

Institute for Consumer Protection

**Capacity-building on Competition Policy in Select Countries of Eastern and Southern
Africa**

7 Up 3

**Third National Reference Group Meeting
Mauritius Report**

8th August 2007

**Manisa Hotel,
Flic en Flac,
Mauritius.**

August 2007

Institute for Consumer Protection

Capacity Building Project on Competition Policy in Select countries of Eastern and Southern Africa.

Report of the Third National Reference Group Meeting – 8th August 2007

Opening Session

The Opening Address was pronounced by **Mosadeq Sahebodin**, the ICP Coordinator. He thanked the Members of Parliament for their presence at this session. He welcomed participants to the meeting. He recalled the aims of this meeting and its relevance to the Capacity Building Project on Competition Policy and Law being implemented in six other African countries.

The next speaker was **Vladimir Chilinya**, Acting Coordinator of the CUTS-Lusaka. Mr Chiliniya recalled the main stages of the Capacity Building Project initiated by CUTS. He recalled the aims of the project and explained how it has been effective in creating competition awareness in countries where it had been implemented. He thanked DFID and NORAD, the funders of this project for their support. He also thanked the participants for responding to ICP's invitation. He thanked the two Members of Parliament present who had made it a point to attend this NRG meeting.

The last speaker to conclude the Opening session was **Honourable Cader Sayed Hossen**, Member of Parliament and Co-chairperson of the Commission for the Democratization of the Economy.

He thanked ICP for inviting him to attend the opening session of this meeting. He started by reassuring participants present of Government's commitment to adopt a Competition Law during the forthcoming session of the Legislative Assembly. He thanked the ICP Coordinator for his straightforward exposé and reassured the participants that many of the concerns raised had been addressed. However, he could not explain why there had not been any consultations with civil society organizations, but stated that Government will initiate consultations with all stakeholders after the law is passed. He agreed that much has to be done after the law is adopted to ensure an effective implementation. He quoted from the invitation letter that one of the aims of this meeting and the subsequent Training Workshop was to assist Government in implementing a comprehensive Competition Regime and welcomed such approach.

He finally wished participants a fruitful workshop.

It should be underlined that the other guest at this Opening Session was **Honourable Nita Deerpalsingh**, MLA and Co-chairperson of the Commission for the Democratization of the Economy. It is also interesting to recall that the said Commission operates under the Prime Minister's Office.

Panel Discussion

After tea break, the three Resource Persons and the ICP Coordinator participated in a Panel discussion.

Mr Manas Chaudhury, from India, made a brief history of how the Competition Law had been adopted in India. He recalled that India formerly had a MRTP Act which was subsequently replaced by a new law. He stressed on how civil society organisations can contribute to the formulation of competition law. He drew attention to the CUTS experience in India.

The next speaker was **Miss Kasturi Moodaliyar**, from Witswatersrand University Law School, South Africa. She explained how the Competition Law was being implemented in her country. She said that the competition authority there was the South African Competition Commission. This authority had the responsibility to inquire into alleged anticompetitive practices and refer cases to the Competition Tribunal. She also recalled that the Commission was a member of the International Competition Network, hence benefited from outside expertise to consolidate its structures.

The third speaker was **Mr Thula Kaira** from the Zambia Competition Commission. He gave an overview of the experience of the Zambia Competition Commission. He also recalled the provisions of the COMESA regulations with respect to Competition Law.

To conclude, **Mosadeq Sahebodin**, the ICP Coordinator, gave a brief overview of the anticompetitive practices in Mauritius. He recalled how the Competition Act 2003 had only been partially implemented and how its contents had been influenced by the private sector. He also drew the attention to the mode of operation of a few sectoral regulators, namely the Independent Broadcasting Authority, the Information and Communication Technologies Authority and the Financial Services Commission.

Participants were invited to ask questions to the speakers.

The meeting ended with lunch.

Appendices

Appendix 1

Address by ICP Coordinator, Mosadeq Sahebodin.

I would like, first and foremost, to welcome you to this third National Reference Group meeting. This is the third of a series of meeting where all stakeholders express their views, and, we hope, build up capacity.

I wish to recall that this meeting and the subsequent National Training Workshop are organized in the context of the Capacity Building project on Competition Policy and Law in Seven Select Countries in Eastern and Southern Africa. We are actually in the second stage of the project, in the advocacy stage. The aim of this workshop is to provide to all stakeholders the necessary tools to understand competition issues better and to acquire relevant skills.

Two years ago, when we started this Capacity Building project with CUTS, we identified the lack of political will as the root cause for the delay in the adoption of a Competition Law. Today, we are witnessing a different political environment. While Government seems to make use of every opportunity to express its commitment to adopt such a law, the business sector pretends not to be interested. While consumers continue to be fleeced by soaring prices of basic commodities, the private sector is dumbfounded. The pens of the CCI columnists have dried. This change in attitude may be construed as a proof to identify the interests they promote, theirs.

On the other hand, while the prices of milk powder, pulses and edible oil continue to flare up, Government adamantly refuses to initiate consultations with stakeholders in view of finding a durable solution to an exceptional situation. Instead, Competition Law is brandished as the panacea for all the consumers' sufferings.

However, looking two years back, we can say that the trade environment is no different. Anti-competitive practices on different markets have increased with impunity, to the detriment of consumers' interest. Exclusive dealing, predatory pricing, unfair trading practices such as misleading advertisements are some of the characteristics of this market.

Consumers are concerned that basic products such as milk powder, pulses and edible oil may disappear from the shelves. The iron bars market seems to move towards a powerful monopoly where a foreign concern will occupy more than 80% of the market.

