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Roundtable on:
The Impact of Cartels on the Poor

Contribution
by
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DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Global Forum on Competition

COMPETITION AND POVERTY REDUCTION

-- Summary of Discussion --

28 February - 1 March 2013

This is a PRELIMINARY AND PROVISIONAL DRAFT of the summary of the discussion on Competition and Poverty Reduction at the OECD's Global Forum on Competition in February 2013. The text is still awaiting comments and possible amendment from OECD meeting participants and should therefore not be quoted in its current form.

Documents presented at the OECD's roundtable are available at:

http://www.oecd.org/competition/globalforum/programmeanddocuments.htm

Contact: John DAVIES, Head of Competition Division, Tel: +33 1 45 24 91 39, E-mail: john.davies@oecd.org

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SUMMARY OF THE DISCUSSION

1. Introductory speeches

1.1 OECD Deputy Secretary-General, Mr Richard Boucher

1. OECD Deputy Secretary-General Richard Boucher gave the opening remarks. Mr Boucher noted that the OECD and UNCTAD have been mandated by the G20 to guard against any relapse into protectionism. Facing the challenges to the global economy in 2013 will require open markets and good governance. Europe is stagnating and emerging dynamic economies are slowing down. Although better governance and freer trade during the past 30 years have led to less absolute poverty, there are still more than a billion people in the world in this condition. They pay relatively more for basic services or even do not have access to them. Stronger domestic competition makes exporters more competitive, helps the "little guy" against monopolists, and helps to fight the sorts of corruption that are encouraged by government regulations that protect monopolies.

1.2 UNCTAD Secretary-General, Mr Supachai Panitchpakdi

2. The keynote speaker was UNCTAD Secretary-General Supachai Panitchpakdi. Mr Panitchpakdi said that UNCTAD is mandated to encourage competition and consumer protection. In his view, "development-led globalisation" involves the real sector, creation of productive capacity and jobs, and provides more opportunities for the poor and for women. Participants in a meeting last year in Beijing with the WTO agreed that the global value chain can operate effectively only with more competition and fewer obstacles to trade and competition. Freer trade by itself does not automatically reduce poverty; other domestic policies are needed, including competition policy, though there is not a direct link. Consumer protection is also important. Poor households spend disproportionately on basic necessities, and competition policies focussed on lowering their prices would help. But as well as lower prices, the poor need higher incomes, more jobs, and more choices, and competition can help here. Also, competition in mobile telephony, for example, gives poor producers better access to markets, better information about prices for their products, and enables mobile banking.

3. Within the agricultural sector in developing countries there is often excessive market power for inputs, as well as in processing and distribution. In Latin America, there is a historical legacy of a few families owning key industries and large amounts of land. It is difficult for governments to counter that, and sometimes their rules and regulations help it to persist. The poor thus face high barriers to becoming independent producers. Competition rules can help dismantle those structures and dilute the concentration of power. Of course, some government measures are ostensibly to help the poor, via price controls, subsidies and limiting market entry, but they reduce competition. When price controls are lifted, prices go up and the poor are worse off than before.

4. Another serious problem is that across the world, public infrastructure projects are becoming bigger and bid-rigging is becoming more prevalent. There is a governance issue here that the OECD could help address. Tax-payers' money that could be used to fight poverty is being wasted.

5. Mr Panitchpakdi drew a distinction between “experience” goods (which consumers learn about via personal experience), “credence” goods (which consumers must purchase on faith, for example pharmaceuticals), and “search” goods (for which comparative information is desirable, but not necessarily easily available). Because they have lower levels of education and access to IT, the poor are less able to choose search goods wisely. In conclusion, Mr Panitchpakdi stressed that competition should be part of the culture, and that prevention is better than punishment. It is important to prevent industrial associations from becoming clubs to protect their members. To better help the poor, competition policies should prioritise areas that benefit the poor most directly. Nevertheless, stronger competition within and between countries does not necessarily result in less inequality.

1.3 OECD Competition Committee Chairman, M. Frédéric Jenny

6. After welcoming the 400 delegates from 95 countries to the 12th Global Forum on Competition, M. Jenny noted that it was not clear at the beginning that the GFC would be a success. The intention was to promote dialogue between countries that had a lot of competition policy experience and those that had less. It has been successful because the topics chosen are of interest to both. The OECD focuses on integrating policies among its member countries, but how does competition policy integrate with other policies in developing countries, and how useful is it for those countries? Are competition policy and its enforcement in developing countries contributing to the achievement of more general and important national goals? M Jenny believed that there is a natural fit, which explains why so many countries are attending the Global Forum this year.

7. There are good economic arguments to suggest a macro relationship between competition policy, its enforcement and poverty reduction. Stronger competition leads to greater productivity, faster growth and hence there should be less poverty. In countries that have developed via market mechanisms, a significant proportion of the population has been lifted out of poverty. But stronger competition is not sufficient: appropriate trade, consumer, regulatory and industrial policies need to be in place. Policies need to be “joined up”, and we have learned from the crisis that competition does not always prevent markets from failing.

8. The forum will hear of examples in which competition policy helped to alleviate poverty. But it is also the case that stronger competition, for example from deregulating prices, can make the poor worse off in the short term. Similarly, inefficient firms will fail, and employees will lose their jobs. Another example is the deregulation of utilities in Latin America, which led to poor non-payers being cut off from supply, and a major backlash against deregulation. Thus stronger competition needs to be accompanied by a stronger safety net to protect the poor during a transition period.

9. The design of competition law is also an issue. Should countries with large numbers of people in poverty have different competition laws or a different focus? Should competition laws adapt to circumstances? One might not want to go too far down that road. Should competition policies care about the impact on income distribution? Typically they do not; they focus on the allocated benefit for society as a whole. But distributional issues are very important in some countries. Is there another instrument that is better, is it in place, and does it support competition policy?

