



AGENDA 2025

Introduction

The Aruba Fair Trade Authority (AFTA)

The AFTA is the independent and impartial authority of Aruba that oversees the proper functioning of markets and compliance with the competition rules laid down in the Competition Ordinance. The rules of the Competition Ordinance have been in effect since January 1, 2024.

The AFTA investigates the markets in Aruba and takes action to prevent and, where necessary, sanction anticompetitive agreements between companies and abuse of dominant economic positions. This is important because companies in competitive markets do their utmost to meet the needs of consumers. This promotes lower prices, more choice, better quality and innovation of products and services for consumers. Companies benefit from a level playing field and a better investment climate. New companies are given better opportunities without unnecessary entry barriers. The result to be achieved by this is economic growth and increased prosperity in Aruba.

The AFTA is authorized to demand information and to impose fines, incremental penalty payments and/or binding directions. The AFTA may also advise the government, both when asked and on its own initiative, on the operation of markets and the effects on competition of existing and proposed legislation.

Interested parties may submit a request for enforcement to the AFTA. For example, if a company feels that a competing company is violating any of the competition rules, the AFTA may be asked to take action. Notifications in the form of signals, complaints, applications for exemption or notifications of proposed mergers, acquisitions or joint ventures are registered and accepted for processing to determine whether an investigation should be initiated. Notifications can be submitted anonymously via the website. Those submitting a notification and who do provide contact information in the notification are informed about the processing. In 2024, 60 notifications were received.

Because the AFTA has limited manpower and resources, it must make choices and set priorities. Priorities are set based on a weighing-up of the available manpower and resources and the contribution that can be made to the Aruban economy and, in particular, the Aruban consumer. The greater the contribution, the higher the priority. The priorities of the AFTA in 2024 were the provision of information about the new rules, realtors and food products.

2024 in retrospect

Information provision

In 2024, AFTA organized 16 information meetings for both citizens and companies to make them aware of the opportunities and limitations of the new rules. Almost all industrial associations in Aruba were approached to participate in one or more presentations, paying specific attention per sector to the regulations relevant to it.

In addition, AFTA had 24 separate meetings with individual companies and organizations to discuss in more detail the specific impact of the legislation on their operations. The AFTA maintained a website and Facebook page that provided multiple ways for companies to learn about the competition rules. As a result, the expectation is that companies can now voluntarily comply with the competition rules. If there is a need for a general explanation, and/or if there are questions about a specific situation, the AFTA is more than willing to respond.

Realtors

The Commission Guidelines of the Association of Aruban Realtors (AAR) contained guidelines that were restrictive to price competition between realtors, which is prohibited pursuant to the Competition Ordinance since January 1, 2024.

The AFTA received signals from the market about the possible conflict of the Guidelines of the AAR with the Competition Ordinance. In response, the AFTA initiated an investigation and requested information from the AAR. The AAR quickly provided this information, and, after a meeting with the AFTA, it decided to withdraw the Guidelines immediately, thus eliminating the restriction of price competition. The AAR communicated the withdrawal of the Guidelines to its members. This is beneficial to consumers and companies that use the services of realtors. Because of the quick cooperation of the AAR, the immediate withdrawal of the Guidelines by the AAR and the short time since the Competition Ordinance went into effect, the AFTA discontinued its investigation into the AAR and its members and did not impose a sanction.

Food products

The relevance of a properly functioning and competitive food products market that ensures the lowest possible prices for all Arubans is evident. Approximately half of Aruban households (those up to the subsistence level) spend 40% or more of their available monthly budget on food products. This is much more than households in the United States (14%) and the Netherlands (19%) with similar incomes. Consequently, high food prices have a direct effect on the level of prosperity of a large part of Aruban society. Therefore, the AFTA researched the prices and market structure in the food sector in Aruba in 2024. In September 2024, AFTA published the results of this research. The research confirms the perception that the prices of food products in Aruba are very high compared to the United States and the Netherlands. Based on the conclusions drawn, the AFTA has decided to initiate two follow-up investigations: an investigation into exclusive distribution arrangements and an investigation into container transportation to Aruba.

Frequency allocation mobile telephony

At the end of May 2024, the Minister of Economic Affairs, Communications and Sustainable Development requested the AFTA, pursuant to Article 4.8 of the Competition Ordinance, to issue advice on the possible competitive effects of the fee model proposed by Stratix for the use of 5G mobile telephony frequencies in Aruba.



Based on the request for advice, the Stratix report, meetings with stakeholders, including SETAR, Digicel, DTZ and Stratix, and based on documents submitted by Digicel and SETAR and the answers of Digicel and SETAR to questions asked by the AFTA, the AFTA issued advice in November 2024 with recommendations for the allocation of the mobile telephony frequency range. The recommendations in this report are aimed at promoting competition in the mobile telephony market. The advice was published on the website of the AFTA.

Priorities 2025

For 2025, building in part on the work carried out in 2024, the AFTA will give priority to the prices for banking services, exclusive agreements in the food sector, container transportation to Aruba, compliance investigation realtors and consumer protection.

Banking services

During the first year of the AFTA (2024), multiple signals were received about the commercial banks. A major concern of companies is the increase in fees for debit and credit card transactions. This includes, in particular, Visa Debit and Mastercard Debit, the successor to Maestro, whereby it would appear that the fees for regular (debit) payment transactions have increased substantially. This increase will affect consumers if companies pass on the increase in the prices of their products and services, with adverse effects on the Aruban economy and the purchasing power of consumers.

