



Capacity Building Policy in Select Countries of Eastern and Southern Africa (7up3) Project

Activity Report

In respect of

First Meeting of the National Reference Group (NRG)

Submitted by

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CONTENTS **PAGE**

List of Acronyms and abbreviations.....3

EXECUTIVE SUMMARY.....4

 Background.....4

 The Meeting.....4

MEETING ACTIVITIES.....5

Summary of presentations and related discussions.....5

Session 1: Opening Formalities.....5

 ▪ Statements from sponsors and organisers.....5

 ▪ Introductory Remarks (CONSENT).....5

Session 2: Technical Presentations.....7

Evolution of national Competition Law.....7

Preliminary Country Paper (PCP).....10

Session 3: General Discussions.....13

RECOMMENDATIONS.....15

CLOSING REMARKS.....15

ANNEXES.....14

 List of participants.....14

 Papers presented.....18

 1st NRG Meeting Program.....21

LIST OF ACRONYMS AND ABBREVIATIONS:

COMESA	Common Market for Eastern and Southern Africa (COMESA)
EAC	East African Community (EAC)
7up3	Capacity Building Policy in Select Countries of Eastern and Southern Africa Project
NRG	National Reference Group (NRG)
PCP	Preliminary Country Paper (PCP)
CONSENT	Consumer Education Trust
CUTS	Consumer Unity and Trust Society
CUTS-CIER	CUTS - Centre for Competition, Investment & Economic Regulation
MTN	Mobile Telephone Network
ERA	Electricity Regulatory Authority
INCSOC	International Network of Civil Society Organisations
WTO	World Trade Organisation
FDI	Foreign Direct Investments
ITC	International Trade Centre
UNCTAD	United Nations Conference on Trade and Investment
GATT	General Agreement on Tariffs and Trade
MTTI	Ministry of Tourism, Trade and Industry
UTODA	Uganda Taxi Operators and Drivers' Association
USEA	Uganda Services Exporters Association
ULRC	Uganda Law Reform Commission
EU	European Union
PEAP	Poverty Eradication Action Plan
TLB	Transport Licensing Board
PRSP	Poverty Reduction Strategy Paper

EXECUTIVE SUMMARY

Background:

The purpose of the project is to build capacity in select countries of Eastern and Southern Africa to assist them in formulating, implementing and/or enforcing competition policy and law at the national, regional and international levels. In order to design and implement an effective and appropriate competition policy, participation by stakeholders is crucial. The first step was to conduct research on the prevalence of anti-competitive practices and their ill effects, especially on the consumers. The research involves all the stakeholders and this has raised awareness and stimulated discussion and debate amongst different stakeholders as well as expected to produce better research output.

Consent is implementing the Project with the following goals:

Building capacity on competition issues in select countries for the purposes of national, regional and international level policymaking; and Raising awareness and stimulate discussion and debate on competition issues among different stakeholders

The following are the objectives of the project:

Conducting an evaluation of the competition concerns, including their regional dimensions, facing participating countries and the existing architecture for dealing with those concerns by identifying key constraints; Developing the capacity of all the stakeholders including the policymakers, regulators, civil society organisations, particularly consumer groups, academics and media persons to understand and appreciate competition concerns from national as well as regional and international perspectives, and Providing inputs for drafting new legislation or reforming existing legislation, drawing on best practice from other countries.

The other objectives include: Preparing and distributing materials on competition policy & law widely to raise national awareness; Identifying key stakeholders to form and institutionalise a national reference group in each project country and organise meetings/trainings; and Helping build constituencies for promoting competition and consumer awareness by actively involving and building capacity of policy makers, civil society organisations, academics and media persons.

The Workshop:

The first National Reference Group Meeting (NRG) was held on Wednesday June 1, 2005 at the Shangri-La Hotel, Conference Room in Kampala. It was convened as one of the activities under the ***Capacity Building Policy in Select Countries of Eastern and Southern Africa (7up3) Project***. The meeting drew participants from the public sector (government departments), regulatory bodies, civil society, the academia and researchers .

The meeting focused on discussion of the Preliminary Country Paper (PCP). The paper had earlier been circulated to participants and received considerable attention. Also presented at the meeting were the 7up3 concept paper and a paper on the evolution of Competition Law (Bill 2004) and the benefits of a competition regime. Participants at the meeting made several recommendations in line with the theme of the project. A follow-up meeting is planned to be convened after a survey is carried out to assess the status quo and map out the gaps as well as issues that need to be addressed in bid to realize the overall objective of the study.

