

National Reference Group (NRG-III) - Third Meeting

April 15, 2010, Nigeria

Proceedings

The meeting was officially opened by Mr E Ataguba, of the Consumer Protection Council (CPC) of Nigeria. He pointed out that given that CPC is the closest organization to a competition authority in Nigeria due to similarity of objectives, CPC will always support any initiative towards establishment of a competition law in Nigeria as they appreciate the need for it. He also expressed his disappointment at the low turnout (about 15 people participated) given the importance of the issues to be debated.

After the purpose of the meeting was spelt out by CUTS, which was basically to map out strategies and action points to address specific challenges identified by the project, Mr Adedeji of Consumer Empowerment Organisation of Nigeria (CEON) outlined the various challenges that had been identified which were opened up for discussion.

Contributing to the discussions, Mr O. S Azubuike, Senior Trade Officer, Ministry of Commerce and Industry mentioned that members should be informed that the Ministry had not been idle over the years as far as competition issues are concerned as they have some programme in place related to competition policy. He was going to assist members in getting hold of the documents on this, so that any new initiative should complement the existing efforts.

The Table below shows the various issues that were penciled for discussion during the meeting:

S.N	KEY ISSUES / CHALLENGES
1	Absence of a National Competition Policy for Nigeria
2	Proliferation of Competition Bills at the National Assembly, presently 6 Bills.
3	Low level of awareness and benefit of an effective competition regime amongst politicians and Law makers
4	Low level of awareness amongst government sector regulators, private business segments, and other key stakeholders
5	Perceived lack of consensus between the different Government MDAS about the Agency to Host the Competition Commission
6	Strong lobbies/vested interests seen as impeding factors.
7	Lack of frequent reporting of anti-competitive practices in the media.
8	Coordination and consultation with sector regulators not addressed properly in the draft bills
9	Constructive Engagement of Key Stakeholders still very needful
10	Need for active participation and commitment of donor organisations

Strategies adopted

1. Absence of a National Competition Policy for Nigeria

There was a lot of debate on this, especially whether this should be a priority given that the country has been struggling with a competition law, which might be a lot easier than a competition policy, which would entail thorough review of all existing legislations which are not promoting competition. It was however agreed that one of the reasons why at present there have been six attempts resulting in different bills which all failed to be enacted into a law could be due to the absence of a competition policy to guide the operating environment for the law. If the government can at least be convinced to put in place a competition policy, efforts at having a new law will not hit brick walls. However, the problem is the lack of knowledge by the responsible authorities about the benefits of a national competition policy. What members of the NRG could do to assist is to share this knowledge about the benefits of a competition policy and law to the Nigeria economy with the targeted authorities, and not just general write ups which have been done before.

Action: A brief write up on the benefits of a National Competition Policy should be prepared by CUTS, CEON and CPC and the Ministry of Commerce (through Mr Azubuike) and be shared with the NRG members. This write up will be taken to the Hon. Minister of Commerce and Industry to allow him to take the issues for discussion at higher levels (cabinet etc). This write up has to be prepared within two weeks from the date of the NRG (April 15).

2. Proliferation of Competition Bills at the National Assembly, from 2002 to present, 6 Bills were prepared and none could be passed into law.

It was decided that there was need for a better understanding from the National Assembly as to why they could not pass all these Bills. It was also decided that it could be better if all these Bills could be harmonized instead of coming with a new Bill every time.

Action: Members of the NRG should meet the Senate Committee on Commerce for a briefing on harmonizing the six bills that have been drafted to date. The NRG members to be on the visiting team should be drawn from the Ministry of Commerce, CPC, CEON, Manufacturers Association of Nigeria (MAN), ENABLE etc. ENABLE, a local NGO volunteered to use its contacts for a Bill Mapping Exercise, as well as to assist in access to the National Assembly.