2. PLENARY SESSION: COMPETITION AND POVERTY REDUCTION

2.1 Introduction by M. Jenny

10. The Chairman proposed to divide the discussion into six sub-topics, each introduced by an expert, followed by interventions from the floor. The sub-topics would be: the basics of poverty, its causes, and the relationship between competition policies and poverty alleviation; the effect of competition policy

on poor consumers in theory and in practice, and whether some of the poor are hurt by competition policies; the impact in theory and practice of competition policy on poor business owners, or the ability of the poor to develop businesses; whether government interventions, for example price controls or subsidies, are better than competition law enforcement at helping the poor; whether competition policy authorities should prioritise their interventions to help alleviate poverty; and whether there is such a thing as a pro-poor competition policy or law in countries where poverty is a major problem. He called on Professor Winters to address the first sub-topic.

2.2 Basics of poverty

2.2.1 Presentation by Professor Alan Winters, University of Sussex, UK

11. Professor Winters underscored that when discussing poverty, it is important to be clear about what it is. To be useful, the concept has to be definable and measurable. Poverty is not the same thing as inequality, and poverty can be absolute or relative. A simple measure could be a minimum level of food and shelter below which life is not sustainable or acceptable. But the poor value also security, physical and economic. For developing countries, absolute poverty is the appropriate focus. Timely and accurate data are essential for policymaking. A summary measure of poverty for a country – the proportion below the poverty line – is too crude, because one also needs to know how far below the line they are on average. A better measure is the aggregated square of the gap for those below the line.

12. Poverty affects individuals, but when making policy decisions, averages are important. The impact of competition policy at the macro and individual levels will be different. Competition policy is similar to trade policy in that respect. Reducing international trade barriers leads to faster growth but there will be losers, including some of the poor. One cannot say that there will be no losers; a trade-off has to be made. The impact on poverty depends mostly on who gets or loses the jobs and to a lesser extent on what happens to wages. Individual wages typically rise or fall by small amounts, but you are either employed or unemployed. During the transition to higher average income levels through better efficiency, income distribution will be affected, not necessarily towards greater equality.

2.2.2 Presentation by David Lewis

13. Mr Lewis said that competition is omnipresent, whether good or bad, and has implications for everything, including poverty. The opening of markets has lifted millions out of poverty and created opportunities for prosperity for individuals and countries. But rapid opening, as in Russia, led to sudden massive price increases and deeper poverty. Liberalisation of markets in China lifted millions out of absolute poverty but is gradually resulting in higher inequality. South Korea is an example of successful state capitalism, with protection accorded domestically to enterprises that successfully competed on global markets. In South Africa, electricity prices were kept low to subsidise the mining industry, but they are too low to justify investment in new capacity. If prices are allowed to rise, poor rural households will be unable to benefit from the electrification programme. In many low and middle-income countries, prices of some basic necessities are controlled or subsidised, and enforcing competition will hurt the poor.

14. Is it competition or lack of it that causes poverty and inequality? In Lewis' view, poverty results from three factors: unemployment and low wages; costly and low quality public services; and lack of access to non-wage income in the informal sector. Competition policy is not specifically directed at labour markets, but weak competition in the supply of basic goods and services puts a floor under wages and can result in high unemployment. For similar reasons, competitive public procurement processes and privatisation of public goods and services can help lower their cost. But the poor disproportionately rely on public provision of things like health services, and as supply shifts towards private provision, the poor exert less political pressure. Similarly, competition policy can usefully be directed at encouraging small

businesses in the informal sector to graduate towards the formal sector. SMEs in the formal sector typically suffer from difficult market access and regulatory barriers, but also from competition from SMEs in the informal sector.

2.2.3 Interventions from the floor: Zambia, BIAC, Tunisia, Romania, Morocco

15. A delegate from **Zambia** discussed the sugar market in Zambia. There are barriers to entry from imports because of a government requirement that sugar be treated with Vitamin A, high prices, and market dominance. The competition authority is making a regional study under the auspices of the African competition forum. The authority is looking for a solution and is favouring advocacy.

16. A delegate from **BIAC** emphasised that stronger competition can help developing countries by fighting corruption, opaque governmental actions, and cosy relationships between state actors and incumbent businesses. A robust competition policy signals to offending enterprises that marginalised players can fight back. Both political leadership and business support are required; otherwise legislation will not be implemented. More transparency in the public sector will boost confidence and help attract foreign direct investment. BIAC stands behind the OECD’s commitment to fighting corruption. It is good for consumers and governments alike.

17. A delegate from **Tunisia** emphasised that the country suffers from a heavy legacy of corruption that grew under the previous regime. For example, the previous National Solidarity Fund to help the poor was actually a fake. Opaque public procurement processes delivered poor quality results, if any. The new government is trying to fight corruption, which is often a symptom of inadequate competition. Implementing competition policy helps fight corruption, and it helps the poor. The Tunisian competition authority is imposing severe sanctions on firms violating competition law.

18. A delegate from **Romania** highlighted two cases from the pharmaceutical sector. The competition authority had investigated bid-rigging for insulin supply and dialysis products. In both cases, the justification given for not organising national tenders after a previous supply contract lapsed was supply security, but the consequent entry barriers were found to be unjustified. More competition leads to lower prices, helping poor consumers. The Romanian authorities have introduced the OECD competition tool kit. It is important for competition authorities to intervene at an early stage of any harm to competition, but they have to be asked to do so. The Romanian authority attempts to make preliminary competition impact assessments during the draft legislation stage for public policies, and suggest alternatives.

19. A delegate from **Morocco** said that it is difficult to explain how competition can help fight poverty. In that country, about 8.9% of the population experiences absolute poverty and 28% relative poverty. There is also poverty in the sense that the poorer citizens resent the lifestyles of the very rich, and feel discriminated against. Many feel that competition and markets have not helped the poor. A study found that price support schemes helped the wealthiest, but proposals to reform them were unpopular because people felt that there would still be illicit financing, and that direct support for the poor was necessary.