SUMMARY OF PRESENTATIONS AND RELATED DISCUSSIONS

Session 1: Opening Formalities:

Welcome, Introductory Remarks by Mr. Henry Kimera, CEO, CONSENT

In his welcoming remarks, Mr. Henry Kimera noted that the meeting was a rare meeting of stakeholders on the subject matter of competition. He said competition enhances social welfare and national economies therefore leading to overall development. Highlights of the rest of his remarks included:

- Participants were invited to the meeting to analyse competition from the stakeholders' point of view. Outcomes would enrich the project and the move towards establishing a competition framework in the country;
- Issues of competition should not only be left to the Ministry of Tourism, Trade and Industry but also to other government ministries and departments like the Ministries of Local Government, Social Services, Finance and Economic Planning, among others;
- Business can not realize their objectives in the face of uncompetitive practices. Therefore, they need to be backed up by conducive policies, including a comprehensive competition framework;
- Uganda had scored substantially in sectoral regulation as reflected in the status of the telecommunications sector, public procurement and the electricity sector;
- Competition regulation should go hand with consumer protection through overseeing operations at retailing points. This would benefit the majority of Ugandans as it would make relevant the case for competition regulation.

7Up3 Project – A background presentation by Mr. John Ochola, Director, CUTS International, Nairobi

Mr. Ochola said that the vision of CUTS International was to help consumers attain sovereignty in the framework of social justice and equality. This is pursued within and across borders from the grass roots to the national, regional and global levels. Highlights of the rest of his presentation included:

- CUTS International operates in five countries in Asia, two in Africa and one in Europe.
- CUTS' operational centers included:
 - CUTS Centre for International Trade, Economics and Environment.
 - CUTS Centre for Competition, Investment and Economic Regulation.
 - CUTS Centre for Consumer Action, Research and Training.
 - CUTS Centre for Human Development.
 - CUTS Calcutta Resource Centre In Africa
 - CUTS Lusaka Resource Centre
 - CUTS Nairobi Resource Centre In Europe
 - CUTS London Resource Centre
- 7up3 project countries include Botswana, Ethiopia, Malawi, Mauritius, Mozambique, Namibia and Uganda. Implementation setup consists of research partner, to engage in assessment of

the prevailing competition regime in the countries and, an advocacy partner to undertake outreach activities and networking within the countries for sensitizing all stakeholder groups.

- He discussed the project implementation process that included Research and Consultation. The research phase would involve analyzing the macro-economic and institutional context of competition covering: Government policies (international and external liberalization, privatization and national ownership, regulatory policies, consumer policy) and national, regional and global dimensions of competition policy from the project country perspective. It would also involve analyzing market structure for competition abuses and distortions and incorporate cross-sectional perceptions on competition nationally (through questionnaire surveys).
- CUTS C-CIER would carryout overall project execution, including project planning and monitoring. CUTS Africa Resource Centre would focus on regional coordination with partners and other institutions at the regional level and CUTS London Resource Centre would oversee liaisons with donors and the international community.

SESSION 2: TECHNICAL PRESENTATIONS

Evolution of national Competition Law (Competition Bill 2004) and benefits of Competition Regime by Mr. Oule, Senior Commercial Officer, Ministry of Tourism, Trade and Industry

Mr. Oule noted that Competition law and policy deal with anti-competitive practices of firms. Sometimes referred to as antitrust, anti-monopoly or fair trade policy or law, the trade Ministry official said a good competition framework ensures that markets function efficiently, competitively and in the interest of the consumers or and businesses.

