Interview with Tembinkosi Bonakele, Commissioner, South African Competition Commission

Editor's Note: *Tembinkosi Bonakele has been Commissioner of the South African Competition Commission since April 2014, having served as Acting Commissioner since October 2013. Prior to that, he served in various senior positions at the Commission, including head of mergers, head of compliance, senior legal counsel, and Deputy Commissioner. He previously practiced with Cheadle Thompson and Haysom in Johannesburg, largely in the areas of labor law, regulation and health and safety, and with the corporate finance and antitrust groups at Clifford Chance's New York office. He occasionally teaches competition law at the University of Fort Hare, Wits University, and is a fellow of the University of Johannesburg's Centre for Competition, Regulation and Economic Development. Bonakele currently serves as the Chairperson of the African Competition Forum and is a member of the International Competition Network Steering Group. He holds a BJuris and an LLB from the University of Fort Hare and an MBA from Gordon Institute of Business Science (GIBS), University of Pretoria.*

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THE ANTITRUST SOURCE: The South African Competition Commission has recently celebrated its 15th anniversary. Congratulations on reaching this milestone. You have been part of the agency for much of the first 15 years. Building on this experience, could you tell us about the lessons the agency has learned over the past 15 years and recent challenges the Commission has faced?

TEMBINKOSI BONAKELE: I think the first thing we have learned over the past 15 years is the importance of the institutions. Institutions are important, as well as the instruments that are available for those institutions. Things like clear legislation, clear policies are quite important, as well as people. I would say that, for me, institution building is one of the biggest lessons we have learned, the centrality of it in whatever enforcement work you want to do.

The second thing we have learned is that we must prioritize. In an economy like ours, there is so much that we could do, and sometimes we are even expected to do. But it is very important for us to choose certain things that we do. That also implies deciding what we won't do. The challenges are so enormous and the resources so limited that you have to constantly prioritize. In the past ten years or so, we have really institutionalized strategic planning, prioritization of sectors, and so on. I would say those are the main lessons we have learned.

The last one I would mention is that we also now know that we have to invest a bit of time in understanding the markets we want to focus on. Investment in research in understanding how these markets work, even before we have a case before us, is also one of the lessons we have learned in the recent past.

ANTITRUST SOURCE: You mentioned the importance of choosing the right strategy and prioritization. What are your current competition enforcement priorities and why these areas?

TEMBINKOSI BONAKELE: First of all, let me tell you how we go about choosing sectors. We look at the impact of these on consumers. Because so many South Africans are poor, the impact on poor

consumers is quite important. We look at the history of that sector in terms of our experience with it and what we know of the sector. We also look at the importance of the sector to the South African economy.

Using these criteria, we decided on the following priority sectors: food and agro-processing, intermediate industrial products which are often inputs into the manufacturing sector, infrastructure products and services, telecommunications, health care, and financial services. Those would be the main ones. There are areas where we have prioritized cases outside those sectors, especially cartel cases, but predominantly these are the sectors that we are looking into.

ANTITRUST SOURCE: One of the priority sectors you mentioned is health care. This is an area in which, following the 2009 competition law amendments relating to market inquiries came into effect in April 2013, you have started a sector inquiry. Could you tell us about this inquiry and your objectives with it?

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TEMBINKOSI BONAKELE: It came about as a result of complaints from various stakeholders that the costs of private health care were increasing far higher than the general rate of inflation. Some people were attributing this to competition factors. We ourselves had worked on a couple of health care mergers, particularly in the hospital sector, as well as in the insurance sector. A lot of these mergers were approved. There was a lot of consolidation in the past couple of years. As a result, we now have three main hospital groups dominating in different regions.

Because of the complexity of the sector, the agency arrangements make it very difficult to understand where these cost drivers really come from. When you talk to the sector, there is also a lot of "blame game." So we wanted to get into that and really understand what is going on without pursuing a particular investigation against a particular firm. It is really a fact-finding mission. That is what we want to do.

