

# *Event Report*

*Africa Regional Training Workshop on Competition Policy & Law Implementation  
15-17 February 2007, Pretoria*

*Organised by:*

*CUTS Centre for Competition, Investment and Economic Regulation (CUTS CCIER)  
CUTS Institute for Regulation & Competition (CIRC) and  
Institute for Global Dialogue (IGD)*



*Supported by:*

*Department for International Development (DFID), UK  
Norwegian Agency for Development Cooperation (NORAD), Norway*



## **Brief Background**

*The training workshop on Competition Policy & Law (CPL) was organised by CUTS Centre for Competition, Investment and Economic Regulation (CUTS CCIER) and Institute for Global Dialogue (IGD), supported by DFID, UK and NORAD, Norway. The training workshop was organised under the auspices of a two-year project undertaken by CUTS 'Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa' codenamed 7Up3 Project in Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda. The workshop was held under the aegis of CUTS Institute for Regulation & Competition (CIRC), a dedicated training facility of CUTS and aimed at a target group of 25 – 30 people from Sub-Saharan Africa. The following shall serve to summarise the event proceedings in brief.*

### **I. Objectives**

- 1.1 The workshop aimed at building capacity among select African countries (Sub-Saharan Africa) on competition policy and law administration. It is worth noting that some countries in the region have a competition regime in place, while others do not have. It was inline with the above, that the training workshop was designed. The workshop in particular intended to address the administrative aspects of competition law.

### **II. Scope of the workshop**

- 2.1 CUTS International is implementing a project entitled 'Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa' codenamed 7Up3. In addition to developing understanding on competition of national stakeholders, the project is also mandated to enable competition practitioners in the region to better understand the dynamics of implementing a competition law. The training workshop was attended by over 30 participants from Malawi, Mozambique, Zambia, South Africa, Namibia, Kenya, Swaziland, Uganda, Namibia, Mauritius, Australia, India, Botswana and Ghana. The participants came from competition authorities and line ministries of the above listed countries. *See Annexure 2 for more on Workshop Agenda*

### **III. Resource Persons**

- 3.1 The resource persons comprised up of eminent experts, practitioners and academicians from the field of Competition Policy and Law:

#### **Thula Kaira**

*Director, Mergers & Acquisitions, Zambia Competition Commission, Zambia*

#### **Trudi Hartzenburg**

*Executive Director, TRALAC, South Africa*

#### **Benson Nyagol**

*Monopolies & Prices Commission, Ministry of Finance and Planning, Kenya*

#### **David Lewis**

*Chairman, Competition Tribunal South Africa, South Africa*

#### **Sitesh Bhojani**

*Barrister and Solicitor, Australia*

#### **Lizel Blignaut**

*Manager, Mergers and Acquisition, South Africa Competition Commission, South Africa*

#### **James Musonda**

*Adviser, Regional Integration, COMESA Secretariat, Zambia*

#### **IV. Highlights**

- 4.1 The event was a success in terms of quality of participants, resource persons and logistics. The positive elements of the workshop has been captured below
- 4.2 Participants
  - 4.2.1 The participant group was homogenous which was an advantage to the workshop. The participants were mainly from the Ministry (dealing with Trade and Industry) and competition authorities.
  - 4.2.2 There was active interaction among the participants in each session of the workshop.  
*See Annexure 3 for Participants List*
- 4.3 Resource Persons
  - 4.3.1 Resource persons were experts in their subjects and could relate well with the participants who represented ministries, competition commissions, tribunals and consumer associations. They were chosen very carefully with the aim of having a mix of resource persons both from the region and outside. Since the participants were already working on competition policy and law issues, this made the interactions and discussions more useful and fruitful. Real life examples were discussed at length and in great depths, which made the three-day training workshop very interesting and realistic.
- 4.4 Course Content, Activity and Sessions
  - 4.4.1 The course content was customised as per the participants' profile.
  - 4.4.2 On the second day of the training workshop participants were taken for an exposure visit to the South African Competition Commission. The visit involved visiting various departments, and meeting departmental heads in order to learn and understand the structure and operations of the South Africa Competition Commission. The group was privileged to have a discussion with the Commissioner. The departments visited include: security, registry, corporate services, mergers, enforcements and research.
  - 4.4.3 The three day workshop involved case work, excercises and floor interventions after each session. The case study approach of the Resource Persons also helped the participants to understand the subjects better giving them extremely useful, practical clues to aid handling of specific cases.
- 4.5 Resource Kit
  - 4.5.1 The resource kit included the presentations, case works and excerisces which the participants and resource persons found informative and useful.
  - 4.5.2 Several competition related publications were made a part of the workshop resource kit which not only facilitated better understanding but also enhanced the scope of learning on competition related issues.
- 4.6 General Admininstraitive Arrangements
  - 4.6.1 The administrative arrangements were satisfactory and the resource persons and participants were comfortable during the three day workshop.