Other highlights of his presentation included:

- Competition law is aimed at addressing the conduct of cartels – particularly anti-competitive behavior (collusive). Cartels could be local, national or international in scope as seen in some countries. Collusive behavior could result in price hikes and limitation of consumers' choice.
- Competition policy was not a new issue and was once in the WTO framework. It is however not systematically developed. The Havana Charter, which was the source of the GATT 1947, contains Chapter V on competition but it was not carried to the GATT.
- The government of Uganda has responded to the need to regulate the anti-competitive practices that may arise due to its policies aimed at liberalization, privatization and attraction of FDI, among others.
- Government drafted the Uganda Competition Bill 2004 and also initiated consultations with stakeholders on the suitability of the proposed law in mitigating anti-competitive practices and its relation with similar laws in the region and multilateral regulations.
- In order to enhance the application of competition law and policy in the management of the national economy, it was necessary for Uganda to immediately put in place a competition law since its trade within the COMESA region had dramatically increased.
- As Uganda's integration in the area of trade deepens, the need for complete freedom of movement of goods, services, capital and persons within Uganda, east Africa and the COMESA region becomes increasingly important if people are to benefit from regional integration. This calls for rules and regulations based on fair, transparent and predictable trade within Uganda and in the region.
- Uganda was in the process of formulating a national competition policy and law in response to this emerging challenge. Uganda was therefore invoking the provisions of Article 55 of the COMESA Treaty and is now formulating a national competition policy and law with a view to establishing an enabling regulatory framework to business and business practices (fair) that do not harm consumers in any way.
- The meeting had the potential to contribute to debate which would further improve the country's competition policy since our competition law and other related laws.
- Benefits of Competition regimes include:

- Maintenance of the competitive process or, of free competition;
 - Freedom of trade; freedom of choice and access to markets;
 - Freedom of individual action (within certain parameters);
 - Securing economic freedom;
 - Lessening the adverse effects of government intervention in the market place;
 - Prevention of abuse of economic power or dominant position in the market.
- Domestic competition law and policy is likely to encounter problems when it comes to international problems such as cartels. Anti-competitive action arising out of power exercised by affiliates may be effectively addressed with international cooperation.
 - The issue of how best to approach competition law and policy in an international setting has been a hotly debated topic. The debate revolves around three questions:
 - How to harmonize national competition laws and practices (convergence)
 - How to improve cooperation among national competition authorities
 - How to create a multilateral framework
 - There's overwhelming evidence that openness and competition policy and law promote efficiency, innovation and growth and enhance consumer welfare. These approaches attach much importance to the promotion of dynamic efficiency and gains.
 - With globalization of the world economy, a country cannot prevent operation of Trans-National/Multinational companies or cross border trade alone hence a need to have laws of fair trade in place. Increased participation of trans-national corporations has precipitated acquisitions and mergers, which have sometimes had negative effects on domestic trade of the countries where such corporations operate.
 - Uganda's domestic competition law must aim at supporting the country's policy objectives under the framework of poverty eradication programmes in place or else the benefits from trade may not meaningfully be reflected in the national economic development indicators.

In conclusion, he noted that Competition law is good for both domestic and foreign investments.

Preliminary Country Paper (PCP) - Status of Competition Policy and Trade Environment in Uganda by Mr. Shaban R. Sserunkuma, Programs Director, CONSENT

In the preamble to the paper, Mr. Sserunkuma noted that as a poor, resource-challenged country, Uganda had realised immense benefits from trade as a key driver of economic growth since independence. However, he noted the onset of liberalization and globalization had come with challenges that had to be addressed. One of them was the need for a competition framework to protect markets and consumer interests.

Highlights of the PCP included:

Synopsis

- Uganda had predominantly relied on exports to provide foreign currency to import essential capital goods, inputs and consumer goods. The small size of the country's economy, coupled with a low consumer purchasing power makes access to large markets provided by

international trade crucial as it exposes local producers to competition thereby motivating them to achieve efficient production scales. It also boosts quality standards and consumer welfare.

Evolution of economy, markets

- An overview of the evolution of the economy and the country's trade policy reflect a major transition from petty internal trade to more complex regional and global trade.
- Uganda has experienced strong economic growth averaging 6.5% per annum since 1991/92. At the same time, the structure of the economy has been changing, as the share of agriculture fell from 51% in 1991/2 to 39% in 2002/3. Government aims to boost growth from 6.5% to 7% over the medium term through various interventions including:
 - Removal of bureaucratic barriers to investment;
 - Improvement in transport infrastructure and utility services;
 - Modernisation/commercialisation of agriculture, with emphasis on value-addition;
 - Instituting actions to improve rural access to finance and to strengthen SME development;
 - Putting in place actions to enhance environmental sustainability;
 - Restoration of security in Northern Uganda;
 - Continued focus on HIV prevalence reduction and impact mitigation.

