SYSTEMATIC REVIEW OF COMPETITION LAW ENFORCEMENT AND FACILITATION OF ACCESS TO CREDIT: A CASE OF SOUTH AFRICA

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ABSTRACT

Competition law enforcement plays an integral role in ensuring that markets, particularly the financial services sector remains competitive as it has proven to produce ripple effects on consumers and the broader economy. Despite a sophisticated and developed financial system, access to credit remains a significant barrier to the success and growth of Small and Medium Enterprises and Historically Disadvantaged Individuals. Because of this, access to credit has gained traction in literature. It is worth noting, however, literature on the role of competition law enforcement in fostering access to credit is scant (limited to the relationship between bank competition and access to credit), as such, this study offers valuable policy and legislative reforms on the role of competition law enforcement in fostering access to credit. The study finds that it is important for competition authorities to intervene in credit markets in pursuit of reducing information asymmetries through the implementation of open data initiatives, amending credit terms to be favourable for both parties, promoting vitality of banking sector competition for credit provisioning, as well as facilitating non-banks access to critical financial infrastructure. It is within this context that the role of competition law enforcement will foster greater access to credit.

1. INTRODUCTION

Competition law enforcement plays an integral role in ensuring that markets, particularly the financial services sector remains competitive as it has proven to produce ripple effects on consumers and the broader economy. Through the enforcement of competition law, the financial services sector becomes more competitive leading to financial inclusion[2] insofar as it relates to credit access. However, the South African financial services sector is one that is characterised as a concentrated market with the top five (5) big banks holding a market share of approximately 89% and above[3]. While the market is globally ranked as one of the most sophisticated and developed financial systems, there exists access to credit economic issues domestically. Empirical studies[4] have shown that 18% of the population, particularly that of low-income and rural communities, is still unbanked and underbanked.

South Africa, in comparison with its emerging market peers such as Brazil and Malaysia *inter alia*, appear to lag when it comes to proportion of economic participants that have access to formal credit facilities. The lack of access to formal credit facilities may largely reflect the need and gap competition law enforcement may bridge in fostering greater access to formal credit facilities. An arsenal of studies has shown banking costs to be amongst the reasons for the unbanked to have limited access to formal credit facilities. In particular, the World Economic Forum ("WEF") reported that South Africa faces challenges to financial inclusion and these include *inter alia* high banking fees; mistrust in bank motives; and majority of businesses being informal[5].

Increasing competition amongst financial service providers demonstrates prospects of lower interest rates and improved availability of credit to even opaque consumers and small businesses, especially those that are previously unbanked. The role of competition law enforcement seeks to foster that competition. A study conducted by Ariccia (1998) contended that asymmetric information generates

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[2] National Treasury's Financial Inclusion Policy defines financial inclusion as a" state *in which all individuals and SMMEs have access to and can effectively use a range of quality financial products and services provided by the regulated financial sector. In South Africa, this definition targets segments of the historically excluded from the formal financial sector as well as those who underutilise financial products and services*".
[3] Who Owns Whom. 2024. The Banking Industry in South Africa. Page 1.
[4] Stellenbosch Business School. 2021. Is hard cash out on its way in South Africa. Accessed at: https://www.stellenboschbusiness.ac.za/timeline/hard-cash-its-way-out-south-africa#:~:text=Bresendale%20says%20according%20to%20reports,constitutes%2018%25%20of%20the%20population
[5] The World Economic Forum. 2017. 6 challenges to financial inclusion in South Africa. Accessed at: https://www.weforum.org/stories/2017/04/financial-inclusion-south-africa/

an adverse selection effect that acts as a barrier to entry, preventing new lenders from entering the market[6]. Despite the high barriers to entry[7] in the South African banking industry, there have been new market entrants in the recent past.

In the recent past, the financial services sector has seen a shift in the competitive landscape due to Tyme Bank's entrance in the market, which disrupted the market through charging zero fees, and priced 30 to 50% below incumbents for its transaction fees. As a result of this new entrant in the market, approximately over four (4) million people opened Tyme Bank accounts forcing the incumbents to rethink their business models and expand their financial and digital offerings[8]. Further, the big five (5) banks are placing increasing emphasis on growing customer numbers with innovative product offerings to attract lower-income earners. Competition from new entrants such as Discovery Bank, Bank Zero, and TymeDigital all aim to disrupt the market, and this forces the incumbents to intensify their efforts to modernise technology platforms to satisfy and meet consumer demands[9].

Further, recent studies[10] highlighted a decline in the incumbent's clients, as clients started opening accounts with new entrants in the market. This showed that competition brought by new market entrants incentivised customers to switch. In addition, Capitec as a new market entrant, has grown to become the largest bank in terms of the overall number of customers in 2021, surpassing all the other banks in the country. According to the Financial Sector Conduct Authority[11], the entry and expansion of smaller banks, such as Capitec, incentivises the incumbents to expand offerings to attract lower-income earners. This demonstrates how increasing competition may advance financial inclusion and ultimately improve greater access to credit for the lower-income earners segment in the country. The

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[6] See study by Ariccia. 1998. Asymmetric Information and the Market Structure of the Banking Industry. para-I. pp 4. Accessed at: https://www.imf.org/external/pubs/ft/wp/wp9892.pdf

[7] According to the Banking Industry's Who Owns Whom report, the main barriers to entry in the sector are i) capital requirements and ii) regulatory compliance.

