

Proceedings

**Regional Training Workshop
Competition Law Enforcement in West Africa
(Francophone countries)
*Lomé Togo 16-18 December, 2009***

*Strengthening Constituencies for Effective Competition Regimes in
Select West African Countries (7Up4 Project)*



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I. Background

CUTS organised a 3 day training workshop on competition policy and law enforcement from 16 to 18 December, 2009 in Lome, capital of Togo. This workshop has been organised under the project 7 Up4 (<http://www.cuts-ccier.org/7up4/index.htm>) being implemented by CUTS in seven West African countries (Burkina Faso, The Gambia, Ghana, Mali, Nigeria, Senegal and Togo).

This project is supported by Department for International Development (DFID), UK; the International Development Research Centre (IDRC), Canada and the Ministry for Foreign Affairs, Sweden.

Over the period of three days participants (Government departments, Competition Agencies, Sector Regulators and selected CSOs from 5 francophone countries of West Africa) learnt and sharpened their skills on various aspects of competition policy and law issues through lectures, real life experiences of resource persons, simulation exercises, case studies, group discussions etc.

The objectives of this three day workshop were

- To explain to the participants various micro and macro level issues of competition policy and law.
- To understand the expected role of different agencies and groups in order to ensure effective enforcement of competition regimes in specific market and accelerate the process of economic growth.
- To gain skills from the rich experience of the specialists and take note of the process in which competition administration has progressed in select jurisdictions.

II. Report of Proceedings

DAY-I

I. Inaugural Session

1.1 The inaugural ceremony commenced with a speech of Mr. Aladjou Agouta, Secretary General of ATC, Togo. He started his speech greeting Abe Talime from the department of Internal Trade and Competition, Ministry of Trade and Industry of Togo; Rijit Sengupta, representative of CUTS; Lahcen Achy, 7Up4 project advisor, for making it to the meeting. Aladjou pointed out in his speech that competition is a strong weapon to fight poverty and if practiced well, it can yield benefit for the whole society. He made an appeal to all the government departments to take appropriate action against anti-competitive practices and unfair competition. He reiterated the necessity to have a regulator in important sectors like bank, mining, water, insurance, transport etc. and highlighted the need for the regulatory agencies to be more pro-active and efficient.

1.2 Mr. Rijit Sengupta, the project coordinator of 7Up4, representing CUTS thanked everybody for making it to Togo. He hoped that through this workshop the participants will enhance their understanding on competition policy and law issues, go back to their own countries and implement the national legislation in a most effective manner which will reduce poverty and improve economic condition of the country. With regard to the purpose of the workshop, he stated that it was to acquaint all the participants with theoretical understanding of competition policy and law and give them hands-on training on how to deal the competition related cases. (Refer the questionnaire enclosed as an annexure)

1.3 Mr. Lahcen Achy, 7Up4 project research advisor, elaborated the objectives of 7Up4 project. He explained that there are two parts of this project; research and training. He gave a brief of few facets of this project. First of all, how it is difficult to implement the competition policy and why it is so. Then he explained the relationship between sector regulators and competition authority which is very important as the coordination and communication between these two often determines the extent of competition policy implementation. Then he stated a very interesting part of the project which is the 'perception survey'. This is the part where we get to know (especially, the trends of) how competition is seen and understood by different people of the authority. It is done through a very detailed questionnaire and is reflected in each Country Research Report. At the end, he talked of the agricultural sector as it is a very important component of 7Up4 project. Everybody, directly or indirectly, is related to this sector and so is affected if the competition is impeded in this sector. He finished his speech by thanking everybody and wished that everybody will participate in the discussions through the next three days.

1.4 In his speech, Mr. Abe Talime from the department of Internal Trade and Competition; Ministry of Trade and Industry of Togo, stated that liberalisation of market was undertaken to promote competition and a host country can only benefit from trade liberalisation if the

competition is protected in the market. According to him, through the process of privatisation, the monopoly has been transferred from public to private sector.

1.5 He recounted that CUTS has started its operation in Togo in the year 2008 and it has been extremely helpful for better understanding of competition issues. He stated the preservation and promotion of competition as the principal objective of competition policy and law. As the consequence of healthy competitive market, diverse quality products at a reasonable price is possible, he claimed which in turn will promote economic development. So, it is imperative to place an efficient competition policy and law to reduce the entry barrier and promote a healthy culture of competition in the markets.

