Senegal❖

– *Cornelius Dube*†

Senegal[1] is a country in West Africa with an area of 196,712 km^2. To its west is the Atlantic Ocean, to its north is Mauritania, on the east is Mali while on the south are the Republics of Guinea and Guinea Bissau. Located south of the Sahara, Senegal is in the tropical climatic zone characterised by two seasons: the wet season (June-October) and dry season (between November and May). Senegal has approximately 12.5 million inhabitants spread across multiple ethnicities (mainly Pulaar, Wolof, Serer, Diola).

Senegal obtained its Independence on April 04, 1960, from France. Senegal joined with the Gambia to form the nominal confederation of Senegambia in 1982. However, the envisaged integration of the two countries was not successful, and the union was dissolved in 1989.

PROFILE	
Population:	13.73 million***
GDP (Current US$):	24.05 billion***
Per Capita Income: (Current US$)	1,030 (Atlas method)** 1,653 (at PPP.)***
Surface Area:	196.7 thousand sq. kms
Life Expectancy:	63 years**
Literacy (%):	49.7*** (of ages 15 and above)
HDI Rank:	154**

Sources:
- World Development Indicators Database, World Bank, 2013
- Human Development Report Statistics, UNDP, 2011
(**) For the year 2011
(***) For the year 2012

Economy

Senegal belongs to the group of least developed countries according to the United Nations (UN) classification. About one third of the population lives below the poverty datum line. Senegal has initiated several development programmes aimed at achieving growth. Senegal concluded a series of agreements with the IMF and the World Bank in the form of Structural Adjustment Programmes (1981-1992). These became the basis for the New Agricultural Policy (NAP) in 1984, the New Industrial Policy (NIP) in 1986 and the restructuring of the public sector and public enterprises.

The reforms began with a 50 percent devaluation of Senegal's currency, the CFA franc, which was linked at a fixed rate to the French franc. Government price controls and subsidies have been steadily dismantled. On June 21, 2000, Senegal was admitted to the Heavily Indebted Poor Countries (HIPC) status under the IMF.

After seeing its economy contract by 2.1 percent in 1993, Senegal made an important turnaround, with real growth in GDP averaging 5 percent annually, during 1995-2003. As a member of the West African Economic Monetary Union (WAEMU), Senegal is working towards greater regional integration, with a unified external tariff. Senegal also realised full internet connectivity in 1996, creating a mini boom in information technology-based services.

Competition Environment and Legislation

Since 1965, Senegal has had competition laws governing most sectors of its economy, which include state-owned business enterprises within their general scope. As part of the SAP in 1994, Senegal embarked upon economic reforms under the World Bank initiative, and these reforms included the revision of competition law. The rationale behind these reforms was to create a favourable business environment to attract foreign investment and to integrate the country into the world economy. In 1994, Senegal adopted the Prices, Competition and Economic Disputes Act (No. 94-63) within the framework of SAP implementation, which was a revision of the previous competition law.

❖ Original paper submitted in 2006-07. Updated in January 2013

1 This section has borrowed heavily from the report prepared by the *Le Consortium pour la Recherche Economique et Sociale* (CRES) for the 7Up4 project implemented by CUTS in seven countries of West Africa in 2008-2010.

Senegal's competition law revision was aimed primarily at raising awareness, and was based on the independence of the competition authority. The main changes introduced since 1994 concerned the creation of a group of specialised investigators, and measures to enhance the powers of the Competition Commission.

The objectives of the Act include:

- to put in place a legal and institutional framework of competition suitable to meet economic changes affecting the functioning of the market;
- to create an independent regulator that can ensure workable competition;
- to establish a regulator that takes care of the interests of consumers in Senegal; and
- to implement a framework law on the promotion of competition.

Moreover, Senegal was also compelled by the preamble to the WAEMU Treaty of 10 January 1994 which states that Member States should comply with the principles of an open market and competitive economy. This also warranted the revision of the law in line with the WAEMU competition law.

The Senegalese legislation prohibits anticompetitive practices, such as anticompetitive agreements, abuse of dominance and anticompetitive mergers and acquisitions. The influence of regional competition law over national competition law has been reaffirmed by the 02/2002/CM/WAEMU Regulation of 23 May 2002 on anticompetitive business practices, which gives the regional body powers over anticompetitive practices within member states.