[8] CGAP. 2022. TymeBank Case Study: The Customer Impact of Inclusive Digital Banking. Accessed at: https://www.cgap.org/research/publication/tymebank-case-study-customer-impact-of-inclusive-digital-banking

[9] National Treasury. 2023. An inclusive financial sector for all. para 2.2. pp 10. Accessed at: https://www.treasury.gov.za/comm_media/press/2023/2023112701%20An%20Inclusive%20Financial%20Sector%20for%20all%202023.pdf

[10] Lesofe, I and Tetani, S. 2023. Using market inquiries: A sharper tool for competition authorities? pp 26. Accessed at: https://www.compcom.co.za/wp-content/uploads/2024/08/S-Tetani-and-I-Lesofe-Using-market-inquiries_-A-sharper-tool-for-competition-authorities.pdf

[11] Financial Sector Conduct Authority. 2022. Financial Sector outlook study. Accessed at: https://www.fsca.co.za/Documents/FSCA%20Financial%20Sector%20Outlook%20Study%202022.pdf

incumbents themselves, contend that competition in the sector has intensified, however, the regulatory landscape on the other hand is also becoming more complex[12].

According to Who Owns Whom report, 96% of adult South Africans have been financially included, however, real access to financial services remains low. Of South Africans who are financially included, 83% use non-bank channels and approximately 68% still use informal channels to obtain credit. Access to credit has been cited as the second most constraint to SME growth and development in emerging market economies[13]. Because of this, access to credit has gained traction in literature. It is worth noting, however, literature on the role of competition law enforcement in credit provisioning is scant (limited to the relationship between bank competition and credit access), as such, the study offers valuable policy and legislative implications to this effect. These include recommendations aimed at fostering greater access to credit through competition law enforcement as means of bolstering overall financial inclusivity. By heeding these recommendations and implementing suggested recommendations, policymakers can work towards cultivating a more inclusive financial landscape.

The study is organised as follows: section 1 provides introductory background research as well as the importance of credit access. Section 2 reviews literature as well as provide the role of fintech's as complementary lending platforms in facilitation of credit access. Section 3 reviews the Commissions interventions in credit markets. Section 4 draws lessons from global competition authorities on the role of competition law enforcement in facilitating greater access to credit. Section 5 provides legislative and policy reforms on the role of competition law enforcement in facilitating access to credit. This is followed by a section of concluding remarks, highlighting important aspects of the paper.

The importance of credit access: why does it matter?

There is a unanimous consensus, and evidence suggesting that any striving economy is built on the foundation and pillar of SMEs. The category of economic participants that usually have limited access to formal credit facilities are SMEs as well as Historically Disadvantaged Individuals ("HDIs") who are previously unbanked. The limited access to formal credit is largely attributed to the lack of "*acceptable*

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[12] Standard Bank of South Africa. 2023. Annual Integrated Report. Page 16. Accessed at: https://www.standardbank.com/static_file/StandardBankGroup/filedownloads/RTS/2023/SBSA_AnnualReport.pdf

[13] World Bank. 2019. Small and Medium Enterprises (SMEs) Finance. Improving SMEs' access to finance and finding innovative solutions to unlock sources of capital. Accessed at: https://www.worldbank.org/en/topic/smefinance

collateral" and has forced these groups to source finance from informal channels. Access to formal credit ought to enhance the ability of SMEs as well as HDIs to undertake investments in various productive-enhancing economic activities required to enhance economic development[14]. However, limited access to credit rather restricts their ability to expand operations, invest in new technologies, and enhance productivity. The World Bank contend that access to credit and capital, secure savings, and efficient payment services enable small businesses to expand, create jobs, and drive economic development[15].

Credit access not only drives economic development, but it also affects the broader economy through stabilising economic growth. As such, Armeanu, Pascal, Poanta, and Dola (2015) found that credit granted to SMEs tend to have a lasting and significant impact on economic growth as it boosts investment and positively affect GDP components[16]. In the same vein, a strand of literature has shown that access to credit has a positive impact on economic growth[17]. However, credit constraints remain significant barriers in realising the productive ripple effects of credit access to SMEs as well as HDIs. A study conducted by the National Credit Regulator (2011) found that there have been measures in place to ensure that SMEs have credit accessibility, and as such, the persisting concern are the terms and conditions in which credit is accessed as they are often not favourable for SMEs[18]. The study sets out the quality of credit to be the ongoing concern rather than the quantity of credit.

Further, some of the credit constraints that inhibit the favourableness of credit for SMEs are interest rates. Securing credit with reasonable terms to support their growth and development has been an ongoing struggle for many SMEs. Many SMEs are perceived as high-risk borrowers, lacking credit

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[14] Domeher, D. & Abdulai, R. 2011. Access to Credit in the Developing World: does land registration matter. Third World Quarterly, 33(1):161-175. Accessed at: https://www.tandfonline.com/doi/abs/10.1080/01436597.2012.627254

[15] World Bank. 2025. Accessed at: https://www.worldbank.org/en/topic/financialinclusion/overview

[16] Armeanu, D., Pascal, C., Poanta, D. & Dola, C, A. 2015. The credit impact on economic growth. Theoretical and Applied Economics, 1(602):5-14. Accessed at: https://store.ectap.ro/articole/1053.pdf

[17] Thierry, B., Jun, Z., Eric, D. D., Yannick, G. Z. S., & Landry, K. Y. S. (2016). Causality Relationship between Bank Credit and Economic Growth: Evidence from a Time Series Analysis on a Vector Error Correction Model in Cameroon, Procedia - Social and Behavioural Sciences, Vol. 235, 664–671; Ho, S.-H., and Saadaoui, J. (2022). Bank Credit and Economic Growth: A Dynamic Threshold Panel Model for ASEAN Countries, International Economics, Vol. 170, 115–128

[18] National Credit Regulator. 2011. Literature Review on Small and Medium Enterprises Access to Credit and Support in South Africa. pp 11. Accessed at: https://www.smallbusinessinstitute.co.za/wp-content/uploads/2019/12/NCRLiterature-Review-on-SME-Access-to-Credit-in-South-Africa_Final-Report_NCR_Dec-2011.pdf

history, collateral, or sufficient financial statements, leading to financial institutions charging higher interest rates to compensate for the perceived risk[19]. Msomi (2023) found that SMEs experience considerable obstacles in obtaining affordable credit, and that interest rates play a crucial role in this[20].

