

**5. Tulafono o Tupe Teufaafaigaluega mai Fafu** - I totonu o le fuaiupu 6A(4) o le Tulafono o Tupe Teufaafaigaluega mai Fafu 2000, i le tuanai ai o le parakalafa (j), ia faaofi e faapea:

“(ja) o le Taitaifono o le Komisi o Faiga Faatauvaga ma Tagata e Faaaogāina Oloa;”.

**6. Tulafono Faatonutonu o Tupe Teufaafaigaluega mai Fafu** - E aunoa ma le faatapulaaina o le malosiaga i lalo o le Tulafono o Tupe Teufaafaigaluega mai Fafu 2000 e faia ai pe teuteuina ai tulafono faatonutonu i lalo o lea Tulafono, i totonu

o le Tulafono Faatonutonu o Tupe Teufaafaigaluega mai Fafu 2011, mo le tulafono faatonutonu 4:

(a) after subregulation (6), insert:

“(6A) In reviewing a written submission, the CEO must, if satisfied as mentioned in subregulation (6), refer the submission, which must prepare and submit to the CEO a report on the implications of the written submission for competition in markets in Samoa and any other matter relevant to its functions.”; and

(b) in subregulation (8), after “the review of the written submission”, insert “, together with the report of the Commission on the written submission.”.

**7. Petroleum Act** - In section 4A(4) of the Petroleum Act 1984, for paragraph (b) substitute:

“(b) incorporated into the prices of any petroleum products that are controlled by any price control order issued under the Competition and Consumer Act 2015;”.

**8. Postal Services Act** - For the Postal Services Act 2010:

(a) for section 4 -

(i) renumber the current provision as subsection (1); and

(ii) after current provision, insert:

(a) i le tuanai ai o le tulafono faatonutonu laitiiti (6), ia faaofi e faapea:

“(6A) I le iloiloaina o se talosaga tusitusia, e ao i le Ofisa Sili o Pulega, pe afai ua faamalieina e pei ona taua i le tulafono faatonutonu laitiiti (6), ma faasee atu le talosaga tusitusia, lea e ao ona saunia ma tuuina atu i le Ofisa Sili o Pulega se lipoti, i aafiaga o le talosaga tusitusia mo tauvaga i maketi i totonu o Samoa ma so o se isi lava mataupu talafeagai i ana galuega tauave”; ma

(b) i totonu o le tulafono faatonutonu laitiiti (8), i le tuanai ai o upu “o le iloiloga o le talosaga tusitusia”, ia faaofi upu, “faatasi ai ma le lipoti a le Komisi i le talosaga tusitusia.”.

**7. Tulafono o le Penisini** - I totonu o le fuaiupu 4A(4) o le Tulafono o le Penisini 1984, mo le parakalafa (b) ia suia e faapea:

“(b) ia tuufaatasia i tau o so o se oloa tau penisini o lo o faatonutonuina e so o se poloaiga e faatonutonu ai tau o oloa na tuuina atu i lalo o le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015;”.

**8. Tulafono o Galuega Tau Meli** - Mo le Tulafono o Galuega Tau Meli 2010:

(a) mo le fuaiupu 4 -

(i) ia toe faanumera le aiaiga o i ai nei e avea ma faafuiauupu (1); ma

(ii) i le tuanai ai o le aiaiga o i ai nei, ia faaofi e faapea:

“(2) If a provision of this Act and a provision of the Competition and Consumer Act 2015 are inconsistent, the provision of this Act prevails to the extent of the inconsistency.”; and

(b) in section 13, for subsection (2) substitute:

“(2) Before making or varying a pricing policy under subsection (1), the Minister must:

- (a) consult SamoaPost; and
- (b) seek a report and recommendations from the Competition and Consumer Commission established under the Competition and Consumer Act 2015,

and take into account any submissions made by or for SamoaPost and the recommendations in the report.”.

**9. Sale of Goods Act** - After section 57 of the Sale of Goods Act 1977 insert:

“**57A. Competition and Consumer Act 2015** - Sections 14 to 16 and 52 of this Act do not apply to a contract of sale to which Division 3 of Part 4 of the Competition and Consumer Act 2015 applies.”.

**10. Telecommunications Act** - For the Telecommunications Act 2005:

(a) in section 18(1), after paragraph (b) insert:

“(2) Afai e lē ogatasi se aiaiga o lenei Tulafono ma se aiaiga o le Tulafono o Faiga Faatauvaaga o Fefaatauaiga ma le Puiipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015, o le aiaiga o lenei Tulafono e mausali ona aloaia i le tulaga o le lē ogatasi.”; ma

(b) i totonu o le fuaiupu 13, mo le faafuaiupu (2) ia suia e faapea:

“(2) A o le i faia pe suia se faiga faavae o tau, i lalo o le faafuaiupu (1), e ao i le Minisita ona:

- (a) feutagai ma le Samoa Post; ma
- (b) sailia se lipoti ma ni fautuaga mai le Komisi o Faiga Faatauvaaga ma Tagata e Faaaogāina Oloa, lea ua faavaeina i lalo o le Tulafono o Faiga Faatauvaaga ma Tagata e Faaaogāina Oloa 2015,

ma ia amanaia so o se talosaga e faia e le Samoa Post ma fautuaga o i totonu o le lipoti.”.

**9. Tulafono o le Faatauina atu o Oloa** - I le tuanai ai o le fuaiupu 57 o le Tulafono o le Faatauina atu o Oloa 1977, ia faaofi e faapea:

“**57A. Tulafono o Faiga Faatauvaaga ma Tagata e Faaaogāina Oloa 2015** - E lē faaaogāina fuaiupu 14 e oo i le 16 ma le 52 o lenei Tulafono i se konekarate o le faatauina atu, lea e faaaogā i ai le Vaevaega 3 o le Vaega 4 o le Tulafono o Faiga Faatauvaaga o Fefaatauaiga ma le Puiipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015.”.

**10. Tulafono o Fesootaiga** - Mo le Tulafono o Fesootaiga 2005:

(a) i totonu o le fuaiupu 18(1), i le tuanai ai o le parakalafa (b), ia faaofi e faapea:

“(ba) without limiting paragraph (b), the licensee contravenes the Competition and Consumer Act 2015 or fails to pay a pecuniary penalty imposed on it under that Act;” and

(b) in section 25, for subsection (2) substitute:

“(2) If a provision of this Act and a provision of the Competition and Consumer Act 2015 are inconsistent, the provision of this Act prevails to the extent of the inconsistency.”

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“(ba) e aunoa ma le faatapulaaina o le parakalafa (b), ua solia e le kamupani ua laiseneina le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015 po o ua lē mafai ona totogi se faasalaga tau tupe ua faaee atu i ai i lalo o lenei Tulafono;” ma

(b) i totonu o le fuaiupu 25, mo le faafuaiupu (2), ia suia e faapea:

“(2) Afai e lē ogatasi se aiaiga o lenei Tulafono ma se aiaiga o le Tulafono o Faiga Faatauvaga o Fefaatauaiga ma le Puipuiga o Tagata e Faaaogāina Oloa ma Auaunaga 2015, o le aiaiga o lenei Tulafono e mausali ona aloaia i le maualuga o le tulaga lē ogatasi.”

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