

**National Training Workshops on  
Competition Policy and Law**  
July – October 2007

Botswana Ethiopia Malawi Mauritius Mozambique Namibia Uganda

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**I. Background**

The Centre for Competition, Investment and Economic Regulation (CUTS CCIER) of CUTS International in association with CUTS Institute for Regulation and Competition (CIRC) organised a series of three-day long National Training Workshops (NTW) in seven African countries over the period July-October 2007. These training workshops were organised under the auspices of the project, “Capacity Building on Competition Policy in Select Countries of Eastern and Southern Africa” (7Up3 Project) in partnership with respective country partners in the project countries.

The need for the workshops was felt over the period of implementation of the 7Up3 project, which revealed a dire need for raising the level of understanding not only of the government representatives, but also other stakeholders (especially civil society and business organisations) to complement the efforts made by the government (line ministry or the competition authority) to operationalise national competition regimes.

**II. Content and Methodology**

The anticipated outcomes of these 3-day national training workshops were:

- ♦ Enhancing the basic understanding of national stakeholders such as policy makers, regulators, business, academicians, civil society, legal fraternity etc. on elements of competition policy and law
- ♦ Familiarise them with measures to get engaged with the process of evolving and implementing national competition regimes in these countries.

CUTS engaged international resource persons (academicians and practitioners) as facilitators in these training workshops. Three resource persons were involved with each training workshop. For each workshop experts from developed European countries and other least developed/developing countries with considerable experience were involved (refer annexure II).

The structure of the training workshops included – deliberation on theoretical aspect of competition; floor interactions to better understand/identify emergent problems in each country and hand on exercises (case work) for developing conceptual clarity on the best way of dealing with anti-competitive cases within the jurisdiction of the countries. A framework agenda (refer annexure-1) was prepared by CUTS with inputs from the partners and some experts for running these workshops, which comprised of:

**a) Opening Session**

After a welcome address by the partner, introduction to the purpose of workshop by CUTS representative and keynote speech by respective ministries, the workshops started with preliminary self-assessment of the participants. A self-assessment form was

developed to analyse the understanding of stakeholders on competition issues before start of the sessions.

**b) First session: Introduction**

This session was dedicated to the ‘Introduction to Competition policy and law’. Resource persons introduced the key terms of competition and explained the difference between competition policy and competition law. Objectives and scope of competition policy and law, anti-competitive practices and their effects on consumers were also discussed in brief.

**c) Second Session: Competition Analysis**

Basic concepts like relevant markets, product market, geographical market, demand-side and supply-side substitutability, potential competition, etc were explained. Market definitions, industry market structures, structural and behavioural issues were touched upon. And, most importantly the tools/techniques of competition analysis were explained to the participants with some illustration.

**d) Third Session: Dominance and Abuse of Dominance**

Participants discussed the way market players use their dominance position to bar the entry or expansion of competitors and to exploit consumers through high prices. It was observed that abuse of dominance is a central concern for many competition authorities across the world – which was also true for the region. Cases were described with examples.

**e) Fourth Session: Unfair Trade Practices**

Unfair Trade Practices (UTPs) and dealing with UTPs was next on the agenda. Types of UTPs, their effects on consumers and how to deal with UTPs were the topics raised during this sessions. Resource persons provided examples and illustrations to explain the impact of UTPs on consumers.

**f) Fifth Session: Vertical Restraints**

Various types of vertical restraints were explained in this session with examples from the region/other third world countries. Also, the resource persons provided some insights into the methodologies/measures adapted by the competition authorities to deal with such cases.

In the next session the participants were divided into three to four groups and given a case involving vertical restraint and asked to analyse the same. This provided hand-on training to the participants on ways of dealing with vertical restraints.

**g) Sixth Session: Horizontal Restraints**

The same approach as in the fifth session was followed in the session on horizontal restraints – comprising of explaining the concept and types of horizontal restraints and followed by a case work.

