

Webinar on Key Competition and Consumer Protection Priorities for Regional Integration in Africa: 17 June 2020

What role should competition play to strengthen regional integration in Africa within the context of the AfCFTA?

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1. **Introduction:** Regional Integration efforts in Africa is not a new. It is a topic that has been on the table for more than 5 decades since the realization that both political and economic independence are required as key drivers to better the lives of the African people in the words of Kwame Nkuruma, President of Ghana in 1957. 1980, Lagos plan of Action (Actions for Economic Dev), 1991 Abuja Treaty (Economic Community) and 2012, establishment of the Continental Free Trade Area (AfCFTA) was sanctioned and discussions started.
2. Fast forward, Member States of the African Union (AU) in 2018 signed the African Continental Free Trade Agreement (AfCFTA), establishing the largest Free Trade Area (FTA) in the world. By April 2020, 54 countries have signed the agreement and 30 have ratified the same. This is a monumental leap of faith and the base for achieving this dream is taking shape at an unprecedented pace.
3. With the AfCFTA, AU Member States sends the message to the world that time has come for Africa to join hands and look deeper at what its huge market of 1.2 billion people has to offer.
4. Competition policy is part of Phase II Negotiation together with Investment and Intellectual Property Rights. The drafts for the protocols in these three areas have been prepared but are yet to be negotiated and concluded due to COVID 19 disruptions.
5. **On Competition policy and its fit in promoting regional integration:** The main objective of competition policy is to prevent and remove distortions of competition resulting from the actions of private companies or state enterprises, thus enabling markets to function more effectively.
6. Competition policy in the AfCFTA is one of the tools to contribute to regional integration in a bid to shield the combined market from anticompetitive behavior, which can negate the gains arising from opening of the borders.
7. In Africa Competition Agencies experience has shown that competition law enforcement has busted cartels, abuse of dominance has been corrected, and many mergers have been evaluated over time.
8. The competition protocol is expected to cover these core areas of competition law enforcement in order to address cross-border cases. Studies by ACF show that cartels are prevalent in the region (cement, fertilizer, bread etc). Cross-border mergers are prevalent (COMESA case law)

9. Enforcement work is being done at various degrees by Competition Authorities in the region and under the Regional Economic Communities (RECs) such as COMESA, WAEMU, EAC, ECOWAS, CEMAC etc and not to forget the African Competition Network (ACN) cooperation efforts among others.
10. Question on whether AfCFTA protocol should envisage an annex to specifically deal with consumer protection issues including unfair business practices is worth considering. Work of the African Consumer Protection Dialogue is a good starting point in such discussions.
11. **On enforcement modalities, three options are being proposed:** A supranational AfCFTA competition authority, a cooperation framework and a sequential approach. Given the constraints of putting together a full-fledged institution to deal with competition matters at the beginning, a sequential approach including both as the case of European Union.
12. While one may draw from the EU Set up, it is important to recognize Africa's market structure and the types of barriers competition authorities must deal with such as highly concentrated markets, economic and political systems characterized by inequalities and wide income disparities.
13. Policy coordination on related issues to competition such as IP, public procurement and ecommerce will be important moving forward. In ecommerce and digital markets, the challenges of access to internet and the strength of using mobile technology in Africa should be considered
14. Finally, an important aspect to consider in the competition protocol crafting is the dispute resolution mechanisms and whether the AU institutions are structured to deal with business related disputes as opposed to trade disputes. And think about what needs to be added in the structure to allow competition cases to be accorded due diligence within the AU/AfCFTA
15. **Looking forward:** A few final words: Governments must brace themselves in readiness and have the will to cooperate and implement the AfCFTA. State Parties to the agreement are expected to cede some powers and allocate some competencies to allow the continental bodies to effectively operate. The RECs experiences and knowledge of how markets operate, and their structure should be the starting point.
16. UNCTAD will remain a collaborator on competition and consumer protection policies to member states at national, regional and going forward at continental level.

Thank you all for listening and good afternoon from Geneva.