Social and economic policies affecting competition

- Social and economic policies affecting competition include Uganda's apex development policy, the Poverty Eradication Action Plan (PEAP). The PEAP provides an over-arching framework to guide public action to eradicate poverty. It has been prepared through a consultative process involving central and local Government, Parliament, donors and civil society. Others include trade policy, investment policy, government procurement policy, labour policies, policies of SMEs,

Trade policy

- Uganda does not have a modern, comprehensive trade policy but a series of scattered provisions in other policies. Considered together, they seek to facilitate the full and effective integration of Uganda into regional and global markets, and to facilitate the economic and social transformation of Uganda into a competitive, flexible and outward-oriented economy for the benefit for all Ugandans.

Nature of market competition

- Except in retail trade, the level of competition locally is relatively low given the infant nature of the country's industrial sector. But in most areas involving huge capital investments, a *de facto* oligopolistic setup has emerged.
- Sectors where deregulation was instituted are those considered crucial to the economy to check anti-competitive activities and actions of unscrupulous firms and persons that could be injurious to the economy and to individual consumers. It was also due to the need to put in place a rigorous regulatory regime following withdrawal of government from business.

Competition regulation

- There is currently no law or set of laws in Uganda that address the exclusive subject of competition in business. Private monopolies are not normally subjected to any restrictions or control, but in certain sectors such as finance (insurance) there are certain rules at least on mergers and similar phenomena. In general it would be safe to say that any regulations to prohibit or sanctions restrictive practices and enhance competition is largely, part of other legislations.
- Competition regulation has been instituted in some sectors that have recently been restructured. However, restrictive trade practices or unfair trade practices are not broadly defined under the established frameworks and therefore are not *per se* illegal. Nevertheless, a fair level of competition has been encouraged which could act as a bedrock for establishing a culture of competition that requires considerably less effort to enforce.

Anti-competitive practices in Uganda

- Anti-competitive practices (ACPs) that prevail in Uganda include cartelisation, restrictive trade practices, abuse of dominance and unfair trade practices. ACPs cover agreements involving implicit or explicit arrangements between firms competing with identical or similar products in the same market. Such arrangements are mostly between producers or between wholesalers or between retailers dealing in identical or similar kinds of products.

Restrictive Trade Practices (RTPs)

- RTPs include Vertical arrangements that generally refer to agreements between undertakings operating at different stages of the production and marketing chain. Perhaps RTPs are the most obvious in the local trade environment.

Consumer protection mechanisms

- Scattered provisions on consumer protection and welfare exist in sectoral policies (water, telecommunications, electricity, etc). However, a comprehensive consumer protection policy is not in place yet, although a draft to the effect is expected to be originated by cabinet when it's considering the draft proposed Consumer Protection Bill. The absence of consumer protection policy and supportive legislation in the country means that consumer perspectives in trade are not taken into account. In case they are considered, it is haphazard done.

Recommendations and conclusions

- Competition policy and law can have a role to play in ensuring that trade liberalisation and consumer welfare are not undermined by anti-competitive behaviour.
- Ugandan competition law and policy could encounter problems when it comes to international problems like cartels and mergers. The EAC and COMESA competition framework should provide the necessary linkages and support to address those bottlenecks.
- Uganda has no specific legislation on competition, although there are policies used to influence the local markets e.g. trade policy, industrial policy, investment and licensing regulations, company and partnership laws, labour and environment laws.

