

PORTFOLIO COMMITTEE ON TRADE, INDUSTRY AND COMPETITION:

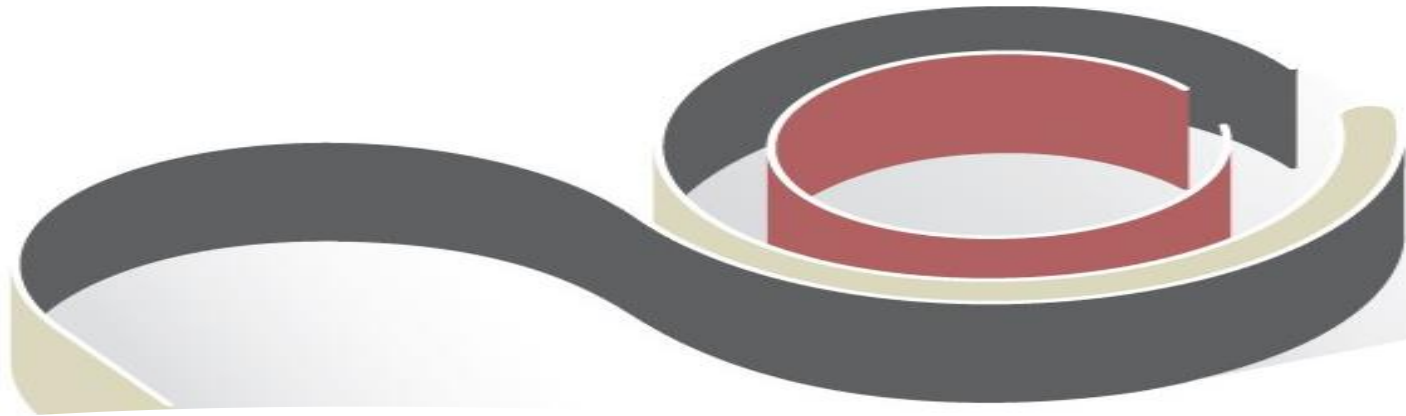
**Engagement with the South African Institute of Auctioneers,
South African Professional Auctioneers Association and
Regulatory Bodies on the impact of online auctions of
strategic assets on economic transformation, as well as
transformation within the auctioneering profession**

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REGULATION OF AUCTIONS UNDER THE CPA

NATIONAL CONSUMER COMMISSION

6 OCTOBER 2026



DELEGATION

**Mr. Hardin Ratshisusu – Acting
Commissioner**

OUTLINE

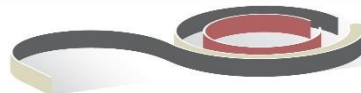
- ❖ Legislative Mandate
- ❖ Regulatory Context - Auctions
- ❖ Internet or Electronic Auctions
- ❖ Challenges and Limitations



Legislative Mandate

LEGISLATIVE MANDATE

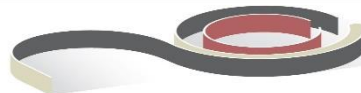
- ❖ The National Consumer Commission (NCC) is established by the Consumer Protection Act (CPA), 2008 (Act No. 68 of 2008) - with the core mandate of enforcing the CPA.
- ❖ The purpose of the CPA is, amongst others:
 - to promote and advance the social and economic welfare of consumers in South Africa;
 - to protect consumers from unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices; and
 - to promote a fair, accessible, and sustainable marketplace for consumer products and services and to establish national norms and standards relating to consumer protection.