Some studies have shown inadequate financing to be a persisting concern for SMEs and HDIs. A study by the Banking Association South Africa (2018) articulated that there are generally greater SME financing difficulties in developing countries, in particular, approximately 45 to 50% of SMEs in developing countries are unserved, they need credit but cannot access it[21]. Advancing this view, Dhawnarain (2024) recently found that access to external finance remains a significant challenge[22].

Theoretical arguments advanced by Asah, Louw, and Williams (2020), who Dhawnarain (2024) agrees with, revealed that information asymmetry which lead to credit rationing, low levels of accountability for credits and market risks, *inter alia*, are some of the reasons behind the low level of access to credit by SMEs from the formal financial sector[23]. In essence, access to credit has been shown as a driver of development for SMEs and HDIs as well as stabilising economic growth. However, literature on access to credit for SMEs and HDIs also points out two significant folds that need redress, i) inadequate financing (quantity of credit availability) is the main issue as these groups struggle to access credit, and ii) terms and conditions of credit (quality of the credit available), is not favourable to SMEs and HDIs.

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[19] Msomi, T, S. & Maharaj, A. 2022. Credit Accessibility and Viability of Small and Medium Enterprises in South Africa, 12(1):1-12. Accessed at: https://dj.univ-danubius.ro/index.php/JAM/article/view/1550/2097

[20] Msomi, T, S. 2023. The effect of interest rates on credit access for small and medium-sized enterprises: A South African perspective. Banks and Bank Systems, 18(4):140-148. Accessed at: https://www.researchgate.net/publication/375666714_The_effect_of_interest_rates_on_credit_access_for_small_and_medium-sized_enterprises_A_South_African_perspective

[21] Banking Association South Africa. 2018. Hurdles faced by financial institutions in financing small and medium enterprises. pp 10. Accessed at: https://www.banking.org.za/wp-content/uploads/2019/04/Hurdles-in-SME-Financing-Final-Report.pdf

[22] Dhawnarain, K. 2024. Access to Finance and SME Growth in the Formal Sector. Accessed at: https://repository.up.ac.za/server/api/core/bitstreams/8f5ef493-05b6-4a6f-ac76-eaf27ebad8ca/content

[23] Asah, F, T., Louw, L. & Williams, J. 2020. The availability of credit from the formal financial sector to small and medium enterprises in South Africa. Journal of Economic and Financial Services, 13(1). Accessed at: https://doi.org/10.4102/jef.v13i1.510

2. LITERATURE REVIEW

From a theoretical point of departure, the relationship between competition law enforcement and access to credit facilities is largely explained by two main theories, i.e., the market power hypothesis[24] and information sharing hypothesis[25]. An earlier study inferred that high levels of concentration often lead to a lower supply of credit at high interest rates[26]. This is corroborated by a recent study that contended that borrowers are granted loans at high interest rates[27]. In the same vein, if there are less competitive constraints in the market, it is more likely that banks will not be incentivised to expand their financial offerings and innovate. The South African Reserve Bank ("SARB") working paper reiterated this by contending that a financial services sector characterised by weakened competition may provide weak incentives for market development, with players in the market only catering the top income borrowers[28].

As a result, access to credit for the low-end borrower segment diminishes and persists as an economic issue. However, when competition in the financial services sector is promoted, banks are incentivised to offer financial services to prospective clients, innovate, efficient (both allocative and productive efficiency), expand product offerings and thus improve affordable credit availability to variety of firms and individuals[29]. In essence, this theory posits that, in a concentrated banking environment, characterised by weakened competition, banks tend to only cater for less risky borrowers such as the top income segment of borrowers.

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[24] The market power hypothesis argues that competition forces banks to be innovative and thus expand the scope of their services, even towards riskier borrowers, thus improving credit availability to a variety of firms.

[25] The information sharing hypothesis argues that low competition increases access to credit, particularly for opaque firms.

[26] Hannan. 1991. Bank commercial loan markets and the role of market structure: evidence from surveys of commercial lending. *Journal of Banking and Finance,* 15(1):133-149. Accessed at: https://www.sciencedirect.com/science/article/abs/pii/037842669190042K

[27] Mi, Zhang, Han, & Shen. 2024. Bank market power and financial reporting quality. *Journal of Corporate Finance,* 84:102-530. Accessed at: https://www.sciencedirect.com/science/article/pii/S0929119923001797#bb0430

[28] South African Reserve Bank Working Paper Series WP/24/08 Financial inclusion and banking sector competition in South Africa. 2024.Accessed at: https://www.resbank.co.za/content/dam/sarb/publications/working-papers/2024/financial-inclusion-and-banking-sector-competition-in-south-africa.pdf

[29] Gwatidzo and Simbanegavi. 2024. Working Paper Series WP/24/08 Financial inclusion and banking sector competition in South Africa. para 2.1. pp 6. Accessed at: https://www.resbank.co.za/content/dam/sarb/publications/working-papers/2024/financial-inclusion-and-banking-sector-competition-in-south-africa.pdf

Allowing new entrants and creating a competitive landscape where entry is timely, sufficient, and likely, such new entrants may provide the low-end borrowers segment with affordable credit. Borrower segmentation appears to be a persisting issue that may be overcome by new entrants in the market (see the TymeBank and Capitec example above). This is in line with the research conducted by Roberts (2016) which highlighted that Capitec's existence stimulated the extension of financial services to the previously unbanked, and as such, increased financial inclusion insofar as it relates to access to credit[30].