We have appointed a former chief justice to lead a panel of five technical specialists in competition law, economics, and in health systems, to conduct the inquiry on our behalf. It is really a high-level panel with the right balance of skills. We weren't required to appoint an independent panel to conduct market inquiries, but we did this because I think we recognized that in this sector it was important that we have a very objective process. There is a history of a lot of suspicion and litigation, litigation against government on certain policy initiatives. We wanted to dispel any notions that we could be coming with a hidden agenda. We really want to understand, so we appointed an objective, independent panel to assist us in doing the inquiry.

We are very happy with the progress of their work. They are due to finalize the inquiry by the end of this year, 2015. We understand that they are on track, although there are people who have said that the timelines might be too pressed. We will engage with that and see what we can do. But we are also determined to bring closure to the process as soon as possible.

Just for your benefit, what the panel can do is provide us with recommendations. Recommendations could have implications for regulation, for example. They could have implications for enforcement if they find anything that they think we should be pursuing as a Commission. They could also be recommendations to the industry. So it is really open, what they can do.

ANTITRUST SOURCE: Let's talk about merger enforcement next. One important issue about South Africa's merger regime for international practitioners is the role of public interest factors in merger review. Public interest factors have played a key role in the review of a number of recent mergers, such as Walmart-Massmart, Pioneer Hi-Bred-Pannar Seed, and Glencore-Xtrata. You have

recently also held a public consultation on draft guidelines on public interest factors in mergers. What do you hope to achieve with the guidelines and what feedback have you received?

TEMBINKOSI BONAKELE: Well, we want some legal certainty. The very idea of including public interest in the South African legislation was so that there is a transparent process through which these could be looked at. In other jurisdictions, the tradition is for authorities only to look at competition matters, efficiency issues. But we know that this public interest exists whether they come in the form of national security, food security, employment, etc. We have seen in the UK recently that the big issue was jobs in the AstraZeneca attempted merger. The merger was effectively blocked through a political process.

We know that these issues do exist, but I suppose there is no consensus globally on where they should fit and how they should be articulated. In any event, the South African legislature has decided that this should sit with competition authorities. As authorities look at the impact of a merger on competition, so they should also look at the impact of a merger on public interest issues, which include employment, impact on medium and small businesses, impact on the industrial sector, and things like that.

The very idea of including public interest in the South African legislation was so that there is a transparent process through which these could be looked at.

As you can imagine, this, once invoked, tends sometimes to be controversial. We want to bring about certainty on how you do it.

A lot of issues are contestable in mergers. The impact of a merger is a predictive analysis. We can't get away from that, but at least we can outline principles we would look at as we assess the impact of the merger and hopefully guide parties on what it is that we consider important.

The one thing that is clear in the draft guidelines is that we would like people to pay attention to these matters and do the analysis up front. Just like they would do the economic analysis on the impact on competition, they should do an analysis of the impact on public interest issues. It makes the work very easy. The impact is not big in the majority of cases, but there would be those few cases, as you mentioned, some of them cases like Walmart. That became a very big issue. But you must understand, Walmart was one merger in a list of about 300 mergers we looked at that year. So there would be a few cases where these become important. Hopefully we are able to provide guidance on how they are treated by authorities.

ANTITRUST SOURCE: How do you balance public interest factors with competition factors when reviewing mergers?

TEMBINKOSI BONAKELE: Essentially we make an analysis on competition issues and we make an analysis on public interest matters. It is possible for either of these to outweigh the other. Technically a merger could be problematic but can be rescued by public interest. As an example, if you had a merger that would lead to some form of restriction in competition, but without that merger you would lose a lot of jobs, that consolidation we could allow in order to save those jobs.

So public interest issues could rescue what otherwise would be a merger that would have been condemned. But sometimes public interest issues could also lead to condemnation of a merger, even though on competition grounds alone that merger wouldn't be a problem, if we found that there were significant public interest issues. I have to say that in practice, we have never done this. What we have done is impose conditions that will ameliorate the impact of such a merger.