## **V Lowlights**

- 5.1 Though the event rating of 2.5 on a rating scale of 1 to 10 with 1 being equivalent to excellent and 10 being poor, which was arrived at based on the feedback forms submitted by the participants, is near about excellent and can be rated as a success, there is always room for improvement based on the suggestions by the participants and resource persons so that future events are organised implemented these suggestions and ideas. *See Annexure 1 for more on Event Evaluation based on Feedbacks Forms submitted*
- 5.1.1 The workshop was too tightly scheduled. The time slotted for the topics was less compared to the depth of the issue.
- 5.1.2 The sessions sometimes overran the timelimit
- 5.1.3 More exercises and casework could have been the format of the workshop
- 5.1.4 The reading material could have been sent in advance to allow deeper study, instead of being circulated just prior to the sessions
- 5.1.5 Interventions should have come from all the participants, instead of few active or knowledgeable people dominating the sessions. The faculty/facilitator could have nudged the quieter participants to participate and benefit from the workshop.
- 5.1.6 Faculty should also be from developed countries like UK and US.
- 5.1.7 Three days was not a sufficient time for the workshop.

## **VI. Comments from Resource Persons**

- 6.1 As regards comments on improvements and modifications to the design of the workshop, content and training programme, the resource persons gave the following suggestions:
- 6.1.1 It was suggested to issue training certificates to the workshop participants, irrespective of the duration of the training.
- 6.1.2 Some resource persons observed that the training workshop provided many useful insights for drafting legislations on competition law.
- 6.1.3 There were suggestions to include more details on competition laws in various countries and also details on model laws. It was also suggested that, CUTS could make an effort to share competition legislations of countries, where the participants come from as it helps to analyse the case studies in a given country context.
- 6.1.4 Some resource persons felt that more homegrown case studies (local case studies) should be included in the training programmes
- 6.1.5 There was a suggestion to include the institutional structure, functions and powers of competition agencies in the contents of the training module.
- 6.1.6 It was suggested that CUTS should organise more training workshops by incorporating the practical aspects of competition law administration in Africa since there is a need for capacity building in the area.

## **VII. Comments from Participants**

- 7.1 As regards comments on possible improvements and modifications to the design, content and training programme, the participants gave the following suggestions:
- 7.1.1 Presentation be given longer/more time as that limit the content of the course
- 7.1.2 Lack of time was a constraint for in depth analysis so time should be extended in order to allow smooth assimilation of the contents
- 7.1.3 There is a need to have a comprehensive understanding of the core issues so the workshop should have been a 5-days workshop
- 7.1.4 Less powerpoint handouts should be given and full text should be provided for effective participation

- 7.1.5 Explore more developing/least developed country experiences in dealing with anti-competitive practices
- 7.1.6 Focus more on extensive group works as this would allow more discussions within the group
- 7.1.7 A similar workshop should be organised with the same participants in order to assess the learning process and how much the workshop has benefitted.

7.2 Miscellaneous

- 7.2.1 The workshops should not be organised on weekends

**VIII CUTS' Comments**

- 8.1 The course module needs to be designed in a manner that allows more time for deliberations and interventions. The course reading material should have been circulated much earlier. Perhaps the background of the participants should have been made known to the resource persons so as to achieve a better and more custom designed approach to the programme.
- 8.2 Administrative: Collaborating with IGD proved fruitful and beneficial.

**IX. Conclusion**

- 9.1 Overall the training workshop was near about excellent, leaving room for improvement so that care is taken while organising events in future.
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**Annexure 1**  
**Statistical Summary of Feedback**  
**Africa Regional Training Workshop on Competition Policy & Law Implementation**  
**February 15 – 17, 2007 | Pretoria**

**I. Focus & Design of the Programme**

Criteria	Excellent	Good	Satisfactory	Poor
(a) Did the workshop help in developing analytical capacities to comprehend competition policy and law issues, their perspectives and linkages with the industry and the economy?	50%	50%	0	0
(b) Did the workshop provide understanding on compliance issues related to competition law?	39%	55%	6%	0
(c) Did the workshop provide understanding on the expected role of different stakeholders and groups in order to ensure competitiveness of the markets and accelerate economic growth?	28%	44%	28	0
(d) Overall, how well the workshop was designed to provide a deeper understanding of competition law and policy?	33%	50%	17%	0

**II. Workshop Sessions & Participation**

Criteria	Yes	No	Can't Say/Don't Know
(a) Do you think the present format of the sessions and of the course is appropriate?	83%	11%	6%
(b) How well the participants interacted during the session?	89%	0	11%