The information sharing hypothesis on the other hand, posits that banks are more likely to invest in monitoring and information collection if they foresee a longer-term relationship with borrowers. This suggests that banks with more market power (less competitive constraints in the market) will tend to invest more in monitoring and information collection, enabling them to increase their services and products to more borrowers[31]. In contrast, in a competitive market, banks need more motivation to offer loans to borrowers with ambiguous financial data yet development potential, which limits credit access for these borrowers. Based on this theory, competition in the banking industry is more likely to disincentivise banks from expanding product offerings and grant more loans to both top and low-end borrower segments.

The empirical research conducted by Love and Peria (2012), Moyo and Sibindi (2021), Landani (2021), Gwatidzo and Simbanegavi (2024), Sibande, Nxumalo, Mncube, Koch and Viegi (2024), and others is closely related to this current study. Several empirical studies have found evidence supporting the market power as well as information sharing hypothesis. The contradictory perspectives on the vitality of banking sector competition in credit provision, informed the study in providing the most updated systematic review evidence on the vitality of banking sector competition in credit provisioning. To this effect, Liu and Zhao (2024) showed that competition in the banking sector often leads to lower costs and increased credit availability[32], which agrees with the findings by Molaba (2022), who also noted that a competitive banking sector, in line with the market power hypothesis, fosters greater access to

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[30] Roberts, S. 2016. Barriers to entry and implications for competition policy. Page 10. Accessed at: https://www.compcom.co.za/wp-content/uploads/2016/07/BTE_CompComConference2016_Roberts_draftsent.pdf
[31] Ibid.
[32] Liu, X. & Zhao, Q. 2024. Banking competition, credit financing and the efficiency of corporate technology innovation. International Review of Financial Analysis, 94:103-248. Accessed at: https://doi.org/10.1016/j.irfa.2024.103248

credit[33]. In the same vein, Khan and Kutan (2023) found that the likelihood of a business being credit-constrained is smaller in a competitive banking environment as the availability of credit information reduces the information asymmetry and lowers the discouraging role of banking market power[34]. Carlson, Correia and Luck (2021) showed that a banking sector with lower barriers to entry tends to extend more credit[35].

Love and Peria (2012) found that low competition, diminishes firms' access to finance, and the impact of competition on access to finance depends on the environment that banks operate in. Moyo and Sibindi (2021) found a positive relationship supporting the information-based hypothesis. These results also show that minimising information asymmetry using public credit registries is good for enhancing access to credit. In line with Moyo and Sibindi (2021), Landani (2021) found a positive relationship between market concentration and access to credit in the long-run panel results. In the same vein, Gwatidzo and Simbanegavi (2024) found that lower bank competition facilitates the formation of longer-lasting relationships between banks and their clients, which incentivises banks to invest in information generation and monitoring in previously unserved markets, thereby expanding greater access to credit. It is worth noting, as contended by Sibande et al. (2024), that measures to foster greater access to credit could reduce the stability of the financial sector whereas macroprudential policy is designed to mitigate financial sector risk. It is in this vein that measures in place to ensure greater access to credit should not interfere with the stability of the financial services sector.

Differing from these studies, the current study will provide insights that will be crucial for legislative and policy reforms insofar as it relates to how competition law enforcement may foster greater access to credit/loans particularly for low-end borrowers as they are the most likely borrower segment to be excluded from the formal channels of credit.

The role of financial technology ("fintech") in facilitating access to credit

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[33] Molaba, K. 2024. Linking banking sector competition to access to finance: The case of select Sub-Saharan African Countries. Accessed at: https://wiredspace.wits.ac.za/server/api/core/bitstreams/88391695-8b0d-4772-9bdd-a1c4d133d311/content

[34] Khan, H, H. & Kutan, A, M. 2023. Banking sector competition and firms' financial constraints: Firm-Level evidence from developing economies. Journal of International Financial Markets, Institutions and Money, 88:101-844. Accessed at: https://www.sciencedirect.com/science/article/abs/pii/S1042443123001166

[35] Carlson, M., Correia, S. & Luck, S. 2021. The Effects of Banking Competition on Growth and Financial Stability: Evidence from the National Banking Era.

Globally, approximately 1.4 billion people remain unbanked, especially those in low income and rural communities[36]. Orthodox financial institutions have failed to a certain degree to financially include these groups due to logistical challenges and high costs. It is in this vein that fintech offers viable solutions to bridge this gap. By leveraging mobile technology, digital payments, and blockchain, fintech has made financial services more accessible and affordable. Key notable examples are Alipay in China, M-Pesa in Kenya, and Paytm in India, all demonstrating the role of fintech in facilitating access to credit[37]. This is beneficial for competition, as it provides the consumer with a cheaper alternative to banks and other financial institutions with a much wider footprint[38]. Fintech has gained traction in literature and there exists substantial literature that exhibit the role of fintech in facilitating access to credit.