SESSION 3: GENERAL DISCUSSIONS

ISSUES RAISED	RESPONSE AND PROPOSAL
<p>Low production capacity:</p> <ul style="list-style-type: none"> A common problem in Uganda, particularly in the power sector was that of scarcity of commodities/services. This makes regulation and competition hard to enforce. 	<ul style="list-style-type: none"> Attracting quality investments in areas where competition had not yet taken root In the short-run, interventions to promote efficiency and consumer protection would lessen need to regulate.
<p>Monopolies:</p> <ul style="list-style-type: none"> There are monopolies in the utilities and other productive sectors as the sectors have only recently undergone liberalization and privatization. Their existence could be at the detriment of consumer welfare. 	<ul style="list-style-type: none"> New policy ensures that there is competition (access) in certain sectors of the economy e.g. generation and distribution. There should be provisions in the competition law that should protect consumers, also Through consumer education, consumers would be made aware of their rights and obligations, which would afford them substantial protection.
<p>Structural, policy weaknesses:</p> <ul style="list-style-type: none"> Sectors in which players require huge investment capital take long to recoup benefits. Therefore, they set stringent conditions in order to reap the gains. These conditions affect competition. 	<ul style="list-style-type: none"> The telecommunications and power sectors have had a different background and were restructured differently. They would eventually be relatively opened up. Competition existed in the power sector in the areas of support service deliver i.e. procurement of equipment and wiring services.
<p>Delay of enactment of law on competition:</p> <ul style="list-style-type: none"> The draft was held for a long time. Uganda was lagging behind her neighbours. There was need for expediting the enactment of a policy and law on competition. 	<ul style="list-style-type: none"> The process of enactment of a policy and law on competition within the East African Community affected Uganda. As a member state to the trade body, the country has to harmonise its domestic reforms to the regional initiatives causing delays. Draft law on dumping was with MTTI, which considers subsidies and countervailing issues.
<p>Consumer Protection law:</p> <ul style="list-style-type: none"> Draft had taken a long time to move to Parliament. Consumer welfare was grossly compromised and could get worse when competition regulation was not in place. 	<ul style="list-style-type: none"> Draft law was with MTTI and was expected to proceed to Parliament. Draft Sale of Goods and Services law was place under the MTTI. Cabinet decision still awaited.

<p>Public transport:</p> <ul style="list-style-type: none"> • The Transport Licensing Board, the apex regulatory body for public transport in the country didn't seem to be recognised by government when formulating policies. This had led to unfair and uncompetitive behavior in the public transport sector. • Uganda Taxi Operators and Drivers Association (UTODA), the local commuter taxi services management organization, fixes fares and bus routes. This is to the detriment of consumer welfare. 	<ul style="list-style-type: none"> • The ULRC should come up with new regulations and take charge of the public transport sector in the country. • The Ministry of Transport, Works and Communication was in process of carrying out a study to establish problems and challenges in the public transport sector. • A public transport regulatory agency was in the pipeline. It would take charge of regulatory issues in the sector. • The Transport Licensing Board (TLB) should regulate the industry instead of business-oriented organizations like UTODA.
<p>Establishment of competition, culture:</p> <ul style="list-style-type: none"> • An appropriate policy and law on competition should be enacted to take care of the market. • In order to facilitate a competition culture so as to create a positive attitude towards competition, there was a lot that could be done in terms of educating stakeholders. 	<ul style="list-style-type: none"> • Nkozi University in Uganda was planning to introduce public lectures on competition. This should also be carried out in other institutions of learning. • Uganda's supreme development and planning framework [PRSP], the PEAP II did not address competition. However, trade issues had been included in new version. • Sectoral regulation was important as it protected markets and consumers from anti-competitive practices. • Competition policy and law should not only focus on consumers, it should also focus on farmers on the ground. • Members of Parliament could advocate for the draft and proposed laws that have are pending
<p>Contents of PCP first Draft:</p> <ul style="list-style-type: none"> • There was need to include more sectors in the PCP, particularly in the sectoral approaches e.g. education, transport, and services. 	<ul style="list-style-type: none"> • There was need by all stakeholders to scrutinise the status quo in a bid to establish elements of competition, uncompetitive practices and then devise a way forward.

Recommendations

- Sectoral regulation was important as it protected markets and consumers from anti-competitive practices.
- Government should ensure the attraction of quality investments in areas where competition had not yet taken root. However, in the short-run, interventions to promote efficiency and consumer protection would lessen need to regulate.
- There was need by all stakeholders to scrutinise the status quo in a bid to establish elements of competition, uncompetitive practices and then devise a way forward. The 7up3 project (NRG) provides a conducive forum for this to take place.
- Draft policy and law on competition need to be pushed out of the MTTI so as to be enacted. Parliament should help in expediting the process through persuading government to take the necessary steps. Other related and supportive laws and policies should be equally handled like the draft Sale of Goods and Services, consumer protection law.

Closing remarks

In his closing remarks Mr. Kimera Henry Richard, CEO, CONSENT said that issues of competition do not end at the business-to-business level. He said it covered policymakers, the mass media, regulatory bodies, Civil Society Organisations, consumers, academia and the general public.