**III. Reading Material & Logistics**

Criteria	Yes	No	Can't Say/Don't Know
(a) Were you happy with the quality and relevance of the material?	100%	0	0
(b) Were you comfortable with the arrangement made both in terms of seminar hardware and other facilities provided to you?	77%	6%	17%

$$\text{Arithmetic Mean} = \frac{\text{Sum of (Frequency X Data Value)}}{\text{Sum of Frequency}}$$

**IV. Overall Rating of the Workshop**

Data Value	Frequency	Frequency X Data Value
1	1	1
2	7	14
3	9	27
4	1	4
5	0	0
6	0	0
7	0	0
8	0	0
9	0	0
10	0	0
<b>Sum</b>	18	46

$$\text{Arithmetic Mean} = \frac{46}{18}$$

$$\text{Arithmetic Mean} = 2.55$$

**Overall Rating of the Workshop**

**Average Rating:** 2.55

**Interpretation:** The value 2.55 lies between 2 and 3 i.e. between a rating of **Excellent** and **Good**. On a rating scale of 1 to 10 (1 being Excellent and 10 being Poor) majority of the participants rated the overall workshop as being between excellent and good

**Annexure 2**  
**Africa Regional Training Workshop On Competition Policy and Law Omlplementation**  
**15-17 February 2007, Pretoria, South Africa**  
Agenda

<b>Time</b>	<b>Day 1</b>	<b>Day 2</b>	<b>Day 3</b>
	<b>Theme: Introduction + Basics</b>	<b>Theme: Restrictive Practices – II</b>	<b>Theme: Mergers &amp; Acquisitions</b>
0900-0930	<b>Introduction/Overview of the Training Workshop</b> <b><u>Facilitator:</u> Sajeew Nair, CUTS International, India</b>	Dealing with VERTICAL RESTRAINTS <ul style="list-style-type: none"> <li>- What are Vertical Restraints</li> <li>- Understanding different types of Vertical Restraints</li> <li>- 1-2 Case studies</li> </ul>	Dealing with M&As <ul style="list-style-type: none"> <li>- Different types of M&amp;As</li> <li>- Pros and Cons of M&amp;As</li> <li>- Merger assessment and available guidelines</li> <li>- Cross Border effects</li> <li>- Effectiveness of national, regional and international instruments and agencies in dealing with cross-border M&amp;As</li> </ul>
0930-1100	<b>Introduction to Competition Policy and Law – Rationale &amp; Objectives</b> <ul style="list-style-type: none"> <li>- What is Competition Policy and how is it different from Competition Law?</li> <li>- Objectives and Scope of Competition Policy and Law</li> <li>- What are Anti-competitive Practices and how do they affect consumers? (explanation through illustrations)</li> </ul> <b><u>Resource Person:</u> Thula Kaira, Zambia Competition Commission, Zambia</b>	<b><u>Resource Person:</u> David Lewis, South Africa Competition Tribunal, South Africa</b>	<b><u>Resource Person:</u> Thula Kaira, Zambia Competition Commission, Zambia</b>
1100-1130	<b>TEA BREAK</b>	<b>TEA BREAK</b>	<b>TEA BREAK</b>
1130-1300	<b>Introduction to Competition Analysis</b> <ul style="list-style-type: none"> <li>- Basic concepts</li> <li>- Market definition and market structure</li> <li>- Structural Vs behavioural issues</li> <li>- Porter's 5-force model</li> </ul>	<b>Case Work – II</b> <b>On Vertical Restraints</b> <b><u>Resource Person:</u> Thula Kaira, Zambia Competition Commission, Zambia</b>	<b>Case Work – III</b> <b>Undertaking MERGERS IMPACT ASSESSMENT</b> <b><u>Resource Person:</u> Liezel Blignaut, South</b>

	<b>Resource Person: Trudi Hartzenberg, TRALAC, South Africa</b>		<b>Africa Competition Commission</b>
1300-1400	LUNCH BREAK	LUNCH BREAK	LUNCH BREAK
	Theme: Restrictive Practices – I		Theme: Other Issues + Conclusions
1400-1530	<p>Dealing with HORIZONTAL RESTRAINTS</p> <ul style="list-style-type: none"> <li>- What are Horizontal Restraints?</li> <li>- Understanding different types of Horizontal Restraints</li> <li>- 1 or 2 Case Studies</li> </ul> <p><b>Resource Person: Benson O Nyagol, Monopolies and Prices Commission, Kenya</b></p>	<p><b>Presentations by Groups and Plenary Discussions</b></p> <p><i>On Vertical Restraints</i></p>	<p>Regional Competition Legislations and synergies with national competition Laws (presentations on)</p> <ul style="list-style-type: none"> <li>- COMESA</li> <li>- SADC</li> </ul> <p><b>Resource Person: James Musonda, COMESA Secretariat, Zambia</b></p>
1530-1545	TEA BREAK	TEA BREAK	TEA BREAK
1545-1715	<p>Case Work – I</p> <p><b>On Horizontal Constraints</b></p> <p><b>Resource Person: Benson O Nyagol, Monopolies and Prices Commission, Kenya</b></p>	<p>Dealing with Abuse of Dominance</p> <ul style="list-style-type: none"> <li>- Meaning of Dominant Market Position</li> <li>- Understanding Abuse of Dominance situations</li> <li>- Ways to deal Abuse of Dominant Positions</li> <li>- 1 to 2 Case Studies</li> </ul> <p><b>Resource Person: Sitesh Bhojani, Former Commissioner, Australian Competition and Consumer Commission</b></p>	<p>Self Assessment Questionnaires (On various themes of the training workshop)</p> <p><b>Facilitator: Sajeew Nair, CUTS International, India</b></p>