1.6 He once again welcomed everybody coming to Togo, and hoped they will have very cherishing and prosperous experience through these three days. Saying so he declared the opening of the workshop.

2. Self-evaluation Exercise

2.1 The workshop began with the distribution of a self-evaluation questionnaire which participants were supposed to fill up and give it back to CUTS representatives. The questions were objective type meant to access the basic understanding of participants on competition issues. (refer the questionnaire enclosed as an annexure)

3. Session One: Introduction of competition law and policy

3.1 The first session was conducted by Mr. Christopher Brown, a specialist of competition law in Europe and barrister in Matrix Chambers, London

3.2 He started off by explaining the distinction between competition policy and competition law and interface between these two elements. He explained the relationship between competition policy and consumer protection policy. Actually, both of them have a common objective i.e. assuring the welfare of consumers. They both are complementary and strengthen each other mutually. While competition policy is based on offer which guaranties larger choice with lesser price, consumer protection policy is based on demand which assures that consumers take advantage of the choices.

3.3 According to him, the main goal of the competition policy is to fight against the anticompetitive practices like agreement to fix prices, agreement to allocate market, abuse of dominance, merger and acquisitions etc. But sometimes in order to render the national market more competitive or protect national market or compete in the foreign territory, it can promote national monopoly or merger and acquisitions among a lot of small companies or reduce the amount of tax for the exporters.

3.4 Introduction of a competition policy poses various challenges (manifested through dilemmas) before governments like, whether to opt for liberalised market or promote protectionism;

whether to prevent foreign investment or encourage them; to encourage monopoly or foster open competition, support the private sector or the public sector.

3.5 Companies often apply new ideas or developed product with reduced price in order to compete against their rivals in the market which is desirable. But if a law to oversee such behaviour of firms in the markets is absent, then often firms can engage themselves in practices that help them gain market advantage as compared to their rivals, but adversely affects consumers.

3.6 He enumerated four important elements of competition law, as follows:

- Collusive agreement between competitors (fix price, allocation of market, exclusion of non-cartel member etc.);
- Vertical agreement (imposed by the producer or the whole sellers etc.);
- Abuse of dominant market position and
- Competition Advocacy

3.7 Horizontal agreements are generally banned and punishable under all competition laws. But if it is not harmful for the national territory, such agreements sometimes helps domestic companies to fight in the international market (e.g., in case of export cartels). Horizontal agreements are not treated as illegal and often they are promoted in such scenarios.

3.8 Vertical agreement (between supplier and producer or producer and distributor etc.) is condemned if it is practiced by a dominant firm as it results in monopoly. For that, the first job of competition authority is to determine whether the firm is dominant or not which can be done in various ways.

3.9 The adoption of competition law follows that of a competition policy which is a commitment by the Government towards promoting a level playing field for all enterprises to compete on merit (considered as an outfall of the market liberalisation process), as compared to promoting *national champions*. Competition Agency is needed to apply the Competition Law. Sector regulators also need to supplement the process of competition law so that monopolies can be avoided and cartels that harm consumers can be prosecuted, in regulated markets.

3.10 Applying the law is difficult without resource; both human and material. Government support is always required but explaining the consumers about the advantages of competition law is also critical. Often, cartels are difficult to point out. Competition Authority has to have the power to identify these prevailing anti-competitive practices by inspecting, asking information or even raiding firms.

3.11 He talked of inter-governmental organisations like UNCTAD, World Bank etc. and countries like France, Germany, and UK who have been extremely active on promoting competition world over by providing technical knowledge etc. Influential NGOs like CUTS have also played a very critical role in promoting competition in the developing world.

4. Session Two: Practices regulated by the competition Law

4.1 This session was conducted by Mr. Lahcen Achy, project research advisor. As first objective of this session, he pointed the acquisition of basic knowledge on competition policy. Then the interface between competition and development is also crucial as competition alone can not bring development. Competition complemented by effective advocacy process can help achieve developmental goals.

