



**Opening Remarks by Chairperson of the ACF on the occasion of the 2018 Biennial ACF
Conference**

11 October 2018

Marrakech, Morocco

by Deputy Commissioner Hardin Ratshisusu, Competition Commission of South Africa

Programme Director,

Deputy Chairperson of the African Competition Forum and Executive Director of the Competition Commission of Mauritius, Mr Deshmuk Kowlessur,

President of the Moroccan Competition Council and our gracious host, Mr Abdelali Benamour,

Director of Competition, Prices and Promotion of Investments in the Ministry of General Affairs and Governance, Mr Hassan Boussemame,

Heads of Delegation from Competition Authorities and multilateral institutions,

Representatives of UNECA and UNCTAD,

Distinguished guests,

Ladies and gentlemen,

All protocol observed.

It gives me great pleasure to address you on this occasion of the second biennial conference of the African Competition Forum. We last met in this way at the 2016 biennial conference in Port Louis, Mauritius. Five years before that, we had our inaugural conference in Nairobi, Kenya.

We started off in 2011 as 19 members with an ambitious agenda to promote and deepen the role of competition policy in promoting inclusive growth, economic development, and poverty alleviation across the continent. We have continued to build this institution on the principles of mutual cooperation, respect

for each other and inclusiveness. It is a testament to the efficacy of our efforts and the strength of our commitment that we have grown, in just seven short years, to thirty-six members, including five regional competition authorities. Perhaps this is also an opportune moment to specially welcome to the ACF family our newest members, Nigeria and the East African Community. We look forward to building the ACF until its footprint extends across all corners of our continent.

We meet at a time that is both challenging and exciting. Our economies are not performing optimally. In most parts of our continent, we still face challenges of poverty, slow growth, and inequality, compounded by market concentration, high barriers to entry and anticompetitive practices within and across countries. Our markets are dominated by a few firms that operate across countries, so sharing information is crucial to understanding the strategies and conduct of these firms.

Through the African Competition Forum we have created a platform for competition authorities to explore ways and means to address not only the narrow orthodox competition challenges, but also to look at the broader objective of economic growth and development. We are using competition regulation to open markets, to create opportunities and to promote inclusive growth.

In our commitment to cooperation, we are contributing towards realising the African Continental Free Trade Area's vision of a common market of more than a billion people and a GDP of over USD\$3 trillion, which according to UNECA, is projected to increase intra-African trade by more than 52.3% by 2022.

As we prepare for the challenges that lie ahead, we should also take this opportunity to outline the successes of the ACF over the last two years and set out our objectives for this conference.

Over the past two years, we have made considerable strides in all three work-streams of the ACF, namely, facilitating integration, capacity building and advocacy. We have seen an increase in the number of staff exchanges, bilateral MOUs between ACF members, information-sharing, and case-based cooperation.

In the last 2 years, we have hosted six capacity-building workshops:

- In 2017 we hosted two workshops in partnership with the US Federal Trade Commission, one on cartel investigative skills in Zambia and the other on merger review in Malawi.
- In 2018, we again hosted two workshops in partnership with the US Federal Trade Commission, one on merger review in Kenya and the other on the preparation and execution of dawn raids in Tanzania.
- We held two successive ACF capacity building workshops focusing on Agency Effectiveness on the sidelines of the OECD's Global Forum in France, and we thank the OECD for hosting these events, which we anticipate will be a permanent feature at every Global Forum.

In total, 134 case handlers participated in these workshops, all of whom greatly benefited from the knowledge shared.

Our work plan also included hosting a workshop on cartel investigations focused on the French-speaking countries within the ACF. Unfortunately, this could not be achieved in this term for various reasons but still remains a priority.

An important element of our approach to capacity-building has been our commitment to focus on practical case studies based on our experiences as African competition regulators. We are very proud of all our investigators across the continent who take part in these workshops as these enrich their understanding of competition law and economics, a key ingredient in effective competition enforcement. The workshops have also allowed us to develop a pool of trainers amongst our members to continue conducting these capacity-building sessions.

Since we have all committed to sharing our successes, I am pleased to announce that all of us gathered here today have become published authors since our last conference. In February 2017, the Human Sciences Research Council in South Africa published a book containing cross-country ACF studies entitled '*Competition in Africa: Insights from Key Industries*', which draws insights on the nature of competitive rivalry and the power and interests of large firms in four key sectors in southern and East Africa. This notable achievement has been followed by cross-country research in a further five sectors, namely, telecommunications (in which two competition authorities participated), cement (in which one competition

authority participated), construction (in which six competition authorities participated), fertilizer (in which two competition authorities participated) and liquefied petroleum gas (in which two competition authorities participated). These sector studies are at an advanced stage.

The ACF has also continued to invest in its relationships with strategic partners such as the ICN, UNCTAD, OECD, BRICS, and the World Bank and has become an authoritative voice for young and developing agencies globally. The World Bank, which has been a longstanding partner of the ACF, has committed to conducting a study on *Institutional Design for Agency Effectiveness* in partnership with the ACF over the next two years. We look forward to this collaboration.