These are the things that we want to clarify in the guidelines, to say that we are objective when we look at this and there is some predictability in the system. But in the end, it is the old task of the regulator to balance various things, just like you balance between efficiencies and sometimes

restriction of competition. It's hard to say where the balance should be, but at least you know that that is what you need to do.

ANTITRUST SOURCE: Turning next to abuse of dominance, one important enforcement area of late has been excessive pricing. Could you tell us about the Competition Commission's enforcement of excessive pricing cases, in particular in light of the recent decision in the Sasol matter?

TEMBINKOSI BONAKELE: Just to put it in context, we have had a few cases in the past 15 years on abuse of dominance. I don't think that there is going to be an upsurge of abuse of dominance cases. I think these will always be few and far between. I think we have tackled abuse of dominance in instances where there has been very clear exploitative abuse, the impact is clear and visible, and the dominance itself is huge. Sometimes people have called this "super-dominance," when you essentially have a critical product that is produced by a single firm. If you look at the history of our abuse of dominance cases, they tend to be those cases.

[T]he Competition Tribunal says that when you look at a super-dominant firm, you also need to look at how that dominance was acquired—was it acquired on merit or was it acquired through some form of state support?

There has been a problem because of the sort of differences in approach on how to interpret the concept of abuse of dominance. But the Sasol judgment adds something that I think is quite important for South Africa, which is that the Competition Tribunal says that when you look at a super-dominant firm, you also need to look at how that dominance was acquired—was it acquired on merit or was it acquired through some form of state support? It could be direct subsidy, it could be tax breaks, it could be investments and so on—and found that in that particular case, Sasol acquired its dominance largely through state support and that this was a factor to be considered in assessing abuse of dominance.

It is quite an important case for us. We know that it is subject to appeal before the Competition Appeal Court. We will be watching that with interest.

ANTITRUST SOURCE: In the cartel area, there have been a number of significant developments in South Africa over the last few years. I think back in 2008, you amended and improved your leniency program. How is your leniency program working today?

TEMBINKOSI BONAKELE: Our leniency program has been hugely successful in helping us uncover cartels. Even when we have, ourselves, uncovered a cartel, it has made it much easier to investigate and prosecute it, once we have a leniency applicant. I think we are very satisfied at this stage with how the program works. Sometimes we have complemented it with certain policies. For example, when we had to deal with an unprecedented number of contraventions in the construction sector, it became clear that the leniency program itself was not adequate, and we then added what we called a fast-track settlement program.

One has to look at it in context, but I think overall we have uncovered a lot of important cartels. Our big bread investigation was partly aided by having a leniency applicant. In the construction cases themselves, which was really an unprecedented cartel in both its breadth and magnitude, our leniency policy played a significant role in uncovering that.

ANTITRUST SOURCE: Following up on the fast-track settlement process, you mentioned the Commission used it for the first time in the recent construction cartel investigation. What has been your experience with this new settlement process? Have you used it in other instances since then?

TEMBINKOSI BONAKELE: We have used a variation of it. It is not a standing policy. We did it specif-

ically for those construction cases. We have used a variation of it in the recent bid-rigging cases for furniture removals. Because we, again, had thousands of contracts there, each of which potentially could be a discrete case on its own, we adopted a process through which we could fast-track those cases.

It worked quite well. We invited firms to participate in the fast-track settlement process, where we were clear on how the fines would be calculated and the discounts that would be applied in order to incentivize them to come forward. It worked, because the majority of firms came forward, they settled, and they disclosed everything, which was part of the condition, and settled.

I think, if there is one thing I am a bit worried about, it was large firms that had lawyers who were able to take advantage of the process, but the construction cartel went beyond just the large firms. There were a lot of mid-sized and small firms that also participated in the cartel. Some of these didn't take advantage of the process. We are now at a stage where we have to prosecute all of those that did not participate in the fast-track settlement process. We are finding that a lot of them are mid-sized firms.