2.3 Effect of competition on poor consumers

20. The Chairman reiterated that the relationship between competition and poverty is very complex, that policies directed at poverty may affect competition and vice versa, that implementing competition law can create new pockets of poverty even though its long-run effects are beneficial, and that competition policy is therefore not a direct instrument to fight poverty. Competition authorities have difficulties explaining how competition policy can alleviate poverty to ministers and to the public.

21. The Chairman then invited Cécile Fruman of the World Bank to address the Forum.

2.3.1 Presentation by Ms Fruman

22. Ms Fruman said that alleviating poverty is the central theme of the World Bank's work. The challenge is to lift billions out of poverty by creating jobs and encouraging inclusive income growth for the less well-off. The Bank's simulations suggest that these goals can be achieved within 15 to 50 years, a quite broad range. Making markets frequented by the poor more efficient by promoting competition is important, and innovation is a key supporting factor. The private sector, including micro enterprises in the informal sector, is crucial to job creation, but there are risks of collusion as well as rewards from promoting the private sector.

23. Competition by itself is not a "silver bullet", but part of a comprehensive package of supporting policies. But workers do benefit from the removal of entry barriers. Anticompetitive markets also hurt poor consumers, especially where the product involved figures highly in the budget of the poor. An example is the sugar market in Kenya, where anti-competitive practices especially harm the poor because their elasticity of demand is low and they spend a higher proportion of their budget on sugar. Another example is the pyrethrum market in Kenya, which the government controls by mandating a monopoly supplier. That practice has led to a loss of 75% of world market share over 30 years. The focus of competition policy and its implementation should be on key sectors, accompanied by rapid assessments, and competition policy should be integrated with other policies. Advocacy and "telling stories" that show that interventions in key markets help the poor are important for winning acceptance for competition policy by governments and the public.

2.3.2 Presentation by Ms Susan Lonie, Mobile Payments Consultant

24. Ms Lonie explained that she had helped introduce mobile money transfer services as an adjunct to mobile telephone services, first in Kenya with M-PESA and subsequently in other countries. Services like M-PESA are specifically designed for poor people in emerging economies. It is different from mobile banking; indeed, it is targeted at people without bank accounts, who frequently have neither regular incomes nor the documentation necessary for opening a bank account. Many users live in remote rural areas, whereas bank branches are typically located in towns and cities. Living with a cash economy is very inconvenient and highly risky, especially for women in urban environments and rural dwellers. Previously, if you wanted to send small sums from town to the village back home you might have to entrust the money to a bus driver and hope that he would halt at the agreed stop. But mobile money transfer is now possible because of widespread cell phone ownership in Africa, and two thirds of Kenyan adults use mobile money services.

25. The business model entails building up a network of agents, for example petrol stations and retail outlets, who debit the senders and credit the recipients, the transfer being made by secure text messaging via an application. The operator charges a small fee on each transaction. Mobile money services have been very successful and there are now 170 operators, with a further 100 intending to enter. Competition between mobile operators keeps costs down, but interoperability between operators is difficult.

26. The introduction of mobile money transfer service faced opposition from banks in Kenya, but the Ministry of Finance did not intervene and the Kenyan central bank gave approval. Now, some Kenyan banks co-operate with M-PESA and act as agents. Opposition by banks has also occurred in other countries, mainly because the banks think that mobile money is like a bank but without the regulation. In Nigeria, only banks are allowed to provide mobile phone money transfer services, and their introduction into India has been delayed for 4 years. In the longer run, competition among mobile operators and

between them and banks will benefit consumers. There has to be regulation, but it needs to be good regulation.

2.3.3 Presentation by Mexico

27. A delegate from Mexico said that monopolies harm competition and can also affect equity. Cartelisation results in prices being 20% higher or more, and static welfare losses can be up to 13% of GDP. But lack of competition also reduces incentives to be efficient and innovate, and it hinders growth. There are also impacts on income distribution, but these have not been widely studied. Comanor and Smiley concluded in 1975 that the past and present existence of monopolies had a major impact on the distribution of household wealth and welfare. A recent study by Carlos Urzia of Mexico's Federal Competition Commission also found substantial negative effects on equity. Referring to distributive and regional effects of monopoly power in markets for basic foodstuffs and medicines, the delegate said that negative welfare effects of monopoly power are stronger for lower household incomes within a region. Furthermore, the poorer the region is, the stronger the negative effects are. Those results help guide competition policy to alleviate poverty. In the case of medical products, reforms have saved $30 billion of taxpayers' money over three years. Chicken and tortilla suppliers in some regions have been heavily fined. But other public policies, for example trade barriers, subsidies and faulty public procurement, can have negative effects.

28. The Chairman raised the question of whether competition policy authorities should specifically look at local markets that are important for poor consumers. He called on David Lewis of Corruption Watch, South Africa, to address that subject.

2.3.4 Intervention by David Lewis

29. Lewis began by noting that, in its written submission, South Africa emphasised that competition policy is shaped by a particular national context, its historical legacy, and the choices that societies make with respect to market mechanisms, and that it has to be aligned with national objectives. It is an exercise in "embedded autonomy": the agency is embedded in society and responsive to its needs, but autonomous from particular interests.

30. In South Africa, policies were aimed at protecting the mining sector for many years, enabling it to extract rents from the rest of the economy. Policies also aimed to limit competition in general. That reduced the living standards of the poor, and poverty persisted across generations, primarily because of lack of employment opportunities. Even 18 years after the end of apartheid, nearly half the population has incomes of only $3-$4 per day. It is difficult to isolate the impact of competition policy on poverty, as there are both short-term and long-term effects, and multiple causes of prices, some of which are beyond the scope of competition policy. Competition authorities rarely analyse the specific impact of competition policy on the poor.