3. Low level of awareness and benefit of an effective competition regime amongst politicians and Law makers.

It was pointed out by CUTS that training for law makers was part of the programme but unfortunately this could not be done for Nigeria due to logistical programmes. NRG members felt that a training workshop for parliamentarians would go a long way in addressing the awareness issue. However, it was felt that a different strategy could be adopted to meet them, a few key members could be trained, particularly those who lead various committees so that they would also disseminate the information to their colleagues.

Action: A capacity building workshop for members of the national Assembly should be conducted. However, the strategy for this would be understood more after a meeting with the Senate Committee on Commerce. NRG members to map out a strategy and logistics for the workshop after the meeting

4. Low level of awareness amongst government sector regulators, private business segments, and other key stakeholders.

It was pointed out that the business sector, which should be most ideal sector to be informed, did not benefit much from the training workshop conducted during the project. Members were in agreement that the strategy used by CEON was not the most appropriate. It was therefore important that key stakeholders be exposed to more training workshops to understand competition issues. An example was given by Mr Emmanuel Ataguba that he is now well known and respected for his knowledge on competition issues during various discussions, which he got solely through participating in CUTS training workshops, and more people should be equally exposed.

Action: Sensitisation workshops, which are more targeted and more representative of key stakeholders should be conducted. Better planning should be undertaken compared to what was done during the project. CUTS to prepare a write up on benefits of competition to Nigeria, which should be used during such workshops. Focus would be on general benefits and anticompetitive practices rather than how to enforce the law.

5. Perceived lack of consensus between the different Government MDAs about the Agency to Host the Competition Commission.

There was a heated debate on the issue. While some members felt that the Ministry of Commerce and Industry is the one suitable to host the competition authority, others were of the opinion that since the agency would be all-sector-cutting, it should not be under any one Ministry but under the office of the President.

Action: CUTS should prepare a paper on international best practices on situation of competition agencies, with examples from across the world. Such a paper could be distributed to various arguing bodies, and the decision on whether to follow the recommendations or not will be up to them. It was felt that this could be one of the reasons why there are so many different Bills and why some of them failed to get the support they deserved.

6. Strong lobbies/vested interests seen as impeding factors.

Action: NRG Members should strive to ensure that in future gatherings, such potential sources of vested interests, particularly from the business sector, should be part of the participants during the capacity building workshops. It was suggested that MAN could be used to strategise this on behalf of the NRG.

7. Lack of frequent reporting of anti-competitive practices in the media.

It was pointed out during the meeting that there were a lot of positive issues coming out of the training workshop for the media which members could help in carrying forward. The media representatives had promised that they would request for more material on competition issues from CUTS and will now try to put the same interest on competition issues as they have been doing on consumer issues.

Action: It was suggested that the media representative of the NRG, who was also appointed the role of selecting the participants for the media workshop, Christopher Adedeji, together with a local NGO headed by a journalist (CAFON), and CPC (through its radio programme) should take a lead in carrying the issues forward.

8. Coordination and consultation with sector regulators not addressed properly in the draft bills

It was pointed out that this would be difficult to address given that no particular one Bill was likely to be adopted and members of the NRG have also not read any of the Bills in detail. However, it was important that this issue, together with other weaknesses in the Bills should be pointed out.

Action: The NRG members should take a look at the various weaknesses raised on the existing Bills (through various public hearings) and prepare an issue paper with a position on the issues. The issue of interface between the sector regulators and competition agency would be part of this.

9. Constructive Engagement of government departments and Ministries important for the project

It was pointed out that having a person at each Ministry as a desk officer to whom NRG members would interact with would help in addressing the issue of engagement with the Ministries. Ideally it would be important to have one person who has already been exposed to the issues being the nodal person for the Ministry for consistency purposes in future initiatives.

Action: The NRG members to have Ministries appoint a desk officer who would be the person to be approached for future engagement.

10. Need for active participation and commitment of donor organisations

It was pointed out that engagement with the donor community was important as funding for these initiatives would be the key issue. It was also mentioned that donors can be committed if they are informed about what is going on and invited to take part in discussions.

Action: NRG members to ensure that they provide donors with up to date information and provide them with progress reports on the activities of NRG.