4.2 He highlighted the role played by CUTS International as an advocate for promoting fair markets in developing countries as a means to achieving economic development and consumer welfare goals (that are commensurate with national developmental goals). He declared that during the workshop, stress will be given on the practical, real-life issues rather than sticking to the theories. As certain issues crosses the border and become trans-national, it gets difficult for a country to face the issue all alone. In order to intensify mutual cooperation, the importance of an international forum was also discussed. In this regard he shared with the audience efforts being made by the international development community, led by DFID UK in evolving an *African Competition Forum*.

4.3 Defining competition law, he said that every country went through two stages; regulation and liberalisation. Regulation always came before the liberalisation when sector regulators fixed the price for every item. But with time, the price of a regulated item gets liberalised. Liberalised market without regulation will lead to a 'savage market' where small actors are eaten by the bigger ones. In order to enjoy advantages of liberalisation, competition law has to be there as liberalisation alone results only expensive goods.

4.4 As three most important chapters of competition Law, he cited agreements, abuse of the dominance and market concentration. He then explained the thin difference between anticompetitive practices and unfair competition.

4.5 As unfair competition he mentioned belittling consumer by lying; misleading advertisement; cheating on weight or measurement. Counterfeiting and pirating, dumping and finally subsidy, he added were also actions that have anti-competitive outcomes in markets.

4.6 Yves Kenfack, the expert from UNCTAD added that anticompetitive practices have a more distorted effect in the market function while unfair practices are not as significant as the other one in global market.

4.7 Three most important anti-competitive practices are Agreements, Abuse of Dominant Position and Merger.

4.8 Cartel is where a limited number of firms fix the price or the output. In order to form a successful cartel, the number of the firm has to be limited. Another type of cartel is allocation of territory which can be local or national apart from international. Bid rigging is also a collusive agreement which can be bid suppression, complementary bidding or bid rotation. Pernicious results of cartel are price increase or reduced number of choice.

4.9 Two equally important components of abuse of dominant position are dominant position and abuse of it. Dominant position alone don't harm consumer. But abusing it by various means fall under anti-competitive practices. Predatory pricing where a dominant firm decides to sell a

product at very low price (below the normal value of the product), generally below cost to throw his rivals out of the market or to prevent entry of a new player, is the most common practice of a dominant firm. Once the rival is thrown out of the market, the perpetrator of such a practice (predatory pricing) increases the cost of the product again, gaining profits retrospectively. While explaining how to differentiate between a low priced good and predatory price, he also described how the term market can be vast and how it is very important to understand the term properly.

4.10 Finally, merger can be defined as the grouping of two or more active firms. There are 3 types of mergers. When one firm buys another competitor firm of the same level of production-supply chain, this is called horizontal merger. When they are in different level of production-supply chain, it's called vertical merger. Conglomerate Merger is when two diversified and unrelated firms merge together.

4.11 Then he moved to another very important part of competition issue, vertical restriction. Three types of vertical restriction are exclusive dealing arrangement, tie-in arrangement and price fixation arrangement. Market power is very important to exercise these anti-competitive practices. But unless there is a strong entry barrier, large market share can't alone guarantee the necessary market power of a firm to run these noxious practices.

4.12 Then he opened the floor where participants can ask question to any of the experts. Various issues were raised during the discussion, as follows:

- How to sensitize authorities and who will do that
- role of state-aid and if that can be considered conducive to competition
- How to differentiate between forced sale, tie-in sale and attached sale
- Interface between competition regulation and sectoral regulation – and how to achieve the best possible mechanism for cooperation between these authorities in the interest of competition
- Need for a forum to discuss issues pertaining to competition administration for African authorities – which exists in Europe, Asia or even Latin America but not in Africa as yet.

4.13 After lunch, Lahcen Achy started the session resuming his previous session on market power. He explained substitutability where two or more goods can be substituted for one another. He demonstrated the ratio of concentration with the help of a chart. Yves Kenfack, delegate of UNCTAD, contributed pointing the market condition where a cartel can be formed.

Group-work (Case study)

4.14 The participants were then divided in two groups and given an exercise. They worked for next 45 minutes with lots of enthusiasm and vigour solving the case. It was a highly successful session where everybody was seen enjoying the exercise.