So I think it has worked. It worked quite well. I have this residual concern about mid-sized and smaller firms. That is largely a function of not having lawyers with the sophistication to participate in systems like this. But we also promise that if people don't come forward, we will prosecute. So we have to do what we have to do.

ANTITRUST SOURCE: Following recent decisions by the Supreme Court of Appeal and the Constitutional Court, South African courts now recognize both opt-in and opt-out class actions for private damages. Could you tell us about these developments and their likely impact?

TEMBINKOSI BONAKELE: Class action in South Africa is a fairly new concept and is quite underdeveloped. We have it now established as part of our legal system through the 1996 Constitution. Initially, I think most people's understanding was that it applied to constitutional rights or human rights.

There has been this uncertainty whether it could apply to all sorts of general civil cases. We had a case following our bread cartel where there was a group that tried a class action. The Court has now confirmed that, in fact, one can institute a class action, and has added this requirement for opting in and opting out.

But I think that we are still in a situation where the courts are sort of making law in this area, and so it is going to be a very long road until there is certainty. I think it is going to be very difficult for claimants still.

I think the courts have made it clear that Parliament should consider enacting specific legislation dealing with class actions. So my hope is that that is what will happen. Otherwise, this area would develop by way of jurisprudence, which I think is going to be long and sometimes painful.

ANTITRUST SOURCE: There has been a pending amendment to criminalize cartel conduct in South Africa. What is the status of this amendment?

TEMBINKOSI BONAKELE: The amendment is still pending. In South Africa, by law, a bill becomes an Act of Parliament once assented to by the President. That legislation has been assented to by the President. But it doesn't come into effect until the President promulgates a date for its effectiveness. That promulgation has not yet occurred, because, in part, there were objections on constitutional grounds to the framing of the act. These have not been revisited by Parliament. As I

understand, the bill was sent back to Parliament for reconsideration, and Parliament was satisfied that the bill will meet constitutional muster. Neither have they been referred to the Constitutional Court, which, in South Africa law, can be done by the President before signing any legislation if he thought it was unconstitutional.

It would seem that, from a legislative process point of view, we are now in a position where this would be made law, given that there has not been any process to address what were raised as constitutional concerns. Government has made its intentions clear that they want to promulgate an effective date for criminalization.

One of the other issues we have to deal with is the institutional readiness. In terms of the South African Constitution, the agency that is entrusted to bring criminal prosecutions is the National Prosecuting Authority. There would have to be, in a sense, a shared jurisdiction between the competition authorities and the National Prosecuting Authority on cartels because we will still have the powers to investigate firms to which administrative penalties could be applied.

So there is a lot of work to be done. We are engaging with both the National Prosecuting Authority and the South African Police Services to make sure that if and when the legislation comes into effect, there are institutional arrangements that would ensure that it is implemented properly.

A combination of all of these, I think, has led to an unusually long delay in the implementation of this legislation.

ANTITRUST SOURCE: Recently there has also been a proposed amendment on collective dominance in South Africa. Could you tell us where this amendment stands? Also are there any other pending legislative amendments in South Africa?

TEMBINKOSI BONAKELE: This was part of that 2009 legislation. Something called "complex monopolies" was introduced into legislation, which is a concept very similar to collective dominance. It is a very complicated piece of legislation. Essentially, it creates a threshold that would have to be met for firms to be regarded as a complex monopoly, which would then trigger the application of these new provisions. The thresholds are about the size of the firm, their market shares, individually and collectively. Once those thresholds are met, these provisions would then apply.

These are very unique provisions, but assuming they come into effect, they would apply to very, very few, highly concentrated markets. That part of the legislation, too, is still pending, also for reasons similar to the ones that I have explained regarding criminalization. I have my doubts though about whether they will actually be effected.