31. The aims of competition policy are to strengthen competition and raise employment, enabling SMEs to enter and compete. Stronger competition also makes exports more competitive. But given the national context of widespread poverty, the South African agency prioritises areas that affect the incomes of the poor, for example in agricultural markets, including markets for agricultural inputs. The wheat value chain was analysed and found to be characterised by market dominance by a few firms. The authority fined offenders, and they undertook to reduce prices. Bread prices went down for a while, but then rose again as world wheat prices rose.

32. In South Africa, the unemployment rate is close to 70% for those in the lowest income decile, and government policies try to focus on creating jobs. One case was the entry of Wal-mart in the retail

sector, which strengthened competition, reduced prices, and introduced formal grocery stores in previously underserved areas. But there were fears that informal employment in the sector would be hit and that domestic suppliers would face competition from imports. In the end, entry was allowed, subject to employment safeguards and conditions for funding other entrants.

33. This underscores that competition policy implementation results in losers as well as winners, especially in the short term, and that some of the losers will be poor. There is an issue of how to manage the transition to the longer term, ensuring that the poor do not lose their livelihoods. The NGOs and civil society want the competition authority to do more to alleviate poverty, whereas the business sector favours focussing on core consumer issues. Competition policy is only one instrument in alleviating poverty; skills have to be developed and access to finance has to be improved.

2.3.5 Intervention by the CUTS

34. A delegate from CUTS agreed that competition policy is only one instrument for stimulating growth and creating jobs, and it is not confined to rich countries. There are concentrations of economic power, sometimes criminal, in developing countries, for example in the transport sectors. Competition policy can help, but there are short-term and long-term effects as well as direct and indirect effects. Safety nets and vouchers can play a useful role in alleviating poverty, and they obviate the need to depend on a public distribution system. It should also be understood that inequality is not the same thing as poverty, and that eliminating poverty will not necessarily reduce inequality.

35. Market dominance raises barriers to entry for small businesses in the informal sector. Examples are the proposed merger of two Zambian poultry firms that would force out roadside sellers, and the Bata shoe company in India, which prevented its small suppliers from selling direct or to competitors. In huge countries like India or Mexico, one needs local competition laws and authorities, a single capital-based authority is not optimal. Advocacy can be very useful when there are practices that are not per se illegal but are nevertheless anti-competitive.

36. The goals of competition policy in developing countries are not quite the same as for advanced countries, where the focus is purely on ensuring that markets function well. In developing countries, there also has to be a development outcome, and competition authorities need to sell their ideas to governments and parliaments, pointing out the potential for revenue gains as well as the important welfare losses stemming from inadequate competition. CUTS intends to launch a study on the effects of competition on income distribution, and the benefits and losses, that could be used to advocate before finance, planning and budget ministries.

37. The Chairman invited the panel experts to comment.

2.3.6 Comments by panel members: David Lewis, Professor Fox, Professor Winters

38. **David Lewis** noted that there is an interaction between product and labour markets. High prices of basic foodstuffs in South Africa put a floor under wages, resulting in unemployment. The beer market is monopolised, and its employees are well paid, but mechanisation means that there are not many of them. Some public monopolies, such as transport and telecoms, shared rents with employees in the form of overstaffing. In such cases, employees have an interest in preserving the monopoly. The markets for basic wage goods are also characterised by weak competition, and should be prioritised by the competition authorities.

39. **Professor Fox** (New York University School of Law) said that governmental restraints of trade and anti-competitive regulations are major causes of high prices and blocked opportunities for the poor, but many competition authorities regard them as peripheral to their antitrust enforcement. In a different

context, there are limits to what competition policy can do about excessive concentration, and levelling the playing field might result in lower efficiency. There are trade-offs.

40. **Professor Winters** asked what the proper domain of competition policy is. In his view, competition authorities should look only at competition. They should be aware of the impact of competition policy on employment and development, but might not want to take them into account. If competition policy makes some of the poor worse off, then other policies should be used to counteract that.

41. The Chairman noted that in developed countries, competition authorities can concentrate on competition, but in developing countries they need to have legitimacy relative to a global plan for their advice to be followed. For example in some developing countries, governments have said that if the competition authority cannot do anything about the high price of grain, they would impose price or export controls. Competition authorities must be seen to be helpful in countries that do not have a tradition of competition law enforcement.

2.3.7 Interventions from the floor: Mauritius, US

42. A delegate from **Mauritius** noted that the World Bank said that there could be short-term adverse effects from competition, and politicians are very interested in the short term and not much in the long term. Competition authorities cannot look at everything, and advocacy is important to explain to governments and citizens what the benefits of competition are. If everybody does what they are best at, the world will be a better place.

43. Responding to an earlier comment, a **US** delegate said that Congress sometimes contacts the FTC when energy prices are high or volatile, and the FTC has specialist staff that look at the energy industry to see if there is any distortion resulting in high prices. In 1979, restrictions were introduced and the result was long queues. The elimination of price controls on natural gas in the 1980s led to greater supply and lower prices.

2.3.8 Summary of the morning discussion, and further interventions from the floor: Kenya, Czech Republic, US

44. After lunch, the Chairman said that one theme had been that competition authorities should try to implement competition law and not alleviate poverty, and there had been examples where implementation led to innovation or direct benefits for consumers. But other delegates felt strongly that there are ways of implementing competition law that respond to concerns about poverty. In addition, there were examples of competition law enforcement that made the poor worse off, for example the lifting of price controls on housing in the Czech Republic. He invited further interventions from the floor.

45. A delegate from **Kenya** said that they had an ongoing initiative with the World Bank to quantify the impact of competition enforcement, especially where it affects the poor. The road passenger transport sector includes both minibuses and large buses. The former, "Matatus," are important for transporting poor people and their goods and are typically owned by poor entrepreneurs. You need about $5,000 to buy one. In the early 1970s, the big bus companies complained of unfair competition, but their arguments were not accepted and there are now around 40,000 such minibuses. Previously, there was competition between them. But then the minibus owners started to join together to raise prices, allocate routes and raise barriers to entry. The competition authority intervened, and fares have subsequently moderated, there has been more entry, and the poor are better off.

