



**REMARKS BY THE ACTING EXECUTIVE DIRECTOR OF THE
COMPETITION AND FAIR TRADING COMMISSION OF MALAWI, MS
APOCHE ITIMU AT THE UNCTAD 19TH INTERGOVERNMENTAL
EXPERTS SESSION ON VOLUNTARY PEER REVIEW FOR
COMPETITION LAW AND POLICY OF MALAWI IN GENEVA,
SWITZERLAND ON 7TH JULY, 2021.**

JULY 2021

- ❖ **The Acting Secretary General of UNCTAD Ms Isabelle Durant;**
- ❖ **Ministers here present;**
- ❖ **Chief Executive Officers and Directors for various
Competition Authorities;**
- ❖ **Distinguished Experts**
- ❖ **Ladies and Gentlemen**
- ❖ **Good afternoon**

1. On behalf of the Competition and Fair Trading Commission, I wish to express our immense gratitude to UNCTAD for providing Malawi with an opportunity to undergo a peer review of its competition law and policy and for the technical expertise that has enabled it to go through that process.
2. The peer review was conducted under unprecedented challenging circumstances due to the COVID-19 pandemic and the consequential restrictions on travel, gatherings, and physical meetings. Nonetheless, the peer review consultant was able to make the relevant consultations in conjunction with the Commission and produce the report that is proudly before us today.

3. The Acting Secretary General, ladies and gentlemen, the Competition and Fair Trading Commission is mandated to enforce the Competition and Fair Trading Act of Malawi which was enacted in 1998. In that regard, you may agree with me, that this voluntary peer review is long overdue owing to the dynamic nature of our markets and the economy in general. Further, the field of competition law has undergone various changes and developments over the years and it is only proper that our law is up to date with these new developments. This voluntary peer review process provides Malawi with an opportunity to do this.
4. Since the Commission became operational in 2013, it has made significant strides in achieving a business environment in Malawi that is competitive and a society with greater levels of consumer welfare. The Commission has also improved efficiency in the production and distribution of goods by dealing with anticompetitive and unfair trading practices in Malawi. In terms of enforcement, from its inception in 2013 to 2020, the Commission has handled over 20 mergers and acquisitions, over 250 complaints of restrictive business practices which included cartels, predatory conduct, exclusive dealing arrangements, discriminatory conduct, and abuse of dominance. The Commission has also

made determinations in over 1000 cases pertaining to allegations of unfair trade practices.

5. Ladies and gentlemen, the Commission's enforcement efforts have also been successful due to the support that the Commission enjoys from international agencies and networks across the world. For example, the Commission has greatly benefitted from the International Competition Network (ICN) which provides extensive literature and guidelines that have improved the quality of our investigation processes. The Commission has also benefited from the CUTS network in matters relating to competition advocacy.
6. On the regional front, the Commission has benefitted from its collaboration with the Southern African Development Community (SADC) through the regional framework on Competition Law and Policy, and through the COMESA Competition Commission. These bodies have provided both technical and financial assistance.
7. However, despite these achievements, the Commission has had its own share of challenges. Enforcement of decisions has been hindered mainly by gaps in the legal framework.
8. Further, the Commission has been constrained by lack of technical expertise in assessing complex anticompetitive trade conducts such as collection of evidence and adjudication of hard-core

cartels, among others. The Commission's work has also been hindered by limited human and financial resources.

9. It is thus the Commission's considered view that the challenges identified by the peer review report are correct. It is also for this reason that Malawi accepts the recommendations that have been made as a way of addressing these challenges. It is the Commission's hope, that going forward, this process will provide an opportunity for the Commission to improve its technical capacity for the effective delivery of its mandate.

10. At this juncture, allow me, ladies, and gentlemen, and on behalf of the Commission, to extend our appreciation once more to the Minister of Trade Hon Sosten Gwengwe and his Ministry for providing the policy direction of the Commission throughout its existence and during this peer review process. Further, we extend our gratitude to the Secretary General of UNCTAD and its senior officials particularly the Peer Review Team from the Competition and Consumer Policies branch namely: Ms Elizabeth Gachuri; Ebru Gokce-Dessemond and Hyejong Kwon for the technical support and guidance throughout the process.

11. Further appreciation goes to the Consultant, Mr Allan Mlulla for having steered the peer review exercise amongst the Commission

and its stakeholders. We also thank Mr Mlulla for the excellent peer review report which has provided a well-balanced scrutiny of competition law and policy of Malawi.

12. Last but not least, our immense gratitude to our reviewers today, for having accepted our request for them to review the Competition Law and Policy of Malawi. Notably, thanks to the Commissioner of the Competition Commission of South Africa Mr. Tembinkosi Bonakele; the Executive Director of the Competition and Consumer Protection Commission of our neighbour Zambia, Mr. Chilufya Sampa, and Prof. Eleanor Fox of New York University School of Law, USA. Special thanks should also go to the Competition and Markets Authority of the United Kingdom; the Fair Competition Commission of Tanzania; the Competition Authority of Kenya and the Mauritius Competition Commission for having responded to our questions during this review process. Your contribution to this process is greatly appreciated and acknowledged.

10. Finally, I would like to affirm that the Commission is committed to ensure that the findings and recommendations of the peer review are applied and implemented to enhance the effectiveness of our institution in regulating competition effectively

and efficiently. The Commission also welcomes technical and financial assistance from UNCTAD, various Governments and agencies in the implementation of the recommendations, especially the proposed law reforms.

Thank you all for your attention and I look forward to our continued fruitful interaction during this peer review session.