

SEEN BUT NOT SAFEGUARDED: OPERATIONALISING GENDER-RESPONSIVE COMPETITION POLICY UNDER THE AFRICAN CONTINENTAL FREE TRADE AREA THROUGH A CHILD AND HOUSEHOLD IMPACT ASSESSMENT

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ABSTRACT

The African Continental Free Trade Area (AfCFTA) is one of the continent's most ambitious projects of economic integration. Its objective is not merely to remove tariffs, but to create a continental market capable of supporting trade, competition, industrialisation, inclusive growth and structural transformation. Yet the creation of a larger market does not by itself guarantee equal capacity to participate in that market. Women constitute a significant share of Africa's informal traders, small-scale producers and household economic managers, but the competition institutions governing African markets have not systematically incorporated the structural conditions under which these market participants compete. This article argues that the problem is not that competition law is inherently incapable of addressing gendered market exclusion, but that its existing analytical and institutional tools do not consistently identify the gendered barriers through which market power is exercised and transmitted.

Using South Africa as a case study, the article examines evidence from informal women traders, smallholder farmers and the Competition Commission's Fresh Produce Market Inquiry. It demonstrates how barriers relating to supplier concentration, certification, procurement, bargaining power, market access and regulatory costs can affect women's effective participation in markets. The article then develops a Child and Household Impact Assessment (CHIA) as an operational framework for integrating gender-responsive analysis into competition enforcement. Rather than requiring competition authorities to undertake a sociological investigation in every matter, the proposed framework uses proportionate trigger thresholds, existing administrative and household data, proxy indicators and a staged assessment process. The CHIA is designed to operate alongside, rather than replace, conventional competition analysis.

The article makes three contributions. First, it reframes gendered market exclusion as a competition-policy concern involving barriers to entry, contestability, foreclosure and distributional effects. Second, it uses feminist institutionalism to explain how apparently neutral institutional rules can reproduce unequal outcomes where they fail to account for different starting conditions. Third, it provides an operational framework through which African competition authorities could identify when gendered and household-level impacts are sufficiently material to warrant consideration in merger review, market inquiries and market-conduct investigations. The article concludes that the AfCFTA's commitment to inclusive growth requires competition

institutions capable not only of policing anti-competitive conduct, but also of recognising who is able to participate in the competitive process.

1. INTRODUCTION

Before sunrise at many Southern African border posts, informal traders are already moving goods between markets. For many of these traders, cross-border commerce is not a supplementary economic activity but a source of household income, food security and social reproduction. Women are particularly prominent in informal and small-scale trade. Their participation is, however, often characterised by low margins, limited access to capital, weak bargaining power, information asymmetries and regulatory uncertainty. The significance of these constraints is not merely social. They determine who can enter a market, who can remain in it, who can expand and who is forced to operate at the margins.

The African Continental Free Trade Area creates an important institutional opportunity to reconsider these questions. The AfCFTA entered into force in 2019 and trading under the Agreement commenced in 2021. Its objective is to deepen continental economic integration and create a single market for goods and services. The African Union describes the AfCFTA as a flagship project of Agenda 2063 and identifies increased intra-African trade, economic integration and Africa's position in global markets among its objectives (African Union, 2026). The Protocol on Competition Policy, adopted in February 2023, adds a continental competition dimension to this architecture. The Protocol seeks, among other objectives, to enhance competition for improved market efficiency, inclusive growth and structural transformation, while addressing anti-competitive agreements, abuse of dominance, mergers and acquisitions and abuse of economic dependence (African Union, 2023).

The existