



**Summary Event Report
2nd National Reference Group (NRG) Meeting
Competition Regime in Malawi – Country Paper**

7Up3 Project

Introductions

As a follow up to the meeting on Capacity Building on Competition Policy & Law in Malawi, held in Lilongwe on 31st May 2005, the 2nd NRG meeting took place at Cresta Crossroads Hotel on 7th March, 2006. The following is a summary of the day's proceedings.

The project is being supported by the Norwegian Agency for Development Cooperation (NORAD), Norway, and the Department for International Development (DFID), UK. Working in collaboration with CUTS- CCIER, the Malawi Economic Justice Network (MEJN) and the Centre for Social Research (CSR) are the Advocacy and Research country partners respectively. The overall objective of the project is to take up research and advocacy activities for promoting fair market competition over a period of two years in Malawi and six other Sub-Saharan Africa countries.

The meeting was well patronized with participants coming from the Ministry of Trade and Private Sector Development, the National Assembly, and Civil Society. Also in attendance were commissioners from the Competition and Fair Trade Commission, and the project partners, Consumer Unity Trust Society (CUTS) and the CSR.

Participants were first welcomed by the Programme Manager for Trade at MEJN, Mr Temwa Gondwe, who set the ball rolling by reminding participants on the objectives and operationalisation of the project.

In his welcoming remarks, Acting Executive Director of MEJN Mr. Mavuto Bamusi, set the atmosphere for the meeting by asking participants to be proponents of a competition regime that will aim at poverty reduction, and also protection of Malawi's fragile industries, rather than according to donor fulfillment. He went on to remind the participants that the meeting should define the national interest, and that competition must be based on principles that defend the countries overall development interests.

In his remarks, the CUTS International Representative Mr Sajeer Nair gave a word of gratitude for the role played by the two key partners, CSR and MEJN. He went on to give a brief background of CUTS, before reminding the meeting that consumer welfare is vital because these are in the majority, and also that small scale businesses are the ones that need the most protection. He further added that advocacy is the main challenge, as it is of utmost importance that people know of their competition and consumer rights.

The guest of honour Mr Lloyd Muhara, Chairman of the Competition and Fair Trading Commission (CFTC) was the first of almost all participants to commend the presenter Mr Maxton Tsoka for a 'stimulating' paper. He went on to say that his commission was in great need of capacity building as it only came into existence in September 2005, before giving a brief history of Competition Policy and Law in Malawi. He provoked the thinking of participants by proposing a combination of the CFTC and Consumer Protection Council (CPC) and inquired from the Members of Parliament present if an Amendment of the Act would be possible. He further added that in Malawi, the design stage has been fulfilled but that the task of the CFTC at hand was that of implementation but he bemoaned the lack of resources the commission is currently facing and asked government to put it on the list of priorities for funding, as he said donors were ready to come in with a top-up allowance. He then declared the meeting officially open.

Presentations & Plenary

After the opening remarks, the second session followed, with Mr Maxton Tsoka from CSR making a presentation on the 'Competition Regime in Malawi' Country Paper. In his presentation, he first briefed participants on the methodology of the study, and also the study areas covered. Malawi's socio-economic profile, and its economic structure and performance followed, before he gave a historical perspective of competition in the country and various policies after the Structural Adjustment Programmes (SAPS). Other areas covered by the presentation were; the size and nature of the market, competitiveness of local firms, barriers to entry, legislation on competition and consumer protection, stakeholder perceptions on anti-competitive practices (ACPs) and the competition authority. He then made an analysis of four pre-selected sectors namely; pharmaceutical, financial services, power, and telecommunications, before concluding his presentation by stating that as much as ACPs exist in Malawi, policies and legislation also do, but what lacks is implementation. He added that there is evidence that government does not prioritize the promotion of competition and consumer protection, evident by slow progress in the implementation of the CFTC and CPC.

Soon after the presentation, there were invited comments from the various organizations present.