In late 2024, the AFTA initiated an investigation into the fees charged by banks in Aruba for their services, and in particular the fees charged to enterprises and consumers for payment transactions in Aruba. The banks have received requests for information asking questions and requesting documents. In case the banks cooperate properly with the investigation, the AFTA expects to have sufficient information in the first months of 2025 to start reporting on its findings.

Because the cause of concern lies with MasterCard, the AFTA will also send MasterCard a request for information.

In November 2024, the Minister of Economic Affairs, Communications and Sustainable Development requested the AFTA pursuant to Article 4.8 of the Competition Ordinance to report on proposed legislation, namely: the National Ordinance on the Supervision of Payment Service Providers and the National Ordinance on the Supervision of Payment System Providers. As soon as the AFTA has these draft national ordinances in its possession, the necessary investigation will be scheduled, and the requested report will be prepared as a matter of priority. In doing so, the AFTA will focus primarily on the effects of the national ordinances on competition.

Exclusive agreements

In connection with the “Study on the prices and market structure in the food sector in Aruba” conducted in 2024, the AFTA has decided to conduct a follow-up study on the effects of exclusive distribution agreements entered into by (brand) manufacturers and/or exporting wholesalers/traders with importers, wholesalers and supermarkets active in the Aruban food market.

Exclusive distribution agreements are permitted in Aruba, unless they have the object or effect of restricting competition. An exclusive distribution agreement is a type of vertical agreement often entered into between manufacturers or suppliers and distributors or importers. In it, supply arrangements, licensing terms, and terms of sale are agreed on. Exclusive distribution agreements can have advantages and disadvantages.



The objectives of the follow-up study include obtaining an insight into:

- the nature, extent and characteristics of exclusive agreements in Aruba;
- the advantages and disadvantages of these exclusive distribution agreements, and;
- the nature and extent of negative effects resulting from these agreements or related conduct, such as higher prices or opposition to non-prohibited parallel imports.

At the end of 2024, importers and wholesalers received requests for information with questions to arrive at the necessary insights. The AFTA assumes that the answers to the questions will lead to new requests for information. In case the cooperation of the parties concerned in this study remains good during the study, the AFTA expects to issue a report as a product of this study this year.

Container transportation

The aforementioned food products study has shown that 57% of food products are imported from the United States. All respondents indicated that only one container shipping company sails the direct route to Aruba for products imported from the United States, and that the prices for container transportation are high and volatile.

This is partly caused by global developments, but also by the fact that Aruba exports very little so that containers leave Aruba virtually empty. As it were, importers do not pay a "single-voyage" price for importing goods, but must pay a "return-voyage" price while the containers leave empty. This phenomenon is therefore factored into the final price for services and products. However, there may also be other causes.

The objectives of the enforcement investigation include obtaining answers to the following questions:

- How does the market position of King Ocean affect the final price of container transportation and thus the products in Aruba?
- What are the (economic) advantages and disadvantages for parties dependent on King Ocean?
- Are there alternative transportation options on this route, and if so, how do they compete with King Ocean? If not, why are there none (anymore)?
- To what extent are other container shipping companies inclined or willing to sail this route?
- To what extent do global developments in maritime transportation account for the ever-increasing transportation rates of King Ocean versus the transportation rates of competitors sailing to similar island economies?
- To what extent is there anti-competitive behavior (such as abuse of a dominant position and/or anticompetitive agreements) of King Ocean?

In December 2024, King Ocean was asked to answer questions and provide information and documentation. In 2025, the AFTA will report on its findings.



Compliance investigation realtors

As a result of intensive meetings with the AFTA, the Association of Aruban Realtors (AAR) decided to withdraw its Commission Guidelines in early April 2024, which is an important step in improving competition among realtors on the island. As a result of this change, consumers who buy a home in Aruba are no longer bound by fees agreed on by realtors. They now have the option to negotiate the brokerage fees or even look for another realtor offering lower fees, which significantly increases the variety of choice and transparency for buyers. To what extent there have been negotiations, what the effect thereof has been, and how the fees have developed since the withdrawal of the Commission Guidelines will be the subject of investigation in 2025. This investigation will specifically address possible anticompetitive behavior of realtors.

Consumer protection

Draft legislation (National Ordinance on the Administrative Enforcement of Consumer Protection) is being prepared for the administrative enforcement of consumer protection legislation. Based on this National Ordinance, the AFTA will be the body responsible for this. Administrative enforcement of consumer law includes taking disciplinary action against prohibited conduct by entrepreneurs. The effect thereof is increased consumer confidence, informed and efficient consumer choices, less distortion of competition and better functioning of markets. The principle underlying the draft National Ordinance is that the AFTA will only intervene through administrative enforcement if there is a (potential) group violation of consumer law. The AFTA will not take action in the context of individual violations, but in cases of violations that may harm the interests of multiple consumers. It is expected that the legislation could take effect by mid-2025. The AFTA is making the necessary preparations to begin providing information after the National Ordinance takes effect. Given that consumer law (unlike competition law) is not new in Aruba, there is no obstacle for the AFTA to carry out compliance monitoring and enforcement activities in addition to the provision of information shortly after the National Ordinance takes effect.

