

9th Meeting of the Competition and Consumer Law and Policy Committee

14 – 15 June 2018, Gaborone Botswana

Opening Remarks by Deputy Commissioner, Hardin Ratshisusu

Thursday, 14 June 2018

Ladies and gentlemen, I would like to welcome all Members to the 9th Meeting of the Competition and Consumer Law and Policy Committee.

I would also like to thank the SADC Secretariat for preparations leading up to this Meeting.

And I would like to extend a special thanks to our host, the Government of Botswana and the Competition Authority of Botswana under the leadership of the CEO Ms. Tebelelo Pule. I also acknowledge, in attendance today, the Permanent Secretary of the Ministry of Industry and Trade of Mozambique, Ms Carla Soto.

I begin by emphasising that the work of the Competition and Consumer Law and Policy Committee forms an integral part of the developmental agenda of the SADC region and the continent as a whole. There have been important developments in the SADC region and on the continent, parts of which will form the basis for this Meeting over the next two days.

To recall, in 2009 the heads of States or Governments of SADC signed the SADC Declaration on Regional Cooperation in Competition and Consumer Policies, which highlighted the need for cooperation which then led to the establishment of this Committee. Under this Committee, in 2016, the mergers and cartels working groups were established. The signing of an MoU was subsequently concluded in 2016 by SADC competition authorities in relation to the cartels working group. In 2017, the Merger Working Group Cooperation Framework was signed. We sit here today having made significant progress in relation to the SADC competition and consumer programme, ready to enhance the work that lies ahead of us including the development and implementation of the SADC competition policy.

The basis of the working groups within SADC is premised on the understanding and commitment to share knowledge, build networks of collaboration between agencies, keep abreast of key developments across the region and discuss issues of mutual interest. This has been done through various methods including capacity building, information sharing and research.

We commend the interactions between case officers in relation to merger regulation and cartel enforcement, as well as capacity building initiatives through programmes such as staff exchanges between agencies. Moreover, agencies are encouraged to continue their support and participation in ACF-led research projects such as the construction papers which are due to be compiled into a book later this year. Further, there are proposed research studies in the current work plan of this Committee on airlines and roaming charges. These collaborations are important as they create networks and a database from which trends and developments can be shared, enabling better and coordinated competition and consumer protection enforcement within the SADC region. This will invariably enable us as competition and consumer protection regulators to easily reach consensus on key policy issues that affect the SADC region and the continent and contribute to the developmental agenda. Such collaboration also enables us to further increase the scope of cooperation in order to enhance the SADC enforcement mandate.

It is important therefore that members attend activities around capacity building such as the previous mergers workshop held in Malawi and hosted by the ACF, COMESA and the US-FTC as well as the cartel workshop which took place last year August in Lusaka. Significant training also took place this year in March in Johannesburg relating to the SADC Regional Competition Workshop for Judges and Commissioners. This type of training goes to the very heart of the implementation of competition law and policy.

This year the mergers workshop is due to take place between 4-5 July in Nairobi, Kenya and the cartel workshop is due to take place between 19-20 September in Dar es Salaam, Tanzania. The ACF bi-annual meeting will take place in Marrakesh, Morocco in October. Moreover, South Africa has also been selected to host the ICN Unilateral Conduct Workshop which will take place in Stellenbosch in November.

Collaboration across competition and consumer authorities is also vital especially in the age of borderless trade. Joint efforts, communication and research is in no doubt imperative in ensuring the safety of consumers and improving the standards of goods and services across the region. We should therefore commend and support the consumer protection authorities and the working group on consumer protection in taking steps to finalise the MoU on cooperation in the field of Consumer Policy, Law and Enforcement.

The significance of consumer protection was revived at the International Group of Experts on competition policy at UNCTAD. In 2016, at its first session of the IGE on Consumer Protection Law and Policy, the deputy Secretary-General of UNCTAD recognised that although the United Nations adopted consumer protection guidelines in 1985, it took until 2016 for consumers and consumer protection to be at the “*center of any developmental agenda*”. The significance of placing consumer protection at the centre of the developmental agenda is exemplified by the fact that borderless trade by firms which generate turnover well beyond the GDP of some developing nations wield unequal power against consumers. This requires the vigilance and concerted efforts of regulators in ensuring that vulnerable members of society are not exploited and abused by such firms. The complementarity between competition regulation and consumer protection regulation should not be understated and we look forward to a joint MoU in the future which reinforces this complementarity.

Deepening cooperation is crucial for the continued effectiveness of our competition and consumer protection authorities. This too is on the international agenda and currently being spearheaded by UNCTAD in their work on international cooperation in competition regulation.

Urgent work needs to begin in reviewing the SADC Regional Cooperation Framework on Competition laws and policies across member states with the view to developing and implementing a regional competition law policy in line with the SADC Revised Regional Indicative Strategy Development Plan (2015 – 2020) and the SADC Industrialisation Strategy and Roadmap (2015 – 2063). The Roadmap recognised that increased competition in the SADC region leads to greater diversification and pro-competitive outcomes which are important for the economic development of the region therefore requiring that a regional competition policy framework be developed and implemented by the year 2020. Given the urgency in developing and implementing this important programme, this Committee and its members must be at the heart of running and completing the regional policy framework. I hope that this agenda item will generate a lot of discussion and the way forward.

It is evident that the work of this Committee has over the years gained traction to the point that we are seeing significant outputs stemming from our cooperation. Our authorities continue to collaborate on investigations which bode well for the enforcement of both competition and consumer protection laws in our region. We also

collaborate with other authorities beyond our region both on the continent and abroad. This could present an opportunity for this Committee to collaborate with partners in other regions with a view to learn and deepen cooperation.

Over the next two days I encourage all members to engage with all the items on the agenda and share ideas in making our collaboration more robust and effective. The agenda includes roundtable discussions on various theories of harm in relation to merger regulation, innovative remedies and cooperation in relation to cartel enforcement and improving the safety and quality of goods in relation to consumer protection.