5. Session Three: Introduction to the analysis of the competition

5.1 Lahcen explained the importance of Competition in the market and how it helps in achieving development. Then he elaborated the method used to access whether competition is present or absent in the market. First the *relevant market* has to be defined and identified and the structure

of the market has to be understood. If there is any entry barrier, it is necessary to understand the type of barrier; whether the barrier is natural, programmed or regulated. The next step is to analyse the influence of government institutions and competition policy on the market. Finding out interested groups of people willing to do the research is next step followed by analysing restrictions which can be both horizontal or /and vertical. This method has to be followed vigorously before drawing any conclusions.

5.2 Then he opened the floor for questions once again. A current case in Togo, involving Togocell and Moov (in the country's mobile telephone market) emerged. The Togolse government did not renew the license of the only private mobile company, Moov. This made Togocell (the incumbent government operator in the mobile market) assume the position of a monopoly in that market, and the company was seen to be abusing its dominant position in various ways (selling lines for a premium, making it difficult for consumers to get new connections legally, etc.). Lahcen was asked if the stand of Togocell can be considered as being an abuse of its dominant position and how to treat the customers of Moov. Lahcen said that it's a clear evidence of monopoly in the national market as there is a huge entry barrier in the market in the form of licence. Secretary General of ATC, Mr. Aladjou Agouta recounted the controversy from the very beginning and gave an update of the present situation. Finally it took the form of a debate where every participant contributed openly keeping it the context of competition policy and law. ATC informed the audience that it has unleashed a campaign to pursue the government to get Moov back to the Togolse market (especially after having developed understanding about anti-competitive practices, and the fact that there is a legal recourse to resolving such practices).

DAY-II

6. Session Four: Vertical Restraints

6.1 Yves Kenfack, the delegate of UNCTAD, started the day with vertical restraints after greeting everybody present and thanking CUTS for organising such workshop. He started explaining Vertical Restraints with the help of a lucid chart. Vertical agreement between producer and supplier or distributor can be both upstream and downstream. Among the principal vertical restraints, he started with exclusive-dealing agreement. Most of the time, it is harmless where producer wants to assure the quality to the retailer or final user. But if it is abuse of the dominant position, it is a hindrance for the competition. Then he explained how the end-year discount can be anticompetitive. Imposed price which is often prohibited by the competition authority, is anticompetitive where producer fix the price controlling the profit margin of the distributor and preventing them from giving a competitive discount to the consumers. Then he elucidated the concept of selling the loss or dumping and it raised several other questions where every experts as well as participants contributed.

6.2 For some time, the role of UEMOA Competition Commission vis-à-vis domestic competition issues in the member countries (8 member countries) was discussed at length. It really seems to be a contentious issue – and it emerged that there is a need to draw the line (or develop proper cooperation framework) between the UEMOA and the National Competition Commissions in the UEMOA member states of how to deal with national/regional competition cases.

6.3 Participants were again segregated into two different groups and they were given a case study based on this topic for next 45 minutes. At the end they discussed the advantages and the disadvantages of agreement which was very interesting. Before the lunch break, the feed back forms were distributed.

7. Session Five: Horizontal Agreements

7.1 Christopher Brown proceeded with his presentation on horizontal agreement. He stressed the importance of rivalry. To define horizontal agreement, he said it's an agreement between two firms in the same level of production-supply chain in the market. He cited different types of agreements like price fixation, output restriction, market allocation etc. and explained them briefly. He remarked that a market should have three important characteristics to prevent cartel; transparency, retaliation and free entry and exit to the market. He explained the additional Act No: 5 of CEDEAO (ECOWAS), where the effort of CEDEAO to safeguard competition in the market can be understood. He described the different notions of agreement and collaborative practices. He evoked the problem of oligopolistic market giving example of a real case of Europe where a manufacturer of paper was also paper pulp supplier for the market. He spoke of exchange of information between competitors to render the collusion more stable which can be also called practice of facilitation. They share their information to compare the performance of each market player and discuss the medium of the market or bench marking. However sharing information is not always anti-competitive. Like in financial sector (bank or assurance) sharing information on risk is pro-competitive as it's helpful for the market. He then discussed various issues related to horizontal agreement which can deter competition in the market and cause pernicious effect.

7.2 After a small tea break, he presented the tools to fight cartels. He started with leniency where firms are invited to come and confess about the cartel. If existence of cartel is proved, the reporting firm gets 100% exemption and if there is only substantial proof of cartel, there will be partial exemption. The order of approaching the competition authority is important here as the 1st firm approaching the authority will get 100% reduction on fine and the next only 50%. In support of his presentation, he provided some statistics where it is learnt that from 2002-2006 only, there were more than 160 applications for leniency.