#### **h) Seventh Session; Competition & Regulatory Policy Interface**

The facilitators shared their views on linkage of competition policy with sectoral regulatory machinery. It is observed while implementing competition law that a major problem is to deal with its conflict with sectoral regulatory issues in telecomm, electricity, and finance etc sectors. The resource persons provided recommendations of how this conflict could be resolved.

Finally, each participant was asked to again fill up the same 'Self Assessment Questionnaire' form in order for them to analyse for themselves the level of improvement in their understanding on competition issues.

### **III. Emerging Outcomes**

The Following outcomes emerged:

- Better understanding of the strengths and weaknesses of the countries' competition law;
- Insights into ways of dealing with anti-competitive practices within the purview of the competition laws;
- Identification of prevailing anti-competitive cases in the countries;
- Discussion on feasible government interventions in promoting competitive processes in the country;
- Identification of the need and possible ways for wider public support for effective implementation of competition laws; and
- Benefits of continued lobbying and advocacy in developing and least developed countries.

## Annexure 1: Framework Agenda

### NATIONAL TRAINING WORKSHOP ON COMPETITION POLICY AND LAW

#### Day One

Sessions
<b>Registrations</b>
<b>Opening and Welcome Address</b> <ul style="list-style-type: none"><li>- Representative of the Partner Organisation</li><li>- Representative from the Ministry of Industry/Commerce</li></ul>
<b>Introduction to Outline of the Workshop and its Purpose</b> <ul style="list-style-type: none"><li>- CUTS International</li></ul>
<b>Self-Assessment Questionnaires</b> <ul style="list-style-type: none"><li>- CUTS International</li></ul>
<b>TEA BREAK</b>
<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 with illustrations)</li></ul> <p style="text-align: center;"><b>Questions and Clarifications</b></p>
<b>LUNCH</b>
<b>Introduction to Competition Analysis</b> <ul style="list-style-type: none"><li>- Basic concepts</li><li>- Market definition and market structures</li><li>- Structural vs. behavioural issues</li></ul> <p style="text-align: center;"><b>Questions and Clarifications</b></p>
<b>TEA BREAK</b>
<b>Dominance and Abuse of Dominance</b> <p style="text-align: center;"><b>Questions and Clarifications</b></p>
<b>Summing-up the day's proceedings</b>

## Day Two

<b>Dealing with Unfair Trade Practices (UTPs)</b> <ul style="list-style-type: none"><li>- What are UTPs</li><li>- How they affect consumers</li><li>- Ways of dealing with UTPs</li></ul> <p style="text-align: center;"><b>Questions and Clarifications</b></p>
<b>TEA BREAK</b>
<b>Competition Policy and Consumer Protection</b> <ul style="list-style-type: none"><li>- How Competition promotes consumer welfare?</li><li>- Hybrid Laws and Agencies: dealing with Competition and Consumer protection</li></ul>
<b>LUNCH</b>
<b>Vertical Restraints/Agreements</b> <ul style="list-style-type: none"><li>- What are they?</li><li>- Types with examples?</li><li>- How to deal with them (with Case studies)</li></ul> <p style="text-align: center;"><b>Questions and Clarifications</b></p>
<b>TEA BREAK</b>
<b>Case Work: Vertical Restraints/Agreements</b> [Providing a Real/Hypothetical Case to the participants, who are divided into 3 groups. Each of the groups analyse the case internally and come up with prescriptions on how to deal with the same. A representative from each of the groups makes a presentation]
<b>Summing-up the day's proceedings</b>

## Day Three

<b>Horizontal Restraints</b> <ul style="list-style-type: none"><li>- What are they?</li><li>- Types with examples?</li><li>- How to deal with them (with Case studies)</li></ul> <p style="text-align: center;"><b>Questions and Clarifications</b></p>
<b>TEA BREAK</b>

**Case Work: Horizontal Restraints**

[Providing a Real/Hypothetical Case to the participants, who are divided into 3 groups. Each of the groups analyse the case internally and come up with prescriptions on how to deal with the same. A representative from each of the groups makes a presentation]