1715-1830	<p>Presentation by Groups and Plenary Discussions</p> <p><b>On Horizontal Constraints</b></p>	<p>Exercise</p> <ul style="list-style-type: none"> <li>- <b>Identifying elements of Dominant Market Position</b></li> <li>- <b>How to deal with Abuse of Dominance pertaining to it?</b></li> </ul> <p>Followed by <b>Discussions</b></p> <p><b>Resource Person: Sitesh Bhojani, Former Commissioner, Australian Competition and Consumer Commission</b></p>	<p>Summing Up &amp; Closing</p> <ul style="list-style-type: none"> <li>- What lessons were learnt?</li> <li>- What more needs to be done (with regards Capacity Building)</li> <li>- Suggestions on issues/aspects and participants for the National Workshops (scheduled under the 7Up3 project) in the seven project countries</li> <li>- What CUTS/partners/others should do to promote a healthy competition culture in E &amp; S Africa</li> </ul> <p><b>Moderators: Sajeey Nair, CUTS international &amp; Garth le Pere, IGD, South Africa</b></p>
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**Annexure 3**  
**List of Participants**  
**Africa Regional Training Workshop on Competition Policy &**  
**Law Implementation**  
**15-17 February 2007, Pretoria, South Africa**

<b>S. No.</b>	<b>Participant</b>	<b>Organisation/Country</b>
1.	Rose Yamikani Kadewere	Malawi Competition and Fair Trading (MCFTC), Malawi
2.	Lloyds Vincent Nkhoma	Malawi Competition and Fair Trading (MCFTC), Malawi
3.	Teresa Mlangeni	Legal Advisor Ministry of Enterprise & Employment Swaziland
4.	Bongani Mdululi	Chairman Swaziland Consumers Association
5.	Okilangole Patrick	Principal Commercial Officer/ Ministry of Tourism, Trade and Industry Uganda
6.	Ronald Wakyeza	Sr. Commercial Officer Ministry of Tourism, Trade and Industry Uganda
7.	Douglas Reissner	Namibian Comp Commission
8.	Odete Tsamba	National Deputy Director of Commerce Mozambique
9.	Jemise dos Anjos Baptista	Senior official of Commerce Mozambique
10.	Hortence Uetela	Senior official of Private Sector Dept Mozambique
11.	Fernando dos Santos	Director General Industrial Property Institute Mozambique
12.	Rajwantee Ramrukhaea	Principal Assistant Secretary, Ministry of Industry, SMEs, Commerce & Cooperatives Mauritius
13.	David Chan Kan Cheong	Assistant Solicitor General State law Office, Mauritius
14.	Sajeev Nair	Associate Director and Head CUTS Centre for Competition, Investment and Economic Regulation (C-CIER) India
15.	Vladimir Chilinya	CUTS-Africa Resource Centre Zambia
16.	James Musonda	Common Market for Eastern and Southern Africa COMESA Secretariat Zambia
17.	Sitesh Bhojani	Barrister and Solicitor Australia
18.	Thula G. Kaira	Director – Mergers & Acquisitions

		Zambia Competition Commission Zambia
19.	Benson Oluoch Nyagol	Monopolies & Prices Commission Ministry of Finance and Planning Kenya
20.	O. S. Molefe	Ministry of Trade and Industry Botswana
21.	L. Mothibi	Ministry of Trade and Industry Botswana
22.	Rumbidzaishe O. Chinyoka	Ministry of Trade and Industry Botswana
23.	Augustina Quayson	Director, Legal Affairs Ministry of Trade and Industry, PSD & PSI Ghana
24.	Trudi Hartzenberg	Tralac Executive Director South Africa
25.	Mziwodumo Rubushe	The Competition Commission, Pretoria
26.	Sbusiso Madonsela	The Competition Commission South Africa
27.	Wendy Mkhwanazi	The Competition Commission South Africa
28.	Lulama	The Competition Commission South Africa
29.	David Lewis Chairman	Competition Tribunal South Africa South Africa
30.	Garth Le Pere	Institute for Global Dialogue South Africa
31.	Brendan Vickers	Institute for Global Dialogue South Africa