We can all be proud of the successes of the past two years, more so since they were achieved under trying circumstances. The ACF remains a self-funded virtual network. It relies on the generosity and willingness of member agencies to give of their time and resources in service of a collective goal. Though this has its challenges, we have shown that much can be achieved despite limited resources.

That said, we do acknowledge that we can always work smarter in the digital age to improve communication and to achieve greater inclusion across the artificial barriers of borders and language that seek to divide us. We are confident that we have laid a solid foundation to overcome these barriers and that the ACF will continue to grow from strength to strength.

An important next step in our growth, is to renew our focus on the investigation and prosecution of all anticompetitive conduct. The main areas for competition regulation in our region are on mergers, cartel enforcement, abuse of dominance, and advocacy. Case-related cooperation in competition regulation and policy is imperative and should be purposefully and proactively pursued by our competition agencies. There have been, and there continues to be, multiple cross-border investigations that emanate in one jurisdiction relating to particular products or services by particular firms that will inevitably be exported across the globe, including into our region. Examples of these investigations include:

- Investigations into shipping liners;
- Investigations into collusion over car parts;

- The forex market manipulation investigations;
- Investigations into pharmaceuticals; and
- Recent mega-mergers in agro-chemicals which raised similar competition concerns across jurisdictions.

We need to work more in concert in tackling cross-border cartels, unilateral anticompetitive conduct and mergers, as our case-focused cooperation has been less than optimal.

A lack of cooperation in competition enforcement is a result of many things, including capacity constraints as well as information asymmetry. Cross-border anticompetitive conduct commonly involves large multinationals and more often than not, the first enforcement actions against these firms begin where these firms are headquartered. This invariably means that some countries are left behind in the starting blocks and have to rely on those competition agencies who have initiated investigations first for information on those investigations. Without deliberate case-related cooperation within the ACF this serious enforcement vacuum relating to cross-border anticompetitive conduct will persist. It is therefore important that the ACF urgently begins to think about developing mechanisms to engender deeper cooperation.

I am acutely aware that the ability of competition authorities to effectively tackle these anticompetitive practices and investigate complex cross-border mergers is often constrained by inadequate resources and, in some cases, the absence of enabling institutions. It is important that our countries recognise the need to strengthen competition authorities as they form the backbone of effective competition enforcement.

In the past, we have focused on capacity building and research. Given the changes in our economies and the growing concern that anti-competitive practices are not abating, we need to strengthen our cooperation on investigations, particularly those with cross-border effects. The regional integration agenda is a significant step and it can only succeed if anchored by strong competition enforcement at national, regional and continental level.

As we continue to engage on these and other issues, I hope that we will consider both the challenges and opportunities for the ACF with the view to establishing an inspirational vision for the next two years underpinned by a practical strategy for effective implementation. This Conference should identify the key research areas for the next two years, with specific commitment to extending research capacity and capacity-building on new challenges for competition authorities emanating from the fourth industrial revolution. We need to be ready to tackle big data, complex algorithms and global multinationals that may abuse their dominance across our region.

Over the next two days, we shall explore the following three main themes:

- Regional integration, focusing on the interface between trade and competition;
- Procedural aspects of market studies; and
- Advocacy and agency effectiveness.

We have high calibre panels who will share their practical experiences and insights on these key topics.

In closing, I note that South Africa has had the singular honour of serving as Chair and Secretariat of the ACF for the past four years. It has been a privilege to act in service of this pan-African body and we could not have done so without the support of all here present. I particularly wish to thank all the members of the Steering Committee, and especially the Commissioner of the Competition Commission of South Africa, Mr Tembinkosi Bonakele and the Executive Director of the Competition Commission of Mauritius Mr Deshmuk Kowlessur, for their leadership, contribution, guidance and support for the work of the ACF.

I also wish to thank our interim Secretariat located in South Africa, the Fundraising Committee located in Botswana and the Secretary based here in Morocco for contributing to the operational success of the ACF. I finally would like to pay tribute to Dr Seydou Sacko from ECOWAS for his contribution to the work of the ACF. This is more so as we congratulate ECOWAS for the inauguration of the ECOWAS Regional Competition Authority recently in The Gambia.

One final special thanks to Professor Hassan Qaqaya, Ms Lydia Molefe and Ms Precious Mathibe for their contribution and hard work towards the inaugural ACF newsletter which will be launched during this Conference.

The ACF has grown into a formidable proponent for competition regulation not only in Africa but across the world. As the ACF, we derive strength from the commitment shown by all our members and our continued resolve to tackle anticompetitive practices to make our continent more competitive for the benefit of our people.

Let me also take this final opportunity to encourage you to attend the upcoming ICN Unilateral Conduct Workshop taking place on 1st and 2nd of November 2018 in Stellenbosch, South Africa.

I look forward to fruitful and engaging debates over the next few days.

Let us make the ACF work!

Merci beaucoup pour votre attention