We aver that adopting a Competition Law will not put a stop to soaring prices. Having such a Law may attract some operators in some sectors, yet it will take a long time for consumers to benefit from a competition regime. Government should not affirm that adopting a Competition Law will solve all consumers' problems. Effective implementation of the law will.

However for the law to be effective, the Competition Authority, by whatever name it is called, need to be politically independent. This is a *sine qua non* condition for the effectiveness of the Regulatory body. We will oppose the type of political interference that the 2006 Draft provided.

Finally, for the Competition Law to be effective, civil society involvement is indispensable. More and more governments are accepting the fact that Civil Society Organizations have an important role to play in competition and consumer issues. This trend is supported by international bodies such as UNCTAD and WTO. Further, given the increasingly global nature of anti-competitive practices of “big business”, an acute need for international sharing of knowledge amongst CSO’s in order to facilitate informed domestic intervention on cross-border anti-competitive actions is much felt. While Civil Society Organizations are keen to work with relevant authorities, in consumers’ interest, Competition Authorities should reckon that collaboration with and support from CSO’s will enable them to implement the Competition legislation in a more effective way. While Governments are increasingly inviting NGO participation in Policy decisions, the normal course for Competition Authorities would be to follow Governments’ tendency. It is also not in NGOs’ interests to hamper the action of Competition Authorities.

Consumer Organizations are, in their essence, the mouthpiece of the immediate beneficiaries of Competition policy and law, in other words those who are the first to be affected by anti-competitive practices. Consumer advocates are active at the grassroots’ level and hence in a better position to contribute to the development and support of the competition culture.

Yet, in spite of Government rhetoric in favour of civil society participation, Government has not deemed it necessary to initiate consultations with consumer organizations. I was astounded to read in a paper this week that the committee set up to prepare the law comprised of people from the civil society. Let me quote « Un expert étranger, des techniciens du ministère, des légistes du parquet et plusieurs personnes de la société civile, dont Mohamed Vayid , des acteurs du commerce local ont participé aux travaux de ce comité. » End of quote.

I beg to differ. Consumer organisations have never been invited to play any role in any committee. Perhaps when the honourable Member of Parliament is talking about la société civile, he is referring to the private sector, because, in essence, they are also part of the civil society. And the confusion which is deliberately entertained serves them better. As for Mr Vayid, we all know whose interests he has always defended. We are not saying that so and so should not be consulted, we fail to understand why consumer organizations have not been invited to give their point of view. Does this have anything to do with political party funding?

I leave you to ponder on this. I thank you for your attention.”

Appendix 2

List of Guests

1. Hon Cader Sayed Hossen, MLA and Co-chairperson of the Commission for the Democratisation of the Economy.
2. Hon. Nita Deerpalsingh. MLA, Co-chairperson of the Commission ofr the Democratisation of the Economy.
3. Vladimir Chiliniya, Acting Coordinator, CUTS- Lusaka, Zambia.
4. Manas Chaudhury. Head Competion Law and Policy,J.Sagar Associate, India.
5. Kasturi Moodaliyar, Senior Lecturer,Witwatersrand University Law School, South Africa.
6. Thula Kaira, Zambia Competition Commission, Zambia.

Appendix 3

List of Participants

	Name	Organisations	Telephone	Email Address
1.	Abdel Ruhomutally	GFA Insurance Ltd	203 2432	del@gfainsurance.mu
2.	Ramesh Bheekhoo	Ministry of Industry and Commerce.	210 3722	rbheekhoo@mail.gov.mu
3.	Mrs Rookian Bucktowar	ICP	210 4433	
4.	Banysing Unmar	Central Statistics Office	213 5669	bunmar@mail.gov.mu
5.	Mrs Diana Govinden	ICP	210 4433	
6.	Rezah Thupsee	Federation of Progressive Unions.	255 7102	imthupsee@yahoo.com
7.	Seharsingh Moorat	Federation of Parastatal Bodies and Other Unions	675 2568	S_mourat@yahoo.com
8.	Mosadeq Sahebodin	ICP	210 4433	mosadeq53@intnet.mu
9.	Charuduth Sooknah	ICP	210 4433	c.sooknah@yahoo.co.uk
10.	Rohit Toofany	Consumer Protection Unit.	217 6131	
11.	Kalayevaani Ghoorbin	Agricultural Marketing Board	433 4025	agbd@intnet.mu
12.	Michel Moothoosamy	Mouvement Socialiste Militant	233 1282	vertendre@intnet.mu
13.	Lacheemee Bhujun	ICP	210 4433	mbhujun@hotmail.com
14.	Sanjeev Bhonoo	Central Statistics Office	208 0871	sbhonoo@mail.gov.mu
15.	Keshwarajsingh Ramnauth	Bank of Mauritius	202 3968	kramnaut@bom.intnet.mu
16.	Jose Mondre	ICP	210 4433	
17.	Mallah Bonomaully	ICP	210 4433	
18.	Mrs Tejuswinny Mungapatty	Independent Broadcasting Authority.	670 4621	iba@intnet.mu
19.	Indradev Curpen	News on Sunday	213 8425	indradevcurpen@yahoo.com
20.	Muzammil Sahebodin	ICP	210 4433	muza1000@yahoo.com

Appendix 4

NRG Meeting Programme

09.00 Participants' registration.

09.30 Opening and welcome address by Vladimir Chiliniya.

10.00 Panel discussion:

Implementation of Competition Policy and Law issues: Challenges before developing countries.

Panellists :

Kasturi Moodaliyar (South Africa)

Manas Chowdhury (India)

Thura Kaira (Zambia)

Invited observations from ICP Coordinator, Mauritius.

11.30 Floor discussions.