ANTITRUST SOURCE: Turning to the judicial review of competition decisions, recently several important Competition Tribunal decisions have been overturned by the Competition Appeal Court. Could you tell us about the South African system of appeals of competition decisions and, more specifically, the reasons behind the Appeal Court's decisions in overturning several of the Tribunal's recent decisions?

TEMBINKOSI BONAKELE: There is the Competition Commission, which is both the investigator and the prosecutor. Then cases are prosecuted before a specialized Competition Tribunal, which is usually a panel of three, a combination of economists and lawyers. The decisions of the Competition Tribunal are appealable or reviewable before the Competition Appeal Court. It is a specialized court constituted by High Court judges. Its decisions with respect to merits are appealable only on exceptional constitutional grounds to the Constitutional Court.

To give you an example, if one were to say that human rights were trampled upon during an investigation, that would constitute special circumstances for appealing further to the Constitutional Court. But the idea is to make the Competition Appeal Court the last court of appeal on competition matters.

Our court system is a little bit complicated. Above the Competition Appeal Court there is also the Supreme Court of Appeal, which is a court below the Constitutional Court on normal criminal and civil matters. But that Court has no jurisdiction on competition law matters. It has, however, jurisdiction on matters of legality. One of the problems we have found is that if a legality issue arises, these could be adjudicated by the normal High Court, as they don't have to go to the Competition Appeal court. They are appealable to the Supreme Court of Appeal. It has created an opportunity for forum shopping on competition matters. One can go and appeal a case before the Competition Appeal Court from the Tribunal on the merits or one may pick a legality issue, which would include, for example, things like fairness in the procedure. You can go to the normal courts with that.

There are old questions in South Africa about how much a higher court, like the Competition Appeal Court, should defer to a specialist tribunal that is constituted by specialists, like economists and so on. This debate, I think, remains unsettled.

What we have seen is that this forum shopping has had the impact of delaying the hearing of cases on the merits.

On the other hand, we have also seen a lot of Competition Tribunal decisions overturned by the Competition Appeal Court. I would say that that is normal. I would as a prosecutor, of course, be worried that it happens so often that the court second guesses a specialist tribunal on facts, it would make parties always appeal the Tribunal decisions.

There are old questions in South Africa about how much a higher court, like the Competition Appeal Court, should defer to a specialist tribunal that is constituted by specialists, like economists and so on. This debate, I think, remains unsettled. I think we have seen our courts delving into real substantive matters and in a sense sometimes second-guessing the Tribunal on those matters.

I think there will always be cases where the courts have to do that, but I wouldn't say I am satisfied with where the balance is. I think we sometimes also accept that the Tribunal is wrong in certain cases, but I think what we have not seen enough is guidance from the courts. I am sure that this is still going to come with time. But I don't think there is enough guidance on all of these matters coming from the courts.

ANTITRUST SOURCE: You have recently been appointed Chair of the African Competition Forum. Could you tell us about this organization, your role as its Chair, and your agenda for the coming year?

TEMBINKOSI BONAKELE: The African Competition Forum is a forum of authorities in Africa, in the entire continent. We have members from all regions, including Southern Africa, Eastern Africa, West Africa, as well as North Africa. At the moment the ACF's members are 29 national competition agencies and three regional competition authorities. It is quite a diverse group, with various legal traditions. But I think what is in common is that these are all enforcement agencies on the continent.

We got together primarily to share experiences, and this grew to working together in capacity-building programs. In the past two years or so, we institutionalized the ACF a bit. We had a secretariat that was appointed, with some donor funding. We ran a lot of successful capacity-building projects, training of investigators as well as research.

It is a very important initiative because a lot of agencies on the continent are new. It is important for us to start talking about concepts, empowering one another. I see that the next level is

going to be us talking about the cases we are doing, talking about the sectors we are looking at, and sharing best practices in those areas.