7.3 He spoke about power of Authority to investigate which is necessary to identify the cartel. Three most important powers to investigate are: power of asking the firms for information, power of enquiring and power of spot inspecting, without prior information if necessary. There should be power of imposing fine in order to discourage other firms in the market to participate in a cartel. He gave a chart of fine imposed by EU for the last five years where the increase of total amount of fine per year is very significant. He informed that in certain developed countries cartels are more severely punished than just imposing fine. So it was proved that to succeed fighting cartel, apart from imposing fine, one competition authority with both human and material resource is required.

He finished his speech by giving a small but vivid bibliography so that participants can later refer to those books in order to increase their knowledge and strengthen their understanding on the subject.

DAY-III

8. Session Six: Abuse of Dominant Position

8.1 The last day started with the presentation of Yves Kenfack. He distributed a CD where one can find the legislations of competition of different countries

8.2 First of all he stated that only *abuse of dominant position* should be an issue of concern vis-à-vis competition, not if a company has a dominant position in the market. Explaining dominant position he said it is a situation where one firm either alone or with some other firms is in the position to dominate the market in terms of price, quality or quantity of goods. He explained the problems controlling abuse of dominant position. He explained how it is easy to find out the dominant position of a firm if there is only one firm in the market, without an equally strong competitor, but how difficult it is to understand how that firm is abusing its dominant position.

8.3 He talked of article 82 of the EU Competition Rules which treats abuse of dominant position. The practices which are related to abuse of dominance are price fixing or output restriction, barrier to the access of human capital or modern technology, refusal to deal etc. An example of each type was provided.

8.4 Floor was opened for questions. There were questions on discounts, competitiveness of bonus if bonus surpasses the salary, benefits of discount for the producer etc.

8.5 He restarted after a small break with the concept of economic dependence. It is a situation, when a buyer or supplier (firm) has such powers in the market that the others don't have any other option but to surrender to its demands. He stated that contrary to popular belief, the competition law is framed from the point of view of a dominant firm, not that of one that is dominated. To explain economic independence in detail, he cited a few examples of electronics or two wheeler markets and of television channels.

8.6 At the end, Christopher Brown pointed out that abuse of dominant position can be of two types. One where the organisation tries to exploit the market and the other where they try to exclude the competitors and he added that exclusion is more prevalent and dangerous as it creates an entry barrier, giving the incumbent organisation a monopoly which results in excessive price of goods. He mentioned rules followed by European Union to decide the excessiveness of market price as for a consumer any price hike will seem anti-competitive and illogical. But these rules are also not very helpful as it says market should be fair priced, which is quite vague.

8.7 After the break, participants worked for an hour or so on case studies. The final discussion was very much interactive where everybody asked questions and two experts Yves kenfack and Christopher Brown replied all the questions with pleasure.

8.8 Participants were asked to fill up the final self evaluation form given to them earlier.

9. Concluding Session

9.1 It marked the end of the workshop. Participants as well as partners and resource persons presented themselves where they talked about their organisations and brief work detail. General Secretary of ATC, Aladjou Agouta gave a small speech thanking the resource persons. He reminded everybody that it is in the tradition of CUTS to send the report of the proceeding and those who have missed some part of the workshop, are going to get it by CUTS. Then every participant shared their experience regarding the workshop. As most of the participants were practitioners, it was very important for them to understand these basic concepts – and most of them felt that their understanding has improved considerably.

9.2 Such basic knowledge would definitely help them in the successful implementation of the competition regime in their own countries. Participants reached a unanimous that they have never attended such workshop and this one is the first of its genre in the region of West Africa. They all emphasised the importance of conducting such workshops more frequently and help in capacity building for the practitioners.

9.3 The President of ATC was present there and he gave a small speech on the occasion. He welcomed everybody present there, and thanked once again the organisers to choose Togo as the venue of the events.

