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COMPETITION POLICY SYMPOSIUM
STRATHMORE BUSINESS SCHOOL,
Nairobi, KENYA

“Developing Competition Regimes in Africa – Recent South African Experiences and Key Investigations”

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Commissioner: Competition Commission South Africa

Friday, 15 August 2014

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CONTEXT OF COMPETITION ENFORCEMENT



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- SA socio economic reality – inequality, poverty and racial segregation.
- Entrenched anti competitive outcomes – cartels, historical monopolies, high concentration levels.
- Sophisticated anti competitive behavior with high appetite for risk.
- Relatively new competition regulatory regime in SA – only 15 years in existence.
- The complexity and duration of cases requires adequate resources both human and capital.

CAPACITY CONSIDERATIONS



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- Strengthened management and leadership capability.
- Cutting edge knowledge systems and innovation in competition enforcement.
- Stronger strategic partnerships and advocacy for cases and competition work in general.
- Increased funding from government for competition enforcement.
- Greater coordination in enforcement work in the region through collaboration (MOUs).
- Increased coordination amongst government agencies especially for criminal prosecutions.

THE CASE OF THE CEMENT CARTEL



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- Illustrates the power and influence of cartels.
- Emphasizes the need for cross border enforcement.
- Reinforces the need for innovation in enforcement regimes – CPL.
- Highlights the importance of planning and meticulous handling of investigations – legal challenge.
 - ***The SA cement industry investigation***
- Commenced in June 2008 arising from a scoping study into construction and infrastructure inputs.
- PPC subsequently applied for leniency.

SA Cement Industry Continued



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- Full cooperation with commission was obtained in respect of the cartel activities and disclosure.
- Transgressions included price fixing and market allocation through allocation of market shares and territories by main cement producers.
- These producers included PPC, La Farge, AfriSam and NPC – Comopor.
- In 1996 government had successfully sanctioned this cartel – prior to this in 1995, these members had entered into agreements in anticipation of the crackdown – market share agreements were signed.



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SA Cement Industry Continued

- In 1998 – after price wars ensued among them, following the 1996 government sanction – further cartel agreements were signed ostensibly to “stabilize” the industry.
- These “regulated” market share, price parameters in certain categories of cement, scaling back in marketing and distribution leading to closure of some depots etc.
- Sales information was shared through the C&CI – members submitted monthly sales figures for aggregation and such data would be disseminated.
- Commission settled with AfriSam and Lafarge in November 2011 and March 2012.

SA Cement Industry Continued



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- The two firms confirmed the existence of a cartel and its modus operandi and both were fined 125m and 145m respectively.
 - *Competitive Dynamics Across Botswana, Kenya, Namibia, South Africa, Tanzania and Zambia*
- Cement is a critical input into the development of infrastructure and housing.
- Supply of cement depends on the location of plants, source of demand and transport logistics.
- Cartel activity is increasingly cutting across national borders -
The SA cement cartel operated in the SACU region



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Competitive Dynamics Continued

- The SA government conducted a study to understand the regional competition dynamics in the supply of cement across these six countries:
- Several multinational cement firms have operations across a number of these countries.
 - *e.g. Lafarge is in Kenya, SA, Tanzania, Zambia and sells into Botswana and Namibia*
- There have been new entries into the cement industry in recent years:
 - Dangote investing in SA, Tanzania and Zambia
 - Jidong in SA
 - Four firms entering in Kenya (Mombasa, National, Savanna and Cemtech)
 - Lake Cement in Tanzania
 - The cement industry is concentrated