He noted that there was need of harmonization of efforts in competition regulation in the region. Giving the example of the institutional framework envisaged in the proposed competition policy and law, he argued that Uganda could face challenges at the East African Community level.

The CEO of CONSENT said that the 7up3 project provided a unique opportunity for stakeholders to contribute to the competition regulation process, including enactment of an appropriate policy and law. He said by coming up with the PCP preliminary paper it would provide a good baseline that would be used to institute an array of interventions to ensure a culture of competition takes root in Uganda. He commended the participants for their contributions.

ANNEXES

List of participants

**List of Participants at the 1st 7Up3 Project National Reference Group Meeting
held on 1st June 2005 at Shanghai Restaurant, Kampala Uganda.**

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Papers presented

EVOLUTION OF COMPETITION LAW (BILL 2004) AND THE BENEFITS OF COMPETITION REGIMES

Introduction

Competition law and policy deal with anti-competitive practices of firms. Sometimes it is referred to as antitrust, anti-monopoly or fair trade policy or law. These all emphasise that it is not the same thing as *laissez-faire*. It therefore ensures that markets function efficiently, competitively and in the interest of the consumer or user industries.

The key concept in competition law is that of cartels, a group of firms that fixes prices/outputs in a market. The effect of this is price hikes and limitation of consumers' choices. Cartels can be local, national or international in scope as seen in some countries.

In 1997, a World Bank study conducted by Levenstein and Ushlow revealed that anti-competitive practices affected imports to developing countries by US\$ 81 billion and the excess profits were taken back to developed countries.

The Evolution of the Anti-competition Law

There is growing incidence of anti-competitive practices with transnational dimensions and this particularly impedes market access. This scenario undermines the intended benefit of trade liberalization such as expanded supply and lower prices.

Competition policy is not a new issue in the WTO where Uganda is a member. It is however not systematically developed but there are sections of WTO Agreement, which refer to competition. The Havana Charter, which was the source of the GATT 1947, contains Chapter V on competition but it was not carried to the GATT.

The government of Uganda has responded to the need to regulate the anti-competitive practices that may arise due to its policies aimed at liberalization, privatization and attraction of FDIs among others. Government has therefore drafted the Uganda Competition Bill 2004 and also initiated consultation with stakeholders on the suitability of the bill in mitigating anti-competitive practices and its relations with similar regional bills and multilateral regulations.

To enhance the application of competition law and policy in the management of national economies as well as the link between national competition laws, the multilateral competition obligations, the EAC and the draft COMESA Regional Competition Regulations and rules, it is necessary for Ugandans at this stage to immediately put in place a competition law since our trade within the COMESA region has dramatically increased. National competition policies are now operational in Namibia, South Africa, Zimbabwe, Tanzania and Kenya in accordance with the regional competition policy in the COMESA Treaty called the COMESA Competition Regulations.

As Uganda's integration in the area of trade deepens, the need for complete freedom of movement of goods, services, capital and persons within Uganda, east Africa and the COMESA region becomes increasingly important if people are to benefit from regional integration. This calls for rules and regulations based on fair, transparent and predictable trade within Uganda and in the region.

Uganda is in the process of formulating a national competition policy and law in response to this emerging challenge. Uganda is therefore invoking the provisions of Article 55 of the COMESA Treaty and is now formulating a national competition policy and law with a view to establishing an enabling regulatory framework to business and fair business practices that do not harm consumers in any way.

This workshop may also contribute to debate which may further improve the country's competition policy since our competition law and other related laws such as the WTO Implementation bill, the Anti-dumping Law, the Consumer Protection Law, the Trade Licensing Law and the Sale of Goods Act have had their Cabinet memos passed and now await the approval of parliament.

These laws affect the market structure, other external factors and policy interventions, trade and competition policies, competition and openness, the contribution of competition policy and law to economic development and objectives of competition laws and policies.

Benefits of Competition regimes

Today most countries have their competition laws and most of the countries now drafting their competition laws are developing countries. The aim is to cater for such issues as:

- Maintenance of the competitive process or, of free competition
- Freedom of trade; freedom of choice and access to markets
- Freedom of individual action (within certain parameters)
- Securing economic freedom
- Lessening the adverse effects of government intervention in the market place
- Prevention of abuse of economic power or dominant position in the market
- Achievement of economic efficiency

Competition law and policy can have a role to play in ensuring that trade liberalization is not undermined by anti-competitive behaviour. Domestic competition law and policy is likely to encounter problems when it comes to international problems such as cartels. Anti-competitive action arising out of power exercised by affiliates may be effectively addressed with international cooperation. The issue of how best to approach competition law and policy in an international setting has been a hotly debated topic.