Mr Frank Ngalande from the Consumer Association of Malawi (CAMA) first commended the idea behind the liberalization process as he said it presented consumers a wider choice, but was quick to point out that the intent of promoting efficiency and quality of goods and services was not being met on the market. He attributed this to a lack of regulatory mechanisms to take care of the effects of the process, and so he said his organization was grateful for the establishment of the Commission. He encouraged a coercive and collaborate approach between the CFTC, CPC, and other stakeholders including Civil Society. He also encouraged advocacy to enhance awareness of all stakeholders.

Mr Mavuto Bamusi of MEJN was next to give a response, which mainly questioned the paper's stand on privatization. He advised participants to learn from SAPs, which were meant to enhance competition, but ended up killing some infant industries. He stressed that the pursuit of the underlying theme of the Malawi Growth and Development Strategy (MGDS), which is private-sector led growth, must not end up in government's social role being overlooked, and asked if ordinary Malawians are really benefiting from the privatization process.

Mr Harold Ngalawa from Chancellor College centered his response on where he felt the paper could have done better. He first proposed that the definition of competition should have been included at the beginning of the paper. Secondly, he applauded the methodology although he had a few reservations. He questioned who pre-selected the four sectors of study and under what criteria, how the presenter determined how many respondents should come from which sector, why the research was urban-based, and why urban agriculture sector players were not included. Thirdly, he was against the idea of citing the 'size of the economy' as a constraint to competition, and gave an example of the financial sector where there are more banks despite an earlier view that new entrants would not survive because of the size of the sector, and said instead a conducive environment is what is vital. He gave his feelings on collusion and concentration, and was also against the paper's stand on privatization of utilities, and said we should learn from past mistakes.

Grace Kamvazakazi from the Ministry of Trade and Private Sector Development (MoTPSD) first looked at the objective of the paper, which she cited as 'assessing if laws have been effective and also capacity building'. She however said the paper should have gone further to talk on sequencing of the reforms discussed,

and also that it should have stated how complimentary the various policies are, for example industrial and competition policies. She also shared the view that privatization does not guarantee competition, before talking more on competition policy and law, and what it is supposed to do in an economy.

Mr Collins Magalasi, commissioner in the CFTC, first commended the presenter and said the paper had looked at sensitive areas but was amazed at the respondents' lack of knowledge of the existence of the CFTC. He said conclusions that privatization will lead to competition need to be justified, and also said the paper needs to give a history on why some liberalized monopolies had failed. He echoed his chairman's sentiments on financial constraints, and the need for capacity building.

Hon. Willard Gwengwe M.P, who is Chairman for the Parliamentary Committee on Trade and Commerce mentioned a few issues that needed to be highlighted in the recommendations of the paper and these included questioning the slow progress of implementation of the CFTC and CPC, funding of the Commission, and also that the Commission and Council should be merged to save resources.

Hon. H. T Fwataki M.P, also from the committee, commented again on the issue of funding. However he noted that if members of parliament did not understand what the Commission's roles are, it would be hard to pass such an amendment, and encouraged participants that lobbying must be done prior to sitting of parliament.

Following this, floor discussions commenced and other members present gave their various views on the paper, as some re-iterated the highlighted points discussed above.

Session three had at this point inadvertently commenced by the various comments of the draft country research report being given, but in completing the session, Grace Kamvazakazi from MoTPSD ensured participants that Government would work to include the Commission's allocation in the 2006/2007 National Budget. Speaking on behalf of the Commission, she said advocacy would be enhanced and that a judges' seminar would be conducted.

Conclusions

In summarizing, the presenter commented in particular on Mr Ngalawa's proposals, before thanking the entire house for the various inputs, and assured participants that he would incorporate the comments into the draft report.

Mr Mavuto Bamusi then summarized what seemed to be the agreed recommendations and way forward. Among others, he cited the need for capacity building, funding of the Commission, actual implementation, awareness, and merging of the Commission and Council.

In his closing remarks, the Guest of Honour, Dr Lloyd Muhara thanked all the participants for the lively meeting and encouraged all stakeholders to cooperate in the quest to meet the NRG meeting goals. He went on to thank the facilitators of the meeting, CUTS, CSR, and MEJN, before officially closing the meeting.