In the US, Cornelli, Frost, Gambacorta, and Jagtiani (2024) found that fintech lenders could help close the credit gap, allowing small businesses that were less likely to receive credit through traditional lenders to access credit at lower cost[39]. In the same vein, in South Africa, fintech is proven to grant credit to those underserved segments lacking credit history[40]. Advancing this view, Rifai and AlBaker (2025) have identified SMEs and HDIs as market segments that have been positively affected by fintech. Specifically, Rifai and AlBaker (2025) contend that SMEs have benefited from fintech lending platforms, through the expansion of alternative funding sources beyond limited bank credit. Individuals and SMEs, especially those that lack collateral or credit history, have, through mobile

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[36] Accessed at: https://digitalfinance.worldbank.org/

[37] Kampani, D, R. 2025. The Role of Fintech in Enhancing Financial Inclusion. Accessed at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5011604

[38] Robb, G., & Vilakazi, T. (2016). Mobile payments markets in Kenya, Tanzania and Zimbabwe: A comparative study of competitive dynamics and outcomes. The African Journal of Information and Communication (AJIC), 17, 9-37. Accessed at: https://wiredspace.wits.ac.za/server/api/core/bitstreams/14eb6c98-6986-4376-906f-c669c7eea5ca/content

[39] Cornelli, G., Frost, J., Gambacorta, L. & Jagtiani, J. 2024. The impact of fintech lending on credit access for U.S. small businesses. Journal of Financial Stability. Accessed at: https://www.sciencedirect.com/science/article/abs/pii/S1572308924000755

[40] Cele, S, K. & Gumede, V. 2024. The role of financial technologies in financial inclusion in South Africa. Page 52. Accessed at: https://www.researchgate.net/profile/Simphiwe-Cele/publication/382324417_THE_ROLE_OF_FINANCIAL_TECHNOLOGIES_IN_FINANCIAL_INCLUSION_IN_SOUTH_AFRICA/links/66b9137351aa0775f27a806e/THE-ROLE-OF-FINANCIAL-TECHNOLOGIES-IN-FINANCIAL-INCLUSION-IN-SOUTH-AFRICA.pdf

money platforms enabled access to essential payments, savings, and credit among remote/rural populations with limited infrastructure by overcoming spatial barriers[41].

Proponents of fintech lending contend that it reduces information asymmetry, thereby making credit allocation more efficient[42]. Altaytas (2025) contend that the use of a fintech platform is not simply for banking access but rather means to gain access to credit. In line with Rifai and AlBaker (2025), Altaytas (2025) argues that fintech's role in marginalised communities, is less about banking the unbanked and more about reconfiguring access to unsecured debt, allowing for immediate consumption amidst financial instability[43].

Fintech complements the traditional credit market, not necessarily substitute it, which ultimately increases the overall credit access. Having access to fintech platform is viewed as an alternative and a diversification route to traditional credit markets. Claessens, Frost, Turner, and Zhu (2018) noted that fintech credit offers an alternative funding source for businesses and consumers and may improve access to credit for underserved segments[44]. Advancing this view, the European Central Bank (2022) found that access to Peer-to-Business platforms allows SMEs to diversify their pool of lenders and highlighted that the fact that SMEs are interested in securing long-term fintech debt also aligns well the notion that SMEs want to protect themselves against credit supply shocks such as unavailability of credit from traditional lenders[45]. As much as fintech presents itself with great benefits for the underserved segment, insofar as it relates to credit access, fintech also presents itself with shortcomings.

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[41] Rifai, M, A. & AlBaker, Y. 2025. The role of financial technology in enhancing financial inclusion: A regulatory perspective on current industry trends. Corporate & Business Strategy Review, 6(1), 43–52. https://doi.org/10.22495/cbsrv6i1art4

[42] He, Q. & Li, X. 2021. The failure of Chinese peer-to-peer lending platforms: Finance and politics. Journal of Corporate Finance. Vol 66. Accessed at: https://www.sciencedirect.com/science/article/abs/pii/S0929119920302960

[43] Altaytas, K, M. 2025. From financial inclusion to indebtedness: How FinTech transforms credit access and household financial practices in Buenos Aires, Argentina. Finance and Society, 11(1):103-122. Accessed at: https://doi.org/10.1017/fas.2024.22

[44] Claessens, S., Frost, J., Turner, G. & Zhu, F. 2018. Fintech credit markets around the world: size, drivers and policy issues. Accessed at: https://www.bis.org/publ/qtrpdf/r_qt1809e.pdf

[45] The European Central Bank. 2022. The real effects of fintech lending on SMEs: evidence from loan applications. Accessed at: https://www.ecb.europa.eu/pub/pdf/scpwps/ecb.wp2639~849f8a2608.en.pdf

The technological and non-traditional nature of fintech poses risks of weak stability, regulatory arbitrage, and lack of consumer protection[46]. Concerns have arisen about growing fintech credit losses and poor business conduct in some countries, such as recent platform failures in China. This study draws insights and experience of the potential risks of fintech lending from China, as no other country has embraced fintech wholeheartedly like China. Since its genesis, the peer-to-peer platforms had cumulated over $1.209 trillion in credit by 2018, until founders liquidated the platforms and *ran off* with investors investments. He and Li (2021) found that in different peer-to-peer platforms, light regulatory touch and regulatory inconsistencies by the Chinese government, were major drivers of failures of fintech lending platforms in China[47].