Regulatory Context - Auctions

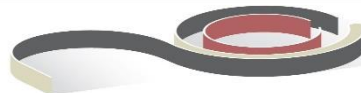
The CPA Regulation of Auctions

- ❖ The main section that regulates Auctions is section 45 of the CPA, which provides for the following:
 - The inclusion of sales in execution of or pursuant to a court order, to the extent that the order contemplates that the sale is to be conducted by an auction.
 - When goods are put up for sale by auction in lots, each lot is regarded to be the subject of a separate transaction.
 - The rule that a sale by auction is complete when the auctioneer announces its completion by the fall of the hammer; until that announcement is made, a bid may be retracted.
 - That a notice must be given in advance that a sale by auction is subject to -
 - a reserved or upset price; or
 - a right to bid by or on behalf of the owner or auctioneer, in which case the owner or auctioneer, or any one person on behalf of the owner or auctioneer, may bid at the auction.
- ❖ A consumer may approach a court to declare the transaction fraudulent, if the subsection on bidding on behalf of auctioneers has been violated.



The CPA Regulation of Auctions

- ❖ Section 45 further provides the Minister of Trade, Industry and Competition with powers to prescribe regulations on auctions pertaining to the following:
 - requirements to be complied with by auctioneers, for different categories of auctioneers, in respect of:
 - the conduct of an auction;
 - the records to be maintained with respect to property placed for auction; and
 - the sale of any such property by auction.
- ❖ To this end, there are CPA regulations prescribed in terms of section 54(6) dedicated to auctions, covered under regulations 18 to 33.



CPA Regulations 18 to 33 - Auctions

Regulation 18 - Definitions, interpretation and application: auctions

Regulation 19 - Mandatory advertising of auctions - all Auctions must be advertised

Regulation 20 - General rules on advertising of auctions - truthful/not misleading

Regulation 21 - Rules of auction

Regulation 22 - Auctioneer and auction house to hold and account for consumer's property

Regulation 23 - Disqualification to conduct auction

Regulation 24 - Prohibited behaviour

Regulation 25 - False entry in auction record

Regulation 26 - Bidder's record

Regulation 27 - Ownership

Regulation 28 - Bidding

Regulation 29 - Mock auction - prohibited

Regulation 30 - Internet or electronic auctions – allowed, must comply with regulation

Regulation 31 - Records – kept for 3 years

Regulation 32 - Motor vehicle auctions

Regulation 33 - Livestock, game and closed auctions

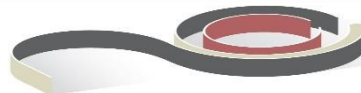


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Internet or Electronic Auctions

Auctions Internet / Electronic Medium

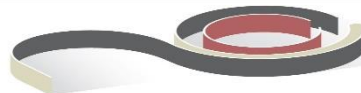
- ❖ Regulation 30 allows an auction to be conducted via the internet or other electronic medium irrespective of where the server or other electronic medium or platform is situated, provided it satisfies the following requirements:
 - meets all requirements in respect of an auction provided for in these regulations or other applicable law;
 - the relevant internet website is generally available to anyone over the age of 18 years at any time of the day; the relevant internet website or electronic medium or platform provides high standards of security for electronic transactions;
 - the relevant internet website or electronic medium or platform provides for easy access to all records prescribed in these regulations in a generally used or accepted medium or format; and
 - the internet auction provider keeps the information contemplated in regulation 28(4).



Auctions Internet / Electronic Medium

❖ An auctioneer must have a vendor's roll, in which all details of the auction are recorded, which must, as a minimum, include:

- the advertising of the auction;
- the rules of auction;
- the bidders' record;
- the declarations contemplated in regulation 21 (2)(h) and 27 - ownership and the right to sell;
- a list of all goods on auction, including goods which were withdrawn from auction;
- the names of the successful bidders, the goods or lots bought and the prices paid in respect thereof;
- the details of any challenges to the validity of the auction or the conduct thereof, and the particulars of the persons making such challenges, if available;
- any items or lots not sold; and
- the details of any reserved price or any matter contemplated in sub-sections (4) and (5) of section 45 of the Act.