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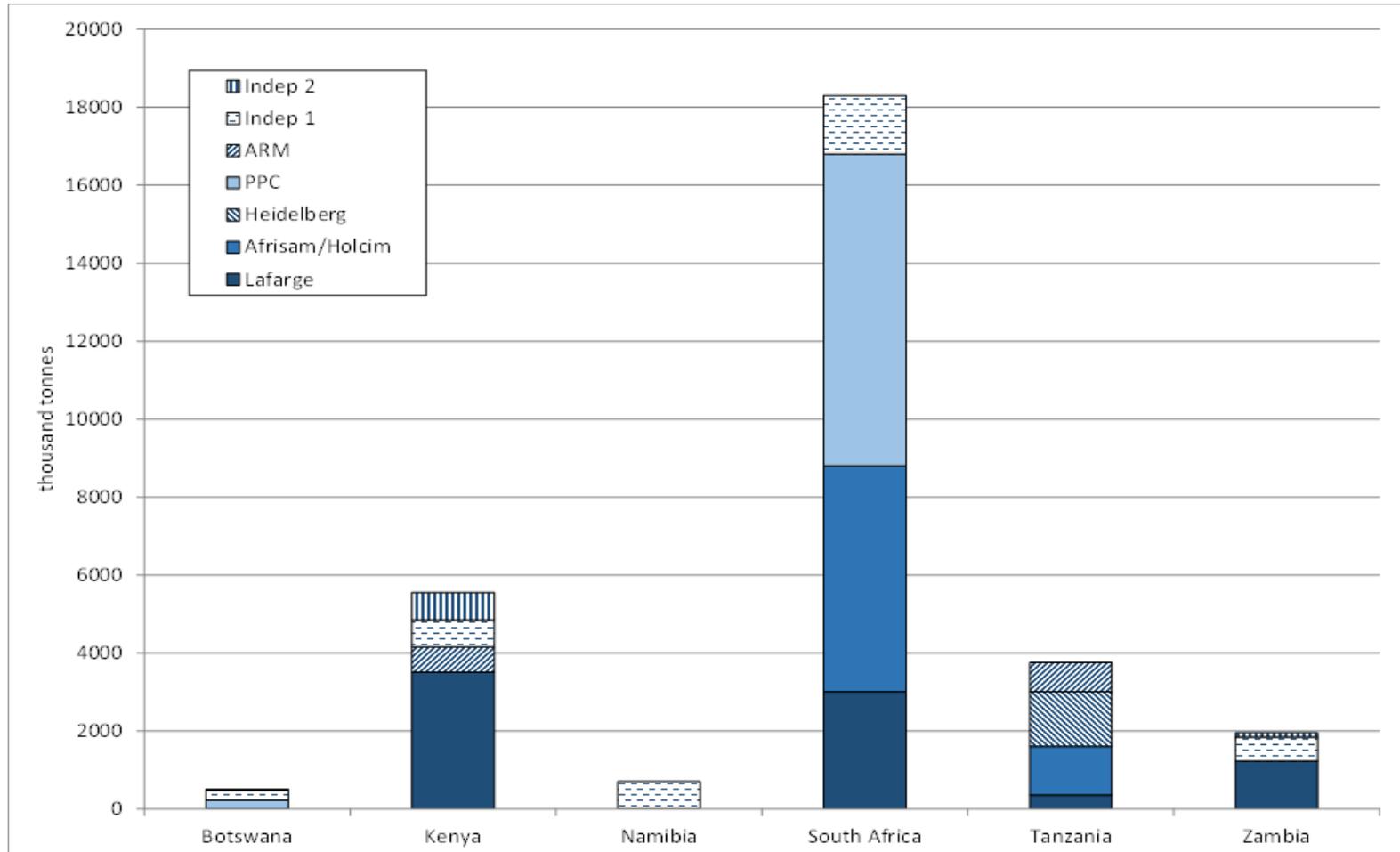
Competitive Dynamics Continued

- There has also been a number of smaller producers entering at the downstream processing level.
- The origin and background of entrants was either Nigerian or Chinese and not European.
- Vertical integration by producers is not to the same extent in the different countries.
 - *Limited prevalence of limestone deposits*
 - *Importation of clinker*