In addition, although the Senegalese competition law does not prohibit state aid, it is prohibited under the regional competition law. Article 5 of Regulation No 2/2002/CM/UEMOA provides that in line with Article 88 (c) of the UEMOA Treaty, any aid granted by States or through State resources in any form whatsoever, which distort or threaten to distort competition by favouring certain undertakings or certain products, are prohibited.

Anticompetitive Business Practices

Anticompetitive practices that have been alleged in Senegal include cartelisation in the transport sector, especially the intra urban transit. This transport is dominated by private operators, who arbitrarily set the prices and then influence the authorities to endorse them. Resale price maintenance is also alleged, where prices end up the same regardless of the transportation and other variable costs. This is alleged in the soap powder, liquid soap and milk powder, where prices would be the same across the country. Other allegations include market sharing agreements while the competition authority has also taken action on abuse of dominance.

There are also indications that the licencing of new operators in the telecommunication system has not always been transparent in Senegal, under allegations that the dominant firm would try to influence the market. It is also alleged that the development of the internet market has been hampered by Sonatel's monopolistic pricing of bandwidth on the only high-capacity international submarine fibre optic cable serving the country until 2007.

Box 1: Market Sharing Agreements in Senegal

Although this practice is not prevalent on a very large scale, some allegations have been levelled about the practice in the transport sector. On some intra-urban transport routes, it is alleged that some operators divide the routes into several markets as a way of extracting maximum returns from desperate commuters. Under the practice, a route is divided into three or four trips, which would result in commuters being obliged to take three vehicles for a trip that was supposed to be a single trip. Since the majority of the transport operators would be engaged in this practice, the travellers would have limited options. Due to this cartelised behaviour, commuters would be prejudiced of their hard earned money.

Source: *Le Consortium pour la Recherche Economique et Sociale* (CRES) (2010), ***Rapport de Recherche Sénégal,*** *CUTS International, 2011*

Box 2: Abuse of Dominance in the Air Line Industry

In December 2002, a union of travel agencies in Senegal approached the competition authority alleging abuse of dominance by Air France. This arose after Air France had decided to unilaterally lower the rate of commission for travel agents, which saw their turnover dropping by around 33 percent. In its judgement passed on December 27, 2002, the competition authority concluded that Air France was taking advantage of its dominant position in the France-Senegal route in which the company had a dominant position. In that route, it was also discovered that some travel agencies wholly depended on Air France, as around 50 percent of their turnover arose from their business relationship with Air France. The competition authority ruled that this was an abuse of dominance and ordered the practice to stop.

Source: *Le Consortium pour la Recherche Economiquet Sociale* (CRES) (2010), ***Rapport de Recherche Sénégal,*** *CUTS International, 2011*

Sector Regulation

Financial sector

The banking sector in Senegal is regulated by the Central Bank of West African States (BCEAO), which keeps tight control of monetary policy. The Central Bank of West

African States is the common central bank of the eight member states which form the WAEMU. The WAEMU is characterised by the recognition of a common monetary unit, the Franc, by all the member states. The member states are: Benin, Burkina Faso, Guinea Bissau, Ivory Coast, Mali, Niger, Senegal, and Togo.

The banking sector is composed of 19 commercial banks operating mostly in the three largest cities and representing about 90 percent of the financial system (IMF, 2012). Although there are many banks, the sector is relatively concentrated, with five largest banks accounting for about 66 percent of assets and collecting about 79 percent of deposits. A large number of microfinance institutions (MFIs) supply limited financial services with their activity highly concentrated in greater Dakar. MFIs have contributed immensely, as there are more people that have accounts at MFIs rather than at banks.

Telecommunications Sector

The Telecommunication sector in Senegal is regulated by the Regulatory Agency for Telecommunications, *the Agence de Regulation des Telecoms et Postes* (ARTP), which is in charge of regulating the industry and promoting the development of the New Information and Communication Technologies. The telecommunications regulatory agency was set up by the government in early 2002.

On December 14, 2003, Senegal's Parliament passed an updated telecommunications law that lead to further liberalisation of Senegal's telecommunications sector. The key element of the law was the creation of a quasi-independent regulatory agency under the Presidency. It further liberalised the market for a number of services; and removed some monopoly benefits held by publicly listed Sonatel, which retained a monopoly in basic telephone services until the end of 2003. The telecom sector (i.e both fixed and mobile telephone combined) is still dominated by Sonatel, which is also operating under France Telecom's Orange brand following its partial privatisation in 1997.