46. A delegate from the **Czech Republic** agreed that enforcing competition law can make the poor worse off, for example in his country after rent controls were lifted in 2006. The Czech Republic does not

consider itself a poor country, but the liberalisation of the housing market could have been done differently had the competition authority been consulted.

47. A **US** delegate cited a 12-year study by the McKinsey Global Institute, which concluded that growth depends on competition, and in its absence, inefficient companies cannot be eliminated in favour of efficient ones. Similarly, a World Development Report concluded that markets help the poor to sell their labour and products to finance investment. It is not just enforcement that is important, it is also having an economy with a competition culture. In their written submission, the US refers to market interventions that helped the poor in the areas of hospital care, pharmaceuticals, and energy.

2.3.9 Questions and responses concerning mobile money services: Namibia, Benin, Congo

48. A delegate from **Namibia** asked about Ms Lonie's role in facilitating the development of a regulatory framework for mobile money, as there is no such framework in several countries. A delegate from **Benin** asked if there were any country selection criteria for the introduction of mobile money transfers, and a delegate from **The Congo** said that the system was now in that country. But how do suppliers of micro-credit react to the introduction of mobile money?

49. Ms Lonie replied that she was not a regulator, but she knows how the system works, and she met with regulators to give advice. Poor people save a lot of time and money using SMS-based money transfers, usually for quite small amounts, so risks are low and restrictive regulations are not needed, unlike for conventional banks. She had recently met with a Benin telecoms operator, who intended to launch a mobile money service there. With regard to micro-finance, M-PESA's initial objective in Kenya was to allow people to repay micro-credit loans, but they found that they could do much more than that. Some technologically astute micro-finance institutions use mobile money services that allow them to take on more customers and make more loans. Others find operating a paper-based system and a technical system in parallel to be too much of a challenge.

2.4 Impact of competition on poor business owners

2.4.1 Presentation by Mr Qaqaya

50. Mr Qaqaya began by explaining UNCTAD's work on competition policy and development. For UNCTAD, economic development and poverty alleviation are the final objectives and competition is an intermediate one. Competition policy is broader than competition law. Because of market characteristics, legal constraints and enforcement difficulties, competition law and policy are harder to implement in developing countries, where they are most needed, than in advanced ones. Informal markets are more important, market sizes are smaller, transaction costs and barriers to entry are high, there is a lack of a competition culture, and political economy problems are severe. He noted that the discussion so far had focussed on the extreme poor, the billion or so with incomes below the $1.25 per day mark. A market-led approach might not help the extreme poor very much. They largely exist outside the market economy and may have no cash income. For them, traditional poverty alleviation policies are more important. But there are also about 4 billion poor people in the world with incomes between $2 and $4 per day who are not integrated into world markets and pay high prices for communications, transport and other goods and services. They would benefit from a market-led approach to poverty alleviation in which competition policy could play a major role.

51. The poor are also producers, often in the informal sector, where markets may be inefficient and uncompetitive. Those markets would benefit from entry by formal businesses, which would increase consumer welfare. Access to basic health care and pharmaceutical products also raises welfare. Mobile

telephony and financial innovation can raise productivity, wages, and employment by facilitating migrant remittances and creating jobs in the tourism industry.

2.4.2 Interventions from the floor: Pakistan, Papua-New Guinea, Benin, Morocco, Pakistan

52. A delegate from **Pakistan** said it is necessary to establish a link between the poverty alleviation programme and competition law in Pakistan, and secondly the link between competition law enforcement and poverty alleviation. There are three classes of the poor: the absolute poor who cannot meet basic survival needs; the transitory poor for whom any misfortune threatens survival; and the relatively poor, whose incomes are below a given proportion of national average incomes and who lack access to good health care, education and upward mobility.

53. For the poorest of the poor, Amartya Sen emphasises the importance of programmes that create environments in which people have lives they value, and opportunities to change. Competition policy can assist other policies here by countering corruption and rent-seeking, for example cartelisation of basic necessities, bid-rigging, or forcing people to purchase items they do not need. In Pakistan, competition law stems from agreements with the IMF and World Bank on a poverty alleviation programme which focuses on broad-based growth, macro stability, better governance, human capital and targeting the poor and vulnerable. The competition authority intervened in 2008 on interest-rate fixing by banks for small savings. In another case, a university had obliged all new students to purchase a particular lap-top computer, sold at a high price, and the authority successfully intervened.

54. A delegate from **Papua-New Guinea** said that the introduction of mobile telephone competition there was the result of sustained advocacy by the Treasury and the independent Consumer and Competition Commission. The rural population has profited because fruit and vegetable producers gained more bargaining power with middlemen and the whole population had better access to income earning possibilities as well as better access to basic banking facilities. Fishermen are also better able to judge supply and demand conditions when they have access to mobile telephony. Given the positive effect of competition on development, perhaps aid donors should consider giving direct aid to competition agencies to assist their work.

55. A delegate from **Benin** affirmed that competition is a development tool, but also a two-edged sword. Before introducing new competition and new competition laws, existing small-scale producers need time to eliminate inefficiencies in their businesses, as they are less able than big firms to ride out a drop in demand for their output, or delayed payment for supplies, and they have limited access to credit. If they lose their incomes, they will not be able to feed their families. A solution would be for the government to encourage them to form collectives to purchase equipment at lower cost and spread reimbursements over longer periods. The government could also provide training facilities.

56. A delegate from **Morocco** agreed that by reducing entry barriers, competition helps SMEs, but they still have difficulties competing with large companies. A solution would be more government support over a limited time period for SMEs.