9.4 Finally the closing speech was delivered by Abe Talime, from the department of Internal Trade and Competition; Ministry of Trade and Industry of Togo. He thanked everybody for their efforts who made this workshop successful. He thanked CUTS to choose Togo as the destination for the workshop. As the competition is still a very new concept in those countries, he expected that soon there will be lot of improvement through the efforts of people present in the workshop; and that workshops of this kind are the perfect platform to improve and refine the knowledge. Thus ended the closing ceremony and that marked the end of the event.

Annexure 1:

Agenda of Workshop

Day I: Wednesday, 16th December, 2009

0800 to 0830 hrs: Arrival of the invitees and participant's registration

0830 to 0840 hrs: Welcome speech by ATC

0840 to 0850 hrs: Project presentation by CUTS

0850 to 0900 hrs: Consulate general of India in Togo, excellence Mr. Radhakishin Lalwani

0900 to 0915 hrs: Opening speech by honorable minister of commerce or his representative

0915 to 0945 hrs: Coffee Break

0945 to 1030 hrs: Self evaluation Questionnaires (Primary Exercise)
Rijit Sengupta, CUTS International
Representative of ATC, Togo

1030 to 1130 hrs: Introduction to Competition Policy and Competition Law
Christopher Brown, Matrix Chambers, UK

- Definitions- Competition Policy and Competition Law
- Distinctions between competition policy and competition law
- Components of competition law

1130 to 1300 h: Conducts regulated by competition law
Lahcen Achy, Research Adviser, 7Up4 Project

- Anticompetitive Practices (types with examples)
- Unfair Trade Practices (types with examples)

1300 to 1400 h: Lunch Break

1400 to 1600 h: Introduction to Competition Analysis
Lahcen Achy, Research Adviser, 7Up4 Project

- Market definitions, market shares and concentration
- Barriers to entry analysis
- Defenses (efficiency, failing firm etc)

1600 to 1615 h: Coffee Break

1615 to 1815 h: Case Study on Competition Analysis and presentations by Groups
Lahcen Achy, Research Adviser, 7Up4 Project

Day II: Thursday 17th December, 2009

0900 to 1030 hrs: Vertical Restraints
Yves Kenfack, UNCTAD

- Definition
- Types
- Competition concerns
- Dealing with vertical restraints
- Examples

1030 to 1100 hrs: Coffee Break

1100 to 1230 hrs: Case Study on Vertical Restraints and presentations
Yves Kenfack, UNCTAD

1230 to 1330 hrs: Lunch Break

1330 to 1500 hrs: Horizontal Agreements
Christopher Brown, Matrix Chambers, UK

- Definition
- Cartels
- Cartel conducts (price fixing, bid rigging, market allocation, output restriction)
- Other non-cartel agreements
- Dealing with cartels (corporate leniency, dawn raids etc)
- Examples

1500 to 1530 hrs: Coffee Break

1530 to 1700 hrs: Case Study on Horizontal agreements and presentation by groups
Christopher Brown, Matrix Chambers, UK

Day III: Friday, 18th December, 2009

0900 to 1030 hrs: Abuse of Dominance
Yves Kenfack, UNCTAD

- Dominant position
- Types (Exclusionary and exploitative)
- Dealing with abuse of dominance
- Examples

1030 to 1100 hrs: Coffee Break

1100 to 1230 hrs: Case Study on Abuse of dominance and presentations
Yves Kenfack, UNCTAD

1230 to 1315 hrs: Self evaluation Questionnaires (Final Exercise)

1315 to 1345 hrs: Closing remarks and way forward

Annexure 2:

SELF-ASSESSMENT QUESTIONNAIRE

(TO BE FILLED IN BY ALL PARTICIPANTS, ONCE BEFORE AND ONCE AFTER THE TRAINING)

I. Background:

CUTS is implementing a project on competition policy and law issues in seven countries of West Africa (Burkina Faso, The Gambia, Ghana, Mali, Nigeria, Senegal and Togo; referred to as 7Up4 project, www.cuts-ccier.org/7up4) – with a main aim of developing the capacity of national stakeholders from the government, civil society and business community to develop effective competition regimes in the project countries.

As a part of this project, a training workshop for competition practitioners, representatives from the relevant departments/agencies and civil society is being undertaken between 16th to 18th December 2009 in Lome (Togo).

This self assessment form has been designed to assess the level of knowledge and understanding of the participants on the subject. All participants are requested to fill up this form and return them to the CUTS staff at the workshop.