Competitive Dynamics Continued



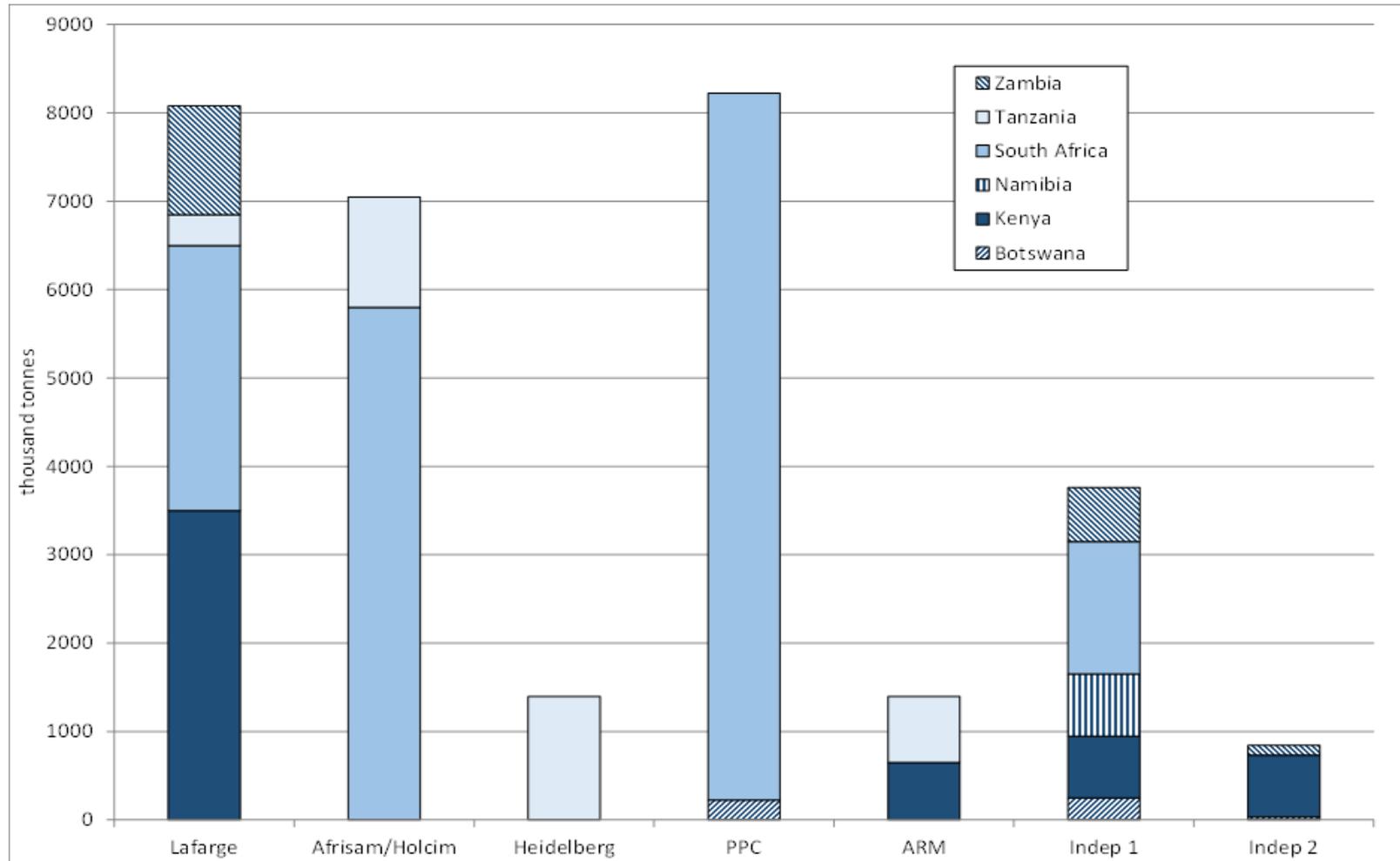
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Competitive Dynamics Continued



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Competitive Dynamics Continued



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- Trade flows:
 - Botswana and Namibia have mostly relied on imports until recently.
 - Kenya has been exporting to the eastern African region, but volumes to Uganda and Tanzania have reduced.
 - SA mainly exports to Mozambique, Angola, Zimbabwe, the DRC and Zambia, and limestone to SADC. Imports from Rep. of Korea, Pakistan, China, India and Indonesia.
 - Tanzania mainly a net importer of cement from Pakistan.
 - Zambia net exporter to the DRC, the great lakes region and Malawi.

Competitive Dynamics Continued



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- Trade restrictions:
 - SACU: Botswana, Namibia and SA.
 - SADC: Botswana, Namibia, SA, Tanzania and Zambia.
 - EAC: Kenya and Tanzania (external tariff waived).



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Competitive Dynamics Continued