57. A delegate from **Pakistan** said that the remark by the delegate from Benin showed that there are two sides to the issue of whether competition policy helps to alleviate poverty. The delegate added that there also needs to be competition within the public sector, and that if competition authorities broaden their viewpoints too far, looking at distribution issues and poverty, they risk losing their focus. Many policy building blocks are needed, such as capital markets, the private sector, the legal framework, safety nets, health, education, each with its particular focus, to get the best results.

2.4.3 Intervention by the World Trade Organisation

58. A delegate from the WTO argued that the issue of poverty and competition policy is important, but not as complicated as some say. Competition policy should address the needs of poor producers as well as poor consumers, and producers are also consumers of inputs. In developing countries, input markets are often cartelised, including at the international level, and competition authorities can help by directing efforts at those markets, as well as at transport and other infrastructure markets. Public procurement markets are also often restricted to a limited number of enterprises that can submit bids. The public supply of health services, transportation and education is more costly as a result. While it is true that the effects of implementing competition policy create losers in previously protected sectors, as well as winners, and some of the losers might be poor, or become poor, the remedy is to strengthen social safety nets, not to argue that competition policy principles are wrong. Competition policy is only one instrument to alleviate poverty, but it is an important one.

2.4.4 Interventions by Senegal, Korea, Brazil

59. A delegate from **Senegal** said that although stronger competition sometimes makes the rich richer, there is also a negative impact from the lack of competition. For example in Senegal, large banks charge prohibitively high interest rates to small producers. Lack of competition among banks therefore leads to negative effects for poor producers. The delegate also mentioned several examples in which strengthening competition improved the lives of poor people. Peanuts are a major crop, and the government sets the price. But the market was liberalized, which enabled poor rural peanut farmers to sell their crops at the higher world price. Similarly, keen competition between mobile telephone companies has created incomes for people selling pre-paid cards. Mobile money services have lowered the cost of money transfers, and because of competition, businessmen can take advantage of arbitrage possibilities.

60. A delegate from **Korea** said that a connection between competition and poverty alleviation can occur through outsourcing production from an advanced country to a developing one for competitive reasons. Some workers would lose their employment in the advanced country, but safety nets are adequate there and perhaps labour markets are flexible. So although outsourcing is contentious, it can help alleviate poverty in the poor countries. Nevertheless, competition authorities should focus on competition, and other policies should address poverty. Some theoretical or empirical research is desirable to analyse the impact of competition policy on the poor. If a firm was already efficient, stronger competition will not affect its behaviour or employment. If not, the firm might have to dismiss workers, but not necessarily the worst paid ones.

61. Because of the globalising economy, there is a need for greater concordance in competition policies across countries. A well-designed competition policy leads to a well-organised competition environment, which will result in sustainable long-term growth and less poverty.

62. A delegate from **Brazil** said that although they had no data on the impact of competition policy on poor businesses owners, they believe that competition can certainly help them at least some of the time. Although market concentration is falling in Brazil, it remains and gives rise to entry barriers for poor entrepreneurs. Transaction costs and information asymmetries also hinder them. Brazil’s competition authorities focus on unreasonable actions, not necessarily actions involving market dominance.

2.5 Poverty reduction and government intervention

63. Are “pro-poor” government controls and interventions preferable to competitive markets in fighting poverty, and is there potential for conflict?

2.5.1 Presentation by Professor Winters

64. Professor Winters stressed that, as a threshold matter, one needs to understand the causes of poverty to combat it effectively and the causes differ from country to country.

65. Trade liberalisation can help to relieve poverty because it leads to faster growth, but there are losers as well as winners. Higher prices for some goods or services will affect the poor somewhat, but losing their employment will affect them seriously. Competition stimulates productivity in developing countries, but the distribution channel is important. If the distribution network has weak competition, liberalising production might not have much effect on poverty. Also, if the implementation of competition laws squeezes enterprises in developing countries, they might react by squeezing wages. When competition is weak, public or private enterprises can in principle share rents with their poor workers. However, big companies do not seem to share much this way, whatever the rhetoric about the dangers of competition or privatisation.

66. Competition policy is like trade policy; there will be substantial negative effects on a few, who will lobby hard against implementation, and smaller positive effects on many. The correct approach is to be honest that there will be losers, and that compensatory policies will be needed. They include retraining, health and education policies, and facilitating moves to areas where there are jobs. Regulatory reforms can also help create new jobs for those displaced from inefficient firms. Industrial policies that exempt some firms from competition law enforcement on the grounds that they will one day be competitive should be scrutinised very carefully. It is not enough that they be profitable one day, they need to be so profitable that they can repay their previous support.

67. An exception can be made for horizontal industrial policies that alleviate financial market failure or help start-ups, which is akin to competition policy in that the intention is to stimulate entry. Competition interventions might be undertaken with poverty in mind, but authorities should focus on cases where competition is weakest. The impact on poverty should be predicted and pre-emptive measures taken to offset any negative effects. The poor should be protected with general anti-poverty policies, such as cash transfers, whatever the cause of their poverty.

68. The Chairman said that in many cases, the competition authorities are not in charge of competition policy and perhaps nobody is. So advocacy may be their only weapon in the absence of market solutions with their allocative benefits. He invited David Lewis to comment on Professor Winters' remarks.

2.5.2 Intervention by David Lewis

69. Mr Lewis said that it was an uncomfortable discussion for reasons raised by Professor Winters. There are those who believe that competition policies can and should alleviate poverty, whereas competition policy practitioners feel that competition policies should focus on securing productivity and efficiency gains. But there is also the legitimacy question. Competition policy is a major social and economic one so the competition authorities must at least make a bow towards societies' larger objectives. If there are multiple goals, for example strengthening competition and alleviating poverty, then one needs multiple instruments.

70. It must be remembered that the origin of competition policy was to counter market and public power in favour of consumers. The transition is from market access to stronger competition, to greater efficiency and a consequent redistribution of wealth away from producers and to consumers. One needs to be careful about doing anything from an egalitarian perspective. But competition law is capable of making

trade-offs, they happen all the time. The balancing of rights and interests is at the heart of competition law and the economists, lawyers and judges are capable of doing that.