3. THE COMPETITION COMMISSION'S INTERVENTIONS IN CREDIT MARKETS

South Africa's competition authority has increasingly engaged with issues of access and market structure in the financial sector through market inquiries, and advocacy work. Competition Commission of South Africa's interventions in the credit markets are designed to foster inclusivity, lower barriers to entry, and address anti-competitive practices that hinder access to financial services. While not always framed explicitly in terms of credit access, several recent cases highlight how competition law enforcement can foster access to credit. This study focuses on three (3) completed market inquiries, as well as Advocacy's non-enforcement interventions in attempt to foster greater access to credit.

3.1 Grocery Retail Market Inquiry ("GRMI")

The GRMI examined market concentration, supplier relationships, and barriers that may affect smaller players' access to credit and financing within the supply chain. The inquiry found that small and independent businesses face several challenges, which amongst them includes lack of access to credit markets. Small businesses contented that the financial sector does not offer adequate support to entrepreneurs located in townships, peri-urban and rural areas. While in most cases they would apply for credit, the terms of credit, the rates charged as well as the reasons why some of the applications were unsuccessful would not be communicated with them. The GRMI further found that government

[46] OECD. 2024. FinTech lending in Sub-Saharan Africa Lessons from African economies. pp 18. Accessed at: https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/digital-finance/FinTech-lending-in-Sub-Saharan-Africa.pdf

[47] Ibid.

funded agencies in place to make credit accessible were generally found to have qualifying criteria that effectively made them inaccessible to most small and independent businesses.

In its recommendations, the GRMI recommended government to establish an incentive programme that will provide seed finance for innovative commercial models of private businesses that aim to offer *inter alia* the generation of key information on individual spaza shop operations such that the risks of extending credit finance to these shops can be more accurately assessed to facilitate credit access for the purchase of stock support to small and independent businesses[48]. Given this, competition law enforcement possesses the ability to influence government policy to foster greater access to credit. Assessing the counterfactual, it is more likely that without the Commission's interventions, no actions would have been taken to allow local entrepreneurs to have access to credit.

3.2 Fresh Produce Market Inquiry

The inquiry found that small-scale and emerging farmers face a variety of constraints which emerge as barriers to their success and growth. These constraints and barriers include *inter alia* limited access to credit facilities, high transaction costs, and ineffective extension and support services[49]. The inquiry discovered that small-scale and emerging farmers often lack acceptable collateral such land to serve as collateral, even if they do, however they lack title deeds. While there is an institution (Land Bank) that exists to "*address historical disadvantages in land ownership by promoting greater participation in agriculture by historically disadvantaged persons (HDPs) and increasing their ownership of agricultural land…* and *strengthening existing agricultural financial services, to improve overall access to credit for the agricultural sector in the achievement of food security*"[50], access to credit was an ongoing concern.

In its recommendations, the inquiry noted how a different financing model can contribute to easier access to credit. In this regard, the *blended finance scheme* is of utmost importance. In the same vein, Department of Agriculture, Land Reform and Rural Development ("DALRRD"), Land Bank and commercial banks should work jointly to fast-track and accelerate the implementation of the blended finance scheme. The blended finance scheme would potentially alleviate the significant delays faced

[48] The Grocery Retail Market Inquiry Final Report. Page 266.
[49] The Fresh Produce Market Inquiry. Para. 194.Page 71.
[50] The Fresh Produce Market Inquiry. Para 1860.1 and 1860.3. Page 381.

when grants were approved by DALRRD, as well as make accessing funding more achievable to small and medium-scale farmers[51].

3.3 Banking Market Inquiry

As stated above that high banking costs have been identified to be amongst the reasons for the previously unbanked to have limited access to formal credit facilities, the Commission has in its Banking Inquiry indeed found that high banking fees are a constant issue in the banking industry. In its recommendations, the inquiry recommended that banking fees are reduced particularly for low-income earners. While the recommendation was initially rejected, in 2010, the incumbents confirmed their willingness to implement the Banking Inquiry recommendations. In particular, the incumbents indicated their willingness to reduce the penalty fees for dishonoured debit orders from R80 to below R15 for their low-income customers[52].

As a result of the Inquiry's implemented recommendations, since 2010 the incumbents in South Africa have significantly reduced their banking fees, especially for their entry packages dedicated to low-income customers with basic banking needs. The inquiry led to recommendations aimed at improving transparency, reducing switching costs, and enhancing competition among banks, with a focus on facilitating access to credit for consumers and SMEs. Assessing the counterfactual, it is more likely that without the Commission's interventions, the incumbents would have maintained the high banking fees at the expense or exclusion of low-income earners. Given this, competition law enforcement, while it may not be explicit, has a role to play in fostering greater access to credit.

3.4 Advocacy's interventions

In pursuit of ensuring and fostering greater access to credit, the Commission, through its Advocacy tools, has intervened in panels within the banking industry to open opportunities for Small and Medium Enterprises ("SMEs") as well as firms owned and controlled by Historically Disadvantaged

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[51] Competition News. 2025. Edition 86. Page 15. Accessed at: https://www.compcom.co.za/wp-content/uploads/2025/05/CompCom-Newsletter-May-2025-2.pdf

[52] National Treasury. 2010. National Treasury: Facilitating the implementation of the Recommendations of the Banking Enquiry Panel. Page 5. Accessed at: https://www.treasury.gov.za/comm_media/press/2010/2010060102.pdf

Persons ("HDPs")[53] and focusing on lowering entry barriers for new financial service providers, supporting fintech innovation, and promoting fair lending practices to expand access to credit[54]. Further, the Commission understands that the banking sector has the potential to contribute towards greater inclusion of HDPs by extending access to banking and insurance services, by helping to promote and mobilize household savings, and by easing broader access to credit.

