



THE LAW CREST LLP

THE LAW CREST BUSINESS ADVISORY TEAM

September, 2019

FCCPC and SEC sign MoU to foster collaboration

The Federal Competition and Consumer Protection Commission (the "FCCPC") and the Securities and Exchange Commission (SEC) recently signed a Memorandum of Understanding (MoU) aimed at fostering a mutually beneficial engagement and seamless operation of the mandates of both organisations, especially as it relates to mergers. Under the terms of the MoU, both the FCCPC and SEC have agreed to cooperate and collaborate to perform their individual duties, particularly with regards to information sharing, consumer complaints in the capital market, investigations, enforcement, compliance and capacity building.

This is in line with Section 105 of the Federal Competition and Consumer Protection Act (FCCPA) 2018, signed into law by President Muhammadu Buhari, on January 30, 2019, which authorizes the FCCPC to negotiate MoUs with relevant industry regulators, for the purpose of coordinating and harmonizing the exercise of jurisdiction over competition and consumer protection matters within the relevant industry/sector, and to also ensure the consistent application of the FCCPA. By virtue of the above-mentioned section, the FCCPA granted the FCCPC concurrent jurisdiction to regulate on matters relating to competition and consumer protection, with other sector-specific regulatory bodies. The implication being that industry regulators such as the Securities and Exchange Commission (SEC) and the Nigerian Communication Commission will continue to regulate on competition and consumer protection matters alongside the FCCPC. Therefore, corporations that are subject to the oversight powers of their sectoral regulators would also be required to consult the regulations to be subsequently issued by the FCCPC on competition and consumer protection related matters. It is however important to mention that from the wordings of Section 105 (2) of the FCCPA, decisions of the FCCPC on competition and consumer protection matters take precedence over those of other sectoral regulators.

The execution of the MoU by the FCCPC and SEC succeeds the joint advisory issued by both bodies on May 3, 2019, stating that both bodies would jointly review all notifications and filings and that the FCCPC would convey the decision of such reviews until otherwise discontinued by any further advisory or guidance.