2.5.3 Intervention by the World Bank

71. Ms Fruman said the discussion showed that there have been instances in which competition policy reduced poverty, and that it is heartening that Mexico and South Africa are conducting in-depth analyses of the links. She added that there is a consensus that compensatory policies need to be introduced to protect the poor when competition law enforcement results in harm to them, whether expected or not. Finally, Ms Fruman agreed with Professor Winters that industrial policy-based exemptions from competition law should be hard to win and hard to grant, and competition authorities should push hard against them.

2.5.4 Intervention by Australia

72. A delegate from **Australia** noted that competition policy is not an end in itself but a means to an end, namely raising living standards by reducing prices and raising productivity. So there should be no conflict between competition policy and addressing poverty. It is not true that the links between competition policy and poverty reduction are too difficult to understand, but there does not exist a single formula that would put a country on a self-perpetuating path of poverty reduction. Some distortions hold prices artificially low, of course. When implemented, there will be losses in some sectors, but gains in others. In Australia, an analysis showed that competition policy had raised per capita GDP by around 2.5%. Employment fell in industries subject to competition, but this was more than offset by gains elsewhere. Much depends on how quickly the released resources can be redeployed. Australia has well-functioning markets so redeployment is rapid. In countries where markets do not function well, redeployment will be slow or might never happen. In response to a query by the Chairman, the delegate agreed that redeploying resources in economies dominated by a single industry that becomes subject to international competition would be difficult.

2.5.5 Intervention by Mr Qaqaya

73. Mr Qaqaya stated that in the case of developing countries, introducing competition often takes the form of disengagement by the state from the economy, rather than strengthening competition in a particular market. The disappearance of publicly provided goods and subsidies will have a direct impact on the poor. There needs to be a policy framework in place when economic reforms are introduced in order to anticipate their impact. Piecemeal policies should be avoided.

2.5.6 Intervention by Professor Fox

74. Professor Fox said that efficiency has become a mantra. Efficiency is usually defined and used only in terms of what is efficient for the firm. But empowering those who are left out is also an important aspect of efficiency, and societies will not be efficient until they use their human resources fully.

2.5.7 Intervention by Professor Winters

75. Professor Winters said he agrees that competition policy arose as a challenge to power, but that does not imply that it should be the only way of tackling power or equity issues. If a law or an institution or system does its job well, do not then load it with a much bigger brief. Of course there are always trade-offs, but a competition authority should not decide to ignore a really bad anticompetitive issue just because there are many poor workers who benefit from it. One needs to think about what else can be done for those poor workers.

76. The Chairman replied that no competition authority had expressed a wish to be a central player on the poverty issue, but rather they are aware of the issue and should not miss a chance of making a contribution, while retaining a focus on competition policy.

2.5.8 Intervention by David Lewis

77. David Lewis said that if one has the option to pursue a competition policy that is pro-poor and pro-equity, then one should do so. Prosecutorial discretion can help the poor. The successful prosecution of the bread case (see above, 2.3.4) boosted the competition authority's standing, but that cartel was inherently unstable and evidence was easy to come by. Dr Supachai said that ICT markets are technology-driven, so robust competition law enforcement is unnecessary. But if a market is dominated by the incumbent, the technology will not diffuse and huge potential gains in terms of job search and market information sharing will be lost. So one should attack abuse of dominance in that market rather than pursuing stable cartels in basic wage goods markets. Discretion should also be exercised with merger activity. For example, if a merger in the health care insurance sector could lead to new products and lower insurance costs, then a more robust approach should be taken than for a market which makes little difference to society.

78. When delegates were talking about small business activity, it was not always clear whether they had in mind a small struggling low-productivity firm, or a dynamic Silicon-Valley type of firm. There is a world of difference and different considerations need to be applied from a competition policy standpoint. In developing countries, large numbers of people survive from activities in very low productivity enterprises. If one sees that there is a market where there are no obvious technological or other apparent barriers to entry, yet there is large-firm dominance, then one needs to examine them carefully. More often than not, one finds an exercise of market power that discourages entry.

79. The most common way to deal with non-competition issues is the inclusion of a public interest clause in the competition law. In South Africa, a proposed merger may be acceptable from a competition viewpoint, but prohibited because of potential job losses. This a difficult issue: one could impose an employment condition for the merger, or end up with two weaker firms, and even bigger job losses in the longer term. A specific example is the Walmart case in South Africa, where Walmart acquired a major retailer there, Massmart. From a competition viewpoint, there were no problems, but the government worried about post-merger job losses on the ground that Walmart would sell imported Chinese goods rather than domestically produced ones. They repeatedly petitioned the independent competition authority to prohibit it or impose a domestic production quota. The Tribunal ruled against the government because the objective was to provide consumers with the lowest possible prices, not to protect producers, although they did in fact allow a kind of buy-local requirement. It is politically difficult for competition authorities to argue against procurement actions that favour small domestic producers, but at least they can publicise the cost of supporting small firms.

80. Entry barriers in developing countries are more likely to be the result of poor public regulations than private conduct. Large firms are or often were state-owned and subject to regulation, so the competition authorities cannot attack them directly, but they could use advocacy in favour of regulatory reform to make entry easier.

81. Finally, consumers – and poor consumers in particular – are disorganised and disempowered in general, and the competition authorities represent their interests in government. The authorities must be seen to be doing so. The population needs to see that justice is being done, that the law applies to everyone, including powerful corporate interests. While this might not directly affecct poverty and inequality, it is a step in the direction of a more egalitarian society. Implementation of competition policy in this way also leads to better corporate governance.