To achieve this, the Commission, through competition law enforcement, shall focus in addressing contraventions of the Act which arise, including the banking cartel relating to foreign exchange market as well as follow policy reforms in the national payments system to identify competition concerns which can be advocated for[55]. Specifically, in 2020, the Commission engaged in advocacy efforts with major banks to address competition issues related to conveyancing law firms on their panels. Following these engagements, the banks agreed to reform their conveyancing practices[56]. With that being said, the Commission works closely with the South African Reserve Bank, National Treasury, and the Financial Sector Conduct Authority to harmonize competition and credit regulation, particularly in areas such as open banking and data sharing.[57][58]

4. LESSONS FROM GLOBAL COMPETITION JURISDICTIONS IN FACILITATING ACCESS TO CREDIT

While market contexts may differ, there are lessons to be learnt from global competition jurisdictions in facilitating access to credit. Notable global competition jurisdictions to have played a crucial role in facilitating access to credit is the United Kingdom ("UK") and Australia. Drawing insights from these jurisdictions, regulatory reforms have improved credit availability through open data policies. In

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[53] The Department of Trade Industry and Competition. 2024. Competition Commission presentation to the Joint Meeting. pp 21. Accessed at: https://www.thedtic.gov.za/wp-content/uploads/Revised-Final-PC-Trade-SC-Finance.pdf

[54] Competition Commission. 2025. Strategic plan 2025 – 2030. Accessed at Competition-Commission-2025_2030-Strategic-Plan.pdf

[55] Competition Commission. 2020. Strategic Plan 2020/21 – 2024/2025. para 9.1.1. pp 57. Accessed at: https://www.compcom.co.za/wp-content/uploads/2023/09/Competition-Commission-Strategic-Plan-2020.21-to-2024.25.pdf

[56] Sikhosana, M, M. & Bove, D. 2024. Reflections on the effectiveness of the Competition Commission's advocacy initiatives in South African markets over the past 25 years. Page 8. Accessed at: https://www.compcom.co.za/wp-content/uploads/2024/08/Mnquobi-et-al-Reflections-of-the-Competition-Commissions-advocacy-initiatives-over-the-past-25-years.pdf

[57] The Regulation of the Banking Sector in Relation to Credit Provision and Competition Matters - Work Programme of the Commission on the Financial Services Sector. Accessed at PowerPoint Presentation.

[58] Giya G, Kagee S, Thibane T., 2021. Regulating Data Markets through Open Banking: Lessons for South Africa. Accessed at Regulating-Data-Markets-through-Open-Banking.pdf

particular, the UK's Competition Markets Authority ("CMA") market investigation on the retail banking found that "*the use of 'big data' for the purposes of credit and risk assessment could facilitate the entry of new SME lending providers by reducing the informational asymmetry between them and the established banks, which would also improve customer access to credit*"[59]. The market investigation coupled with the CMA's Open Banking initiative mandated banks to share customer data with third party credit providers, enabling fintech's and other non-banks to offer cost effective and affordable credit[60].

Similar to the CMA's Open Banking initiative, the Australian Competition and Consumer Commission ("ACCC") administers the Consumer Data Right ("CDR") framework which enables consumers to safely share their data held by businesses with accredited third parties[61]. All banks in Australia are required to participate in this framework, which allows consumers to compare financial products to find offers that best fit their needs. This reduces information asymmetry and facilitates smooth credit risk assessment, which improves credit availability overall.

In South Africa, Open banking regimes allow a wide range of users, including fintech's, to access the customer data locked inside banks and other financial institutions to develop innovative financial products and services that are lower cost and better suited to the needs of consumers. In particular, "*by responsibly using shared customer transaction data, fintech's and other types of financial institutions in emerging market economies may be able to do a better job than traditional banks have done with such data. Third parties can use data to create value for potentially excluded and lower-income customers in three main ways: (i) improving access to credit and/or conditions of access, (ii) improving financial management, and (iii) facilitating access to accounts if collaborative customer due diligence ("CCDD") is allowed*"[62].

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[59] CMA. 2016. Retail banking market investigation. para. 7.136. pp 252. Accessed at: https://assets.publishing.service.gov.uk/media/57ac9667e5274a0f6c00007a/retail-banking-market-investigation-full-final-report.pdf
[60] Open Banking. 2023. The Open Banking Impact Report: October 2023. pp 26. Accessed at: https://www.openbanking.org.uk/wp-content/uploads/Impact-Report-Oct-2023-1-1.pdf
[61] Accessed at: https://www.accc.gov.au/by-industry/banking-and-finance/the-consumer-data-right
[62] CGAP. 2020. Open Banking: How to design for financial inclusion. pp 8. Accessed at: https://www.cgap.org/sites/default/files/publications/2020_10_Working_Paper_Open_Banking.pdf

5. WAYS IN WHICH COMPETITION LAW ENFORCEMENT CAN FOSTER GREATER ACCESS TO CREDIT FACILITIES

First, the study proposes for a broadening horizon of competition law to actively support inclusive finance through, *inter alia* merger control that considers public interest commitment such as SME access to credit. Specifically, this can be done in a proposed merger transaction that involves an incumbent in the banking industry, where the Commission could mandate the development of affordable credit products, or the expansion of lending programs targeted at the financially excluded groups.