**LUNCH**

**Interface between Competition and Sectoral Regulation**

- Structural and Functional issues (in select sectors like electricity and telecom)

**TEA BREAK**

**Final 'Self Assessment Questionnaire'**

- CUTS International

**Summing up and Way forward**

## Annexure II: Schedule of Training Workshops

<b>Country (City), Date</b>	<b>Organising Country Partners</b>	<b>Resource Persons</b>
Botswana (Gaborone), 25 – 27 July 07;	Botswana Council of Non-Governmental Organisation (BoCoNGO)	<ol style="list-style-type: none"> <li>1. Jenifer Skilbeck, Barrister, Monckton Chambers, the United Kingdom</li> <li>2. Patrick Krauskopf, Secretary and Chief of International Affairs, Swiss Competition Commission</li> <li>3. John Preston, Consultant- Competition policy DFID, UK</li> <li>4. Peter M. Njoroge Commissioner, Monopolistic and Prices Commission, Kenya</li> </ol>
Ethiopia (Addis Ababa), 10 – 12 Oct'07	AHa Ethiopian Consumer Protection Association (AHaECoPA)	<ol style="list-style-type: none"> <li>1. Nkonzo Hlathwayo; Partner, WWB, south Africa</li> <li>2. Alex J Kububa, Director, Competition and Tariff Commission, Zimbabwe</li> <li>3. Elisa Holmes, Barrister, Monckton Chambers, the United Kingdom</li> </ol>
Malawi (Lilongwe), 29 – 31 Aug'07	Malawi Economic Justice Network (MEJN)	<ol style="list-style-type: none"> <li>1. Manas Chaudhury, Head-Competition Law Practices, J Sagar Associates, India</li> <li>2. James Mutisya, Sr. Monopolies and Prices Officer, Monopolistic and Prices Commission, Kenya</li> <li>3. Busi Ngwenya, Coordinator-Education &amp; Advocacy, Competition Commission, South Africa</li> </ol>
Mauritius (Port Louise), 8 – 10 Aug'07	Institute of Consumer Protection (ICP)	<ol style="list-style-type: none"> <li>1. Manas Chaudhury, Head-Competition Law Practices, J Sagar Associates, India</li> <li>2. Kasturi Moodaliyar, Eskom Senior Lecturer in Competition Law, University of Witwatersrand, South Africa</li> <li>3. Thula Kaira, Director, Merger and Acquisition, Zambian Competition Commission</li> </ol>
Mozambique (Maputo), 17 – 19 July'07	Consumer Protection Association of Mozambique (DECOM)	<ol style="list-style-type: none"> <li>1. Jennifer Skilbeck, Barrister, Monckton Chambers, the United Kingdom</li> <li>2. Kasturi Moodaliyar, Eskom Senior Lecturer in Competition Law, University of Witwatersrand, South Africa</li> <li>3. Dr. S Chakravarthy, Consultant- Competition Policy &amp; Law, India</li> </ol>
Namibia (Windhoek),	Namibian Economic Policy Research Unit	<ol style="list-style-type: none"> <li>1. Dr. S Chakravarthy, Consultant- Competition Policy &amp; Law, India</li> </ol>

31 Jul – 2 Aug'07	(NEPRU)	<ol style="list-style-type: none"> <li>2. Patrick Krauskopf, Secretary and Chief of International Affairs, Swiss Competition Commission</li> <li>3. Vani Chetty, Director, Vani Chetty Competition Law Pvt Ltd, South Africa</li> </ol>
Uganda (Kampala), 3 – 5 Oct'07	Consumer Education Trust (CONSENT)	<ol style="list-style-type: none"> <li>1. Nkonzo Hlathwayo; Partner, WWB, South Africa</li> <li>2. Alex J Kububa, Director, Competition and Tariff Commission, Zimbabwe</li> <li>3. Elisa Holmes, Barrister, Monckton Chambers, the United Kingdom</li> </ol>