II. Personal Information:

Name: _____

Organisation: _____

Address: _____

Email: _____

Date: _____

Please identify the stakeholder group you belong to, by putting a [X] against the relevant category:

[] Competition Agency

[] Department dealing with Competition issues (in Ministry)

[] Civil society organisations (consumer organisations, advocacy groups)

[] Others (please specify)

III. Questionnaire

Each question below has various options. We request you to please give your response by selecting the most appropriate option. Please select only one response by putting a [X].

1. Which of the following is true about competition policy and competition law
 - Competition policy is part of competition law []
 - Competition law is a component of competition policy []
 - Competition policy and competition law mean the same thing []
 - The two can mean the same or different things depending on a country's system []

2. Which of the following government policies is not related to competition policy?
 - Industrial policy []
 - Intellectual Property Rights policies []
 - International Trade Policy []
 - Human Rights and Gender policies []

3. Which one of the following is not covered by competition laws?
 - Agreements between suppliers and customers []
 - Conglomerate mergers []
 - Refusal to deal []
 - Rampant corruption []

4. Which of the following constitutes an “unfair trade practice” and not an “anticompetitive practice?”
 - Misleading advertising []
 - Bid rigging []
 - Predatory pricing []
 - Refusal to deal []

5. Which of the following is not true about unfair trade practices and anticompetitive practices?
 - Only consumers can benefit from the enforcement of unfair trade practices as they are only intended for consumers []
 - Some countries have competition laws which also contain provisions relating to unfair trade practices []
 - Provisions on unfair trade practices include provisions ensuring that consumers are not misled into purchasing sub-standard products []
 - Some countries have incorporated provisions on unfair trade practices in their consumer protections laws rather than competition laws []

6. If producers of apples can profitably introduce a small but significant and non-transitory increase in price, despite the existence of pears and bananas, then the relevant market is made of

- Apples only []
- Apples, pears and bananas []
- Pears and bananas []
- None of the above []

7. 'Market concentration' is defined as

- The extent to which the market is dominated by a few large players []
- The extent to which buyers and sellers are spread in various sub-sectors in the geographic market []
- The ease with which buyers can get products in the market []
- The extent to which the market is far away from the buyers' residential places []

8. Which of the following is not an important stage in measuring market concentration?

- Defining the relevant markets []
- Identifying the location of the customers []
- Identifying the producers/suppliers in the market []
- Calculating market shares for the players []

9. Which of the following is not important to competition authorities in analysing entry barriers into a relevant market?

- The extent to which it is likely that entry will occur in response to significantly high prices being charged []
- The time needed for a company to be fully established to compete significantly []
- The extent to which entry by new players in the market will be sufficient and significant enough to change the behaviour of the incumbent firm []
- The potential entrant's business plan to assess whether the envisaged business will be profitable [].

10. Which of the following conducts is a vertical restraint/agreement?

- Exclusive supply/purchase arrangement []
- Predatory pricing []
- Price discrimination []
- Price fixing []

11. Company 'A' has entered into an arrangement with Company 'B' to prevent it from making or selling certain glass products in consideration of payment of an agreed compensation. As per the

arrangement, Co. 'B' is to sell its inventories to Co. 'A' and not associate with anyone for making or selling the glass products. This arrangement is an example of:

- Allocating markets []
- Restricting output []
- Fixing prices []
- Exclusive supply agreement []

12. What is the most appropriate comment about horizontal mergers and acquisitions?

- These lead to abuse of dominance on most occasions and should not be allowed []
- These reduce the number of players in the market and are therefore a violation of the competition law []
- These always reduce the number of players even though the reduction might not be significant or might lead to increase in efficiency and benefit the economy []
- Horizontal mergers are the least harmful to competition as they do not distort the market []

13. Which of the following has nothing to do with the assessment of dominance?

- Entry barriers []
- Market Shares []
- Number of players []
- Bid rigging []

14. Which of the following might not involve Cartelisation?

- Fixing prices []
- Allocating markets []
- Abuse of dominance []
- Bid rigging []

15 If a baker refuses to deal with a certain flour mill, under what category is this likely to fall?

- Abuse of dominance []
- Anticompetitive mergers and acquisitions []
- Horizontal agreements []
- Can't say/don't know []

Annexure 3

List of Participants

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