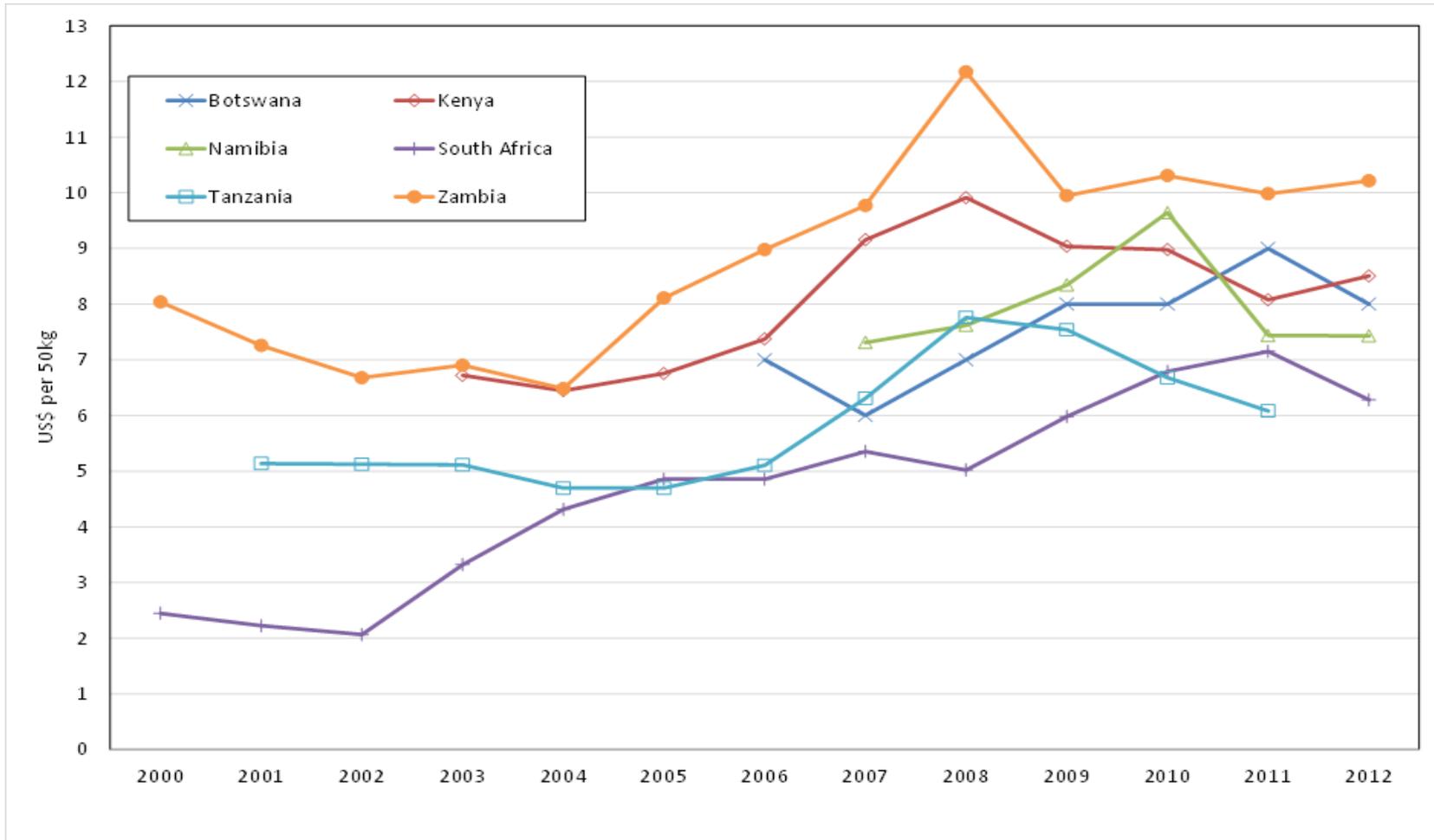
- Industry Associations:
 - These are important to understand as they can be used to facilitate cartel conduct and sharing of competition sensitive information.
 - E.g. the C&CI in the SA cartel which covered the SACU
 - Producers in Kenya and Tanzania belong to the EACPA which has chapters in different countries

Competitive Dynamics Continued



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Price Comparison Across Countries – 50 KG in US\$





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Competitive Dynamics Continued

- Barriers to Entry:
 - MES for a cement plant is about 2.5 mtpa
 - Scale economies significant and start-up costs are high
 - Challenges with source of limestone and other inputs (fly ash) *e.g. in Botswana and Namibia*
 - Also high cost of freight and poor infrastructure highlighted in Zambia
 - Other regulatory requirements



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Competitive Dynamics Continued

- Competition Law Concerns:
- Trade associations and sharing of competition sensitive information
- Cross shareholding e.g. Lafarge in Kenya with interest in several producers
- In Tanzania higher prices in producers' local markets than in regions where there is more competition (Dar es Salaam)
- In Botswana MPC has access to limited limestone deposits
- Only one producer in Namibia
- In Tanzania and Kenya the EACPA lobbying for protection from deep-sea imported cement
- In Zambia, high concentration with Lafarge holding 64 per cent of the market and the smaller players are followers

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CONCLUSION



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- Overall the cement industry in the region is concentrated with tight oligopoly in certain instances.
- New entries should be encouraged.
- There is a need to address anticompetitive behaviour arrangements collaboratively.



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THANK YOU