It is a fairly new organization, but it is growing, and growing quite fast. It also faces a lot of challenges, a lot of issues. For example, in meetings we must have translators, because Africa has a few working languages, which is quite costly. But members are determined to keep it going. We are working with various international supporters for ACF to get its work done.

ANTITRUST SOURCE: Are there any particular issues or areas that you are planning to cover in the framework of the African Competition Forum in the coming year?

TEMBINKOSI BONAKELE: We are doing it step by step. The first thing we did was a needs analysis. Although agencies are at various stages of development, it became clear that predominantly, agencies were starting off. So the area of training became a key one—just training on basic antitrust concepts, how to define markets, those sorts of things.

As I said, I think the evolution from that is going to be where we start talking about cases. We had a research project which we conducted amongst six ACF members in sectors that were identified by them: sugar, cement, and poultry. You can see that we are starting with things that are, in a sense, soft. I think the next evolution would be where we deal with the hard part, which is about investigations and bringing cases. Investigations have actually been started by some authorities as a result of the ACF research.

I think there is also a lot of scope to cooperate on mergers, although probably this makes sense more at a regional level than continent-wide. We are encouraging, for example, Southern Africa to work together on this, East Africa to do the same, as well as other regions in the continent.

ANTITRUST SOURCE: In recent years there has been an increase in the number of African national competition authorities with an active enforcement agenda. At the same time, we have seen an increase in the number of regional organizations that are enforcing, or planning to enforce, competition laws in Africa. These regional organizations include the Southern African Development Community, the West African Economic and Monetary Union, the Common Market for Eastern and Southern Africa, and the Economic Community of West African States.

What are your views about these developments in Africa? What changes do you expect on the African competition landscape in the coming years?

TEMBINKOSI BONAKELE: I think that the regional economic integration is likely to lead to more integration of competition enforcement as well. The regional approach, which I think is going to be largely underpinned by having the existing agencies in countries working together, is going to be important. Only COMESA has been established as really a regional agency with jurisdiction in a number of countries.

I think that we still have yet to see how successful that model is going to be. It may well be the model for the future. But in at least the medium term, I expect that there is going to be a lot of push for coordination amongst the existing agencies.

I do think that the existing regional bodies could do more to support competition enforcement in their regions. I think ECOWAS can certainly do more in West Africa. In fact, at the ACF, we want to talk to ECOWAS and some of the big jurisdictions in West Africa about this. SADC has a secretariat that is supporting competition law in the region.

So there are various initiatives at different stages. But I think the big picture is that regional economic integration is going at a fairly fast pace. I know that in June of this year, the heads of state

will be signing, or at least getting together to discuss, the integration of COMESA and SADC into a single regional body. I know that there are going to be negotiations soon, if they haven't started already, about the continent-wide free trade area in Africa. All of these, I think, will have an impact on how we work as competition authorities.

ANTITRUST SOURCE: On international cooperation, you are an active member of a number of international organizations, such as the ICN and OECD, and also participate in the competition dialogue with your BRICS partners. Could you tell us a little more about your international agenda? To what extent has the Commission been engaged in international cooperation with other competition authorities? For example, have you cooperated in enforcement actions with foreign counterparts?

TEMBINKOSI BONAKELE: Yes, we have good relationships with a number of jurisdictions. We work very closely with our counterparts on international mergers and cartels. For example, we consult broadly with the U.S. authorities. We consult with DG COMP, the UK and the Netherlands authorities in Europe as and when matters do arise. We have found that very useful. I think probably mergers is the most advanced area of cooperation. It is not even heavily officialized. I think we have managed to strengthen our relationships and people-to-people contacts. People are able to talk about mergers in general terms within the framework of confidentiality issues in their jurisdictions, share insights, and so on.

In the area of enforcement, we have had some cooperation again as and when the need arises. We talk to our counterparts about investigations. We have had coordinated dawn raids that we have done in certain cases with major jurisdictions. We worked with the DOJ, DG COMP, as well as the authorities in Japan. So I am happy with that.