Competition in the fixed-line sector was introduced when Sudan's Sudatel entered as the second national operator in 2009 under the name Expresso. Its licence also includes the country's third mobile concession. Thus the fixed line sector generally consists of two players.[2]

In the mobile telephone market, Orange Senegal (part of Sonatel) is the market leader with a market share of about 62.9 percent based on the number of subscribers, followed by Tigo Senegal with 24.7 percent market share. Sudatel Telecom (Expresso) is the other player in the market with a 12.4 percent share of the market.[3]

Energy Sector

The Ministry of Energy (*Ministère de l'Energie*) is the apex agency in charge of formulating, coordinating, and setting overall objectives, policies, strategies, and general directives for the entire energy sector. Furthermore it is authorised to issue directives to SENELEC, the public utility provider. Senegal also has in place an electricity regulator, *La Commission de régulation du secteur de l'électricité du Sénégal* (CRSE), which is responsible for the monitoring of concession and licences (except for rural areas), for the market control (control of competition) and for fixing the end-user prices for electricity.

Another important institution with regulatory role is the Senegalese Agency for Rural Electrification (ASER), responsible for rural electrification. ASER, which was founded in 2000, is an autonomous public organisation whose roles include focusing on concessions which are granted for off-grid areas outside those for which SENELEC is responsible.

More than one-quarter of the households in Senegal have access to electricity, principally through SENELEC's interconnected grid. Electricity generation, mainly on a Build-Own-Operate (BOO) basis, is open to the private sector, and SENELEC would be the sole buyer, signing power purchase contracts with independent power producers. Thus there is scope for competition since independent power producers can enter the market and compete among themselves in generating power.

Consumer Protection

Currently, there is no stand-alone consumer protection law in Senegal. Consumer protection is however covered under the ambit of sector regulation (electricity, water, telecommunication etc.) as well as under the competition law, Law No. 94-63 of August 22, 1994. The competition law recognises consumer protection, with consumer interests being taken into account in determining the quality and price of goods and services available on the market.

Consumer associations exist across all sectors, with their functions being advocacy and lobbying. Thus, the consumer associations are also integrated into the decision-making process of all regulatory authorities. Their importance and presence in the landscape is such that some of them are sometimes misconstrued as state agencies responsible for consumer protection.

Examples include the *L'Association de Defense des Usagers de l'Eau, l'Electricite, les Telecommunications et les Services* (The Association for the Protection of Water, Electricity, Telecommunication and Service Users - ADEETels), and *L'Association pour la Defense de l'environment et des Consommateurs* (the Senegalese

2 http://www.budde.com.au/Research/Senegal-Telecoms-Mobile-and-Broadband.html
3 http://www.telegeography.com/products/commsupdate/articles/2012/10/10/artp-senegal-mobile-base-topped-10-7m-users-in-mid-2012/

Association for the Protection of the Environment and Consumers-ASDEC), which are the most active consumer organisations in Senegal. In addition to the two, Consumers International has a sub-regional office in Senegal.

ASDEC endeavours to protect the consumer against the expensive costs of products and services; informs and educates consumers to prevent them from buying bad quality or out-of-date products; and protecting the environment. As a way of protecting consumers against unsafe foods, the government has also enacted rules and regulations that guide importers and food manufacturers, as a requirement for the employment of food handlers.

With such laws and regulations in place, the government requires the labelling of canned and preserved food products applicable to both domestic and imported goods, and for both human and animal consumption. Such foods must carry a label in French, indicating the nature of the product, the duration of its preservation and, where required, prescriptions for its use.

The effectiveness of consumer protection is however limited due to lack of awareness among the average Senegalese about consumer protection issues, which points to the need for advocacy and capacity building in the area.

Concluding Observations and Future Scenario

The competition regime in Senegal is fairly strong given the long history of competition enforcement as well as a strong economic regulation framework. However, there are some issues that have to be enhanced for competition to improve in the economy. The harmonisation and clarity on roles between the regional competition law and the national competition law is not clear. There is some confusion over which functions should be dealt with by the community regulator and which should be addressed by national regulators. This has to be cleared to ensure the smooth implementation of competition law.

Political support for the national competition commission has waned, at a time when that for sector specific regulators has been strong. Sector regulators receive more funding than the competition authority. There is also more public buy-in for the sector regulators compared to competition authorities. There is need to enhance awareness of existence of competition laws and concepts among the civil society, government and political class.

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