2.5.9 Intervention by Ms Lonie

82. Ms Lonie said that competition in the supply of mobile money and mobile telephony was indeed desirable. In the case of M-PESA in Kenya, the mobile money service is financed by a small fee on each transaction. This fee is subject to a tax, which will be raised by 10%. M-PESA will pass this on to clients. It is a small amount but it matters for poor consumers. Another mobile money service does not charge transaction fees at present, which is good for competition and consumers, but the government now wants them to charge a transaction fee, presumably so that it can be taxed.

2.6 Is there a pro-poor competition policy?

2.6.1 Presentation by Professor Fox

83. Professor Fox said that she would address competition law more than competition policy. If one is designing a competition law for a society where there are many poor people, how should it be designed? Would one ask different questions? How would such a law affect outsiders? Competition policy authorities in developing countries generally say that what hurts those countries and their poor the most is government restraints (and sometimes private restraints) that hurt the poor, raise entry barriers, and raise prices. So should anticompetitive acts by the state be considered under the competition laws? An UNCTAD project sent questionnaires to competition authorities, asking them if they did so. It is obvious that the law should cover state-owned enterprises, but less obvious that it should cover complicit state officials, which is important in procurement and bid-rigging cases. If a state official can be a defendant in an antitrust case, this would be a good development and help fight corruption. They recommend that competition authorities should have the power to challenge unduly anticompetitive state legislation. Regulated industries present difficulties; there is a danger of regulatory capture, so the competition authorities should have concurrent authority.

84. Intellectual property is sometimes exempted and abuse of intellectual property is often a problem in developing countries. Offshore acts should also be covered, since they hurt the vulnerable. An example is the potash cartel, which hurts farmers in the importing countries.

85. The question of procedure needs to be raised. Is there a right of private action? Do the poor as well as the rich have access to justice?

86. In developing countries, it is abuse of dominance that is the biggest offender, because of histories of statutes and privileges. The competition law should be able to enforce actions in this area, but this is often not the case.

87. Professor Fox raised four additional points concerning whether a competition law design is good for the poor or outsiders. First, firms should not have the power to block discounters. Second, how the market is defined in particular cases matters; sometimes it will be more pro-poor or more pro-establishment. Third, there is the issue of leverage, for example loyalty rebates granted by a large firm to drive small innovating firms out of the market. This is a difficult issue because loyalty rebates have some pro-competitive aspects and the large firm may be more efficient. It can be argued that there is no violation unless the rebates block equally efficient competitors. Fourth, excessive pricing, an example of which was the South African Mittal steel case. Mittal had a domestic monopoly but exported steel at the world price. The Tribunal ruled that imports should be permitted, a simple rule that obviated the need for detailed cost and price data. The Tribunal was overruled, however. More generally, developing countries need simpler rules than those in mature advanced countries, which have teams of economists and lawyers that can work for months on individual cases.

88. Finally, advocacy is important, including advocacy against practices that would be illegal if carried out in their own country, but harm those in other countries, for example export cartels, where those harmed might have no redress. Raising consciousness of the impact of competition policy on the poor is needed.

2.6.2 Intervention by David Lewis

89. David Lewis regretted that the issue of prosecuting state officials in antitrust actions had come at the end of the day rather than at the beginning. This is an area where corruption meets competition. Some civil engineering projects are so big and complex that it is inconceivable that there is no collaboration. In South Africa, neither state officials nor companies have ever been prosecuted for anticompetitive practices even when the competition authority has produced clear evidence. Perhaps the government did not want to offend the cartelists more than they had already been offended by the competition authority, or perhaps they preferred to enter into some industrial policy deal.

2.6.3 Intervention by the US and response by Professor Fox

90. A delegate from the **US** wondered how controversial Professor Fox's presentation was actually intended to be. It could be that the situations described were ones in which mainstream competition policy was applied, and they benefited the poor. For example in the US, the FTC has examined proposed hospital mergers, and there was support for the proposition that the monopoly hospitals better served the poor. Would a pro-poor competition policy that specifically took into account the impact on a particular segment of the population lead to different results from one based on efficiency and consumer welfare considerations? If that is the case, then they are redistribution policies advanced by competition law.

91. In response, Professor Fox said that her remarks were not intended to be controversial and they favoured robust, innovative, competitive markets. There was no reference to trade-offs, which would imply that the market would benefit from a particular action but pro-poor policy would be against it. There is a lot of flexibility in the law. There is room to ask the question and find an answer consistent with traditional policy.

2.7 Summing up the day

92. The Chairman observed that there had been a rich discussion with many country examples. Defining poverty is complex and relating poverty alleviation to competition policy is perplexing. The meeting had moved from examples of competition policies having an impact on poverty to a discussion of the scope for taking on board concerns about poverty within the traditional competition policy paradigm that promotes efficient markets. The consensus seemed to be that, given an efficient market focus, there is nevertheless scope for taking poverty concerns on board when prioritising cases, such as when making market studies or when there are public interest clauses.

93. Professor Fox put the question in an interesting way by suggesting that the pro-poor attitude is a mindset that does not require a different law, just asking oneself a set of basic questions on things that the competition authorities have to assess, like market definitions, the harm of some practices, the time frame, or the depth of the market. There have not been many discussions of those issues, so this has clearly been experimental. We have heard that the same sort of issue will be taken up in other fora, particularly at UNCTAD.

2.8 Address by OECD Secretary-General, Angel Gurria

94. The Secretary-General emphasised that the OECD's work on competition has an important impact on country policies, which is the best way to measure the OECD's relevance. In Mexico, citizens

pay 30% to 40% too much for their basic basket of goods and services because of a lack of competition, and it is the poorest people in the poorest regions that are hit the hardest. Examples of competition helping the poor include mobile money services and competitive mobile telephony markets in general, which help the poor by giving them cheap access to information and are revolutionising agricultural and fisheries markets in developing countries. Another example is the transport sector in Papua-New Guinea where competition has lowered prices and allowed the poor to benefit from the tourism industry. Enforcement is all-important, and finance ministries should strengthen the budgets of the competition authorities.