Auctions Internet / Electronic Medium

- ❖ For purposes of regulation 26(2), a prospective bidder in an auction to be held via the internet or other electronic medium or platform must register by providing:
 - his or her full names;
 - identification or passport number;
 - age;
 - physical address;
 - internet protocol address;
 - where applicable, login code or name, and password; and
 - the details of the means by which payment will be effected.
- ❖ An auctioneer conducting an auction via the internet or other electronic medium or platform may not exclude liability if any goods purchased by auction are not delivered to the purchaser thereof.
- ❖ Irrespective of any other provision to the contrary in these regulations, all records prescribed in regulations 18 to 33 must be kept for a period of at least three years.



EXCLUSIONS AND LIMITATIONS

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- ❖ The regulations apply to all auctions subject to regulation 18(4), irrespective of the nature of the goods offered on auction, the value of the property or the reason for conducting the auction.
- ❖ According to sub-regulation 18(4), these regulations do not apply to:
 - transactions concluded under the auspices of a registered or licensed stock exchange or similar institution; or
 - an auction where the goods for sale have been donated for sale at an auction and the proceeds of the auction are paid to a bona fide religious, educational, cultural, welfare, social or sports organisation or body which does not as its primary activity undertake commercial or business operations.
- ❖ For clarity, auction transactions “registered or licensed stock exchange or similar institution” are not covered by the CPA.



EXCLUSIONS AND LIMITATIONS

❖ Section 55 of the CPA relates to consumers' rights to safe, good quality goods, and states thus:

(1) This section does not apply to goods bought at an auction, as contemplated in section 45.

(2) Every consumer has a right to receive goods that—

- a) are reasonably suitable for the purposes for which they are generally intended;*
- b) are of good quality, in good working order and free of any defects;*
- c) will be useable and durable for a reasonable period of time, having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply; and*
- d) comply with any applicable standards set under the Standards Act, 1993 (Act No. 29 of 1993), or any other public regulation.*

❖ The exclusion has perpetuated the notable practice of suppliers selling goods/products on auction to circumvent the obligations ensuring the quality and safety of goods they sell.



EXCLUSIONS AND LIMITATIONS

- ❖ The NCC has not actively monitored the conduct of Auctioneers because of competing priorities.
- ❖ The NCC focused on key priority areas for enforcement, being:
 - Unsafe and expired foods;
 - Second-hand automotive industry;
 - Unfair and unreasonable pricing of goods and services;
 - Unfair and unreasonable terms and conditions;
 - Non-compliant Clothing, Textile, Footwear and Leather goods (CTFL);
 - Market monitoring of low-quality and substandard locally produced or imported goods;
 - False claims on labelling of goods;
 - Scams and Ponzi schemes; and
 - E-commerce.
- ❖ There is scope for the NCC to focus on auctions, insofar as they relate to the CPA, however, such should be balanced against other competing priorities and resource constraints.



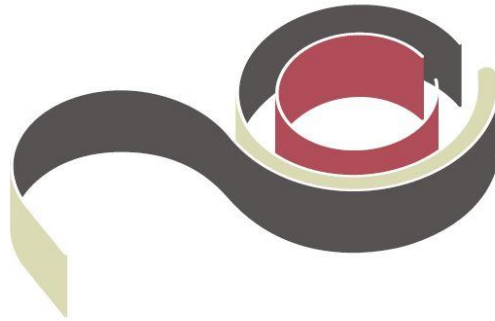
Conclusion

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CONCLUSION

- ❖ The CPA provides for broader provisions to regulate activity in auctions.
- ❖ In general, auctions have to be transparent to comply with the CPA.
- ❖ The CPA mainly focuses on consumer-facing transactions, so there may be limited application on business-to-business auctions.
- ❖ The only clear exclusion from the application of the CPA is with respect to the enforcement of quality and safety provisions of the CPA (section 55) on goods purchased in an auction, but this exclusion may require revision.
- ❖ Auction transactions through “registered or licensed stock exchange or similar institution” or those involving donated goods for sale at the auction for good cause as defined in the regulations are excluded from the application of the CPA.





NATIONAL CONSUMER COMMISSION

a member of the dtic group

Thank you!

National Consumer Commission

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