The debate revolves around three approaches:

- Harmonizing national competition laws and practices (convergence)
- Improving cooperation among national competition authorities
- Creating a multilateral framework

The overwhelming evidence is that openness and competition policy and law will promote efficiency, innovation and growth and enhance consumer welfare. In fact, modern approaches to competition law and policy increasingly take account of a typical market structures and other circumstances in which the application of competition law and policy becomes of paramount importance. As noted, these approaches attach much importance to the promotion of dynamic efficiency and gains. The "tailoring" of competition law and policy to respond to these situations is, in fact, an important element of the overall formulation and application of competition law and policy.

Uganda has obligations at regional and international levels. As a member of various international organisations such as the WTO, UNCTAD, ITC, etc, which among others require members to

have competitive laws and policies, Uganda has had to comply with these requirements. With globalization of the world economy, a country can not prevent operation of Trans-National/Multinational companies or cross border trade alone hence a need to have laws of fair trade in place.

Undesirable outcomes from anti-competitive behaviour can be in form of high prices for goods and services the consumers pay which in turn erodes their ability to save and enhance their social/consumer welfare. Availability of affordable goods and/or services is a desirable outcome, which the competition law and policy should address.

Today, the increased participation of trans-national corporations has precipitated acquisitions and mergers, which have sometimes had negative effects on domestic trade of the countries where such corporations operate. An example in the region (EAC or COMESA) could perhaps illustrate. The merger of M/S Coca-Cola with M/S Schweppes in Uganda was such that Government could not negotiate for the stay of the Schweppes Company which was liquidated due to absence of the competition law.

Another local example in Uganda is the provision of mobile telephone services by more than one company, which resulted in the lowering of phone service charges to the consumers. This resulted in an obvious benefit to the social or consumer welfare.

There is also need to mention that quite often when other firms (foreign) are to enter the domestic market, local goods and service providers have the fear of being crowded of business. The competition policy may also have a mechanism to look into such fears.

Competition laws and policies have the objective of lessening the adverse effects of government intervention in the market. But for the purposes of attaining certain policy objectives such as food security and handling the marketing of agricultural produce, which is of domestic and regional importance; State Trading Enterprises may become necessary. These types of enterprises ensure predictability in addressing quality and standards when it comes to import of inputs. Their existence impacts on the competition policy for the sake of attaining desired policy objectives as already mentioned.

Competition law and policy can have a role to play in ensuring that trade liberalization is not undermined by anti-competitive behaviour. Rivalry amongst enterprises only for the sake of attaining dominant positions in the market is not the competition that we want to achieve. Our domestic competition law must aim at supporting our policy objectives under the framework of poverty eradication programmes in place or else the benefits from trade may not meaningfully be reflected in our national economic development indicators. The attainment of the socio-economic objectives from trade must however be within the multilateral trade framework so that our competition law enables the establishment of a predictable trade regime in the country.

Competition law is good for both domestic and foreign investments. But it should be noted that the consumer and overall national economic development should not be left out in the final cost benefit analysis.

Program

7Up3 Project Competition Meeting Program – 1st June 2005

- 0930 Arrival and registration
- 1000 Opening remarks by Mr. Kimera Henry Richard, CEO, CONSENT
- 1010 Introductory remarks of the 7Up3 Project: Objectives and Project Activities by Mr. John Ochola, Director, CUTS International, Nairobi Office
- 1030 Evolution of Competition Law (Bill 2004) and Benefits of Competition Regimes by Mr. Owure DE, Senior Commercial, Ministry of Tourism, Trade and Industry
- 1100 Status of Competition Policy and Environment in Uganda – Country Paper by Mr. Shaban R. Sserunkuma, Programs Director, CONSENT
- 1130 Health break refreshments
- 1145 Brainstorming and Feedback, chaired by CONSENT
- 1345 Next stage strategies for collective action by CONSENT
- 1400 Health Lunch and Departure