I think that we are never going to be at the forefront of every international cartel, but in sectors where we are heavily exposed, we will always coordinate with our international counterparts.

I think the best thing is to take them on a case-by-case basis. There is no point in cooperating for the sake of cooperating in cases. One has got to look at what the benefits of that are. We are happy with our relationships with various jurisdictions across the world.

We do the same in the continent. We have arrangements, sometimes on a case-by-case basis. We host people from other countries who come and work at the Commission to see how we do things. We second people to that. We benefited from very similar arrangements as well. A couple of years ago we had resident advisers from the U.S., who spent months in South Africa.

So it is evolving. Now it involves us doing the same with our counterparts in the continent.

ANTITRUST SOURCE: Looking ahead, what do you foresee as the main challenges for the Commission over the next year?

TEMBINKOSI BONAKELE: We have adopted a new strategy now. We are going to need to embed that. We have new sectors we have identified. A sector like telecommunications is highly complex and is going to require us to work with the sector regulator, ICASA. We also are going to have major work to do, which I suspect is going to involve a lot of advocacy, on health care, once the inquiry has been finalized.

I think we are entering a stage of market inquiries. I think we are going to need to create capacity for this. It is a new mandate for us. We have learned a lot of lessons with the health care inquiry, one of which is that these inquiries are very resource-intensive and costly, particularly if you have to outsource a lot of things. So I think we are going to need to develop new capacity.

If the criminalization provisions come into effect, we are going to need to develop new capacity for that. In fact, we are working on the assumption that they are going to be promulgated very soon, so we need to gear ourselves up for implementation. We are working on the MOU with criminal prosecuting authorities around that. We need to train people at the Commission on how to do investigations in such a way that we don't compromise a subsequent criminal prosecution, as well as train people who might have to do the criminal prosecution on competition issues.

I think those are the major challenges in the coming year.

ANTITRUST SOURCE: We started this interview with a question related to the 15th anniversary of the Commission. Building on your agency's 15 years of experience, what advice would you give younger competition authorities, in particular those emerging in Africa?

TEMBINKOSI BONAKELE: I think I will start where I began, which is institutional building. Institutions are very important. I think a few countries actually have promulgated legislation and not paid attention to getting the funding. You can't have institutions without funding, so you pass the legislation to get the funding. You get people. You employ people. You develop systems.

I think those, for me, are very important building blocks of a successful agency.

Then choose what you want to start with. In the case of the South African Competition Commission, we started with mergers. We found that a very good introduction into competition law. It was not a choice we made consciously. It was because there is a mandatory notification requirement for mergers, and we are obliged to look at them. But they taught us a lot about the markets and competition laws and theories of harm and all of those basic things.

I think, instead of trying to do everything, one must pick a sweet spot and stick to it. From there, one would be amazed with the learnings that come out.

One more thing I should add. I just want to mention that we are hosting the 4th BRICS International Competition Conference in November 2015 in South Africa. It will be held from the 10th to the 13th of November in Durban, a city on the east coast of South Africa. It is going to be quite an important conference that is held under the auspices of BRICS, but bringing together international thought leaders in the area of competition regulation and development. The theme of the conference is "Competition and Inclusive Growth." What we want to do is really grapple with whether there is a relationship between competition regulation and things like inequality, poverty, and so on. This allows us to look at competition regulation from a developing country perspective. We have very high-powered speakers. In fact, we have Joe Stiglitz confirmed as one of the speakers. We have invited our international counterparts to this and look forward to hosting them. It is quite an important thing for us.

Of course, we do play a role as well in other fora—we participate as an observer in the OECD Competition Committee. We play a big role in the ICN, where we are a member of the Steering Group and a co-chair of the Cartels Working Group. We also participate in UNCTAD.

So we take our international work quite seriously and we learn a lot from interacting with our international counterparts. ●