Further, with the Department of Trade Industry and Competition ("DTIC") potential Transformation Fund, the study proposes that the Commission alongside the Broad-Based Black Economic Empowerment Commission ("B-BBEE Commission") may directly facilitate seed capital for SMEs to ensure high SME success rate and effective participation in the mainstream economy. Alternatively, as part of merger conditions, the study proposes a free fall seed capital that interlinks the work of the Commission with that of B-BBEE Commission in facilitating access to capital. This seed capital may be in terms of credit that is highly monitored to ensure it serves its intended purpose[63].

Second, the implementation of open banking frameworks and robust credit information-sharing mechanisms allows lenders to more accurately assess borrower risk profiles. Enhanced information symmetry reduces adverse selection and moral hazard problems, creating an environment that allows for new entrants to enter and expand in the sector to provide the financially excluded group with the opportunity to also participate in the mainstream economy. Furthermore, policies aimed at lowering switching costs empower consumers to transfer their financial engagements between institutions with ease, thereby incentivizing providers to offer more attractive credit terms. Notably, to this effect, it is competition law enforcement that may eradicate, renew, review, and alleviate the regulatory compliance and capital requirements barriers to entry without interfering with the stability of the financial services sector.

Third, consistent with the World Bank's contentions, this study proposes that easing barriers and ultimately allowing new entrants, as well as non-banks, fair access to critical financial infrastructure,

[63] DTIC. 2025. Draft Transformation Fund Concept Document. pp 7. Accessed at: https://www.thedtic.gov.za/wp-content/uploads/Draft-Transformation-Fund-Concept-Document.pdf

which is currently owned by the incumbents should be pursued by policies and regulations to promote competition.

Fourth, the study motivates credit providers to possess strong creditor rights to expand the availability of credit. While this is mostly prevalent in developed economies, this will enable credit providers to have better legal protection during bankruptcy and reorganization of the debtor and become more confident about the return of their investment in situations of default and thereby more willing to extend credit on favourable terms to even opaque consumers[64].

Further, addressing access to credit issues must holistically be understood from three perspectives, i) supply side - what is offered by financial institutions such as banks to low income consumers including SMEs as well as HDPs, ii) demand side - what do consumers want from the providers of credit and what are the constraints they face, and iii) policy landscape - what do the designated regulators such as SARB do to promote access to credit. In its capacity, the Commission, has proven to be credible insofar as it relates to influencing policies and mandate institutions in offering more inclusive credit, and easing the constraints faced by SMEs and HDPs in accessing credit. The study proposes that policy response should be revisiting the available credit terms offerings and ensure that the terms are favourable to both parties and largely serve the intended purpose of credit post the facilitation of credit.

Fifth, market inquiries are arguably a sharp tool for addressing industry-wide competition concerns and providing binding recommendations/remedial actions to the identified concerns. This follows the 2018 Amendments to the Act, and as such, by exercising its statutory powers, an inquiry's recommendations may mandate relevant stakeholders including government and industry regulators to provide credit to the financially excluded groups as observed in section 3 above.

Lastly, the Commission, shall continue addressing any possible contraventions of the Act in the banking industry. By doing so, this ensures a more competitive landscape in the banking industry. Specifically, the OECD reported that strengthening competition law enforcement in financial markets and reducing barriers to customer mobility would help to reduce high lending rates and collateral

[64] World Bank. Accessed at: https://subnational.doingbusiness.org/en/data/exploretopics/getting-credit/why-matters

requirements[65]. By dismantling regulatory, structural, and operational impediments, competition authorities enable the entry of diverse lenders, including fintech firms and non-bank financial institutions. The resultant increase in market participants intensifies competition, thereby expanding the availability of credit and promoting more competitive pricing structures. This is particularly salient in contexts where incumbent banks dominate the market, often limiting the diversity of credit products and services.

6. CONCLUDING REMARKS

The study primarily ought to provide legislative and policy reforms on the role of competition law enforcement in facilitating greater access to credit. Empirical literature indicates that access to credit not only enhance economic development but stabilises economic growth also. As much as it is an important source to the success and growth of SMEs and HDIs, access to credit remains a significant barrier to the success and growth of SMEs and HDIs due to its limited availability. As per above discussion, it is evident that the high concentration levels in the financial services sector result to the incumbents being disincentivise to expand product offerings and ultimately ignore the low-end borrowers segment. This is the case because incumbents often than not grant credit to less risky borrowers, i.e., top and middle-end borrowers because of information asymmetries. Fintech's emerged as a complementary lending platform to bridge this gap. To this effect, the study further proposes that fintech's are regulated by relevant authorities to fully realise the benefits of fintech's as complementary lenders for consumers and SMEs in the financial services sector. It is worth noting that even if financial institutions do grant credit to the low-end borrower segment, they do so at unfavourable terms and high lending rates to compensate for the perceived risk. Specifically, the study identified information asymmetries, vitality of banking sector competition for credit provisioning, unfavourable terms and conditions, high lending rates as issues that hamper greater access to credit. In response, the study finds that it is important for competition authorities to intervene in credit markets in pursuit of reducing information asymmetries through open data initiatives, amending credit terms to be favourable for both parties and ensure credit serves its intended purpose post the facilitation of credit, promoting vitality of banking sector competition for credit provisioning, as well

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[65] OECD. 2024. Fostering business dynamism, expanding access to credit and improving the capacity of the public sector will help Latvia to raise living standards. Accessed at: https://www.oecd.org/en/about/news/press-releases/2024/04/fostering-business-dynamism-expanding-access-to-credit-and-improving-the-capacity-of-the-public-sector-will-help-latvia-to-raise-living-standards.html

as facilitating non-banks access to critical financial infrastructure. It is within this context that the role of competition law enforcement will foster greater access to credit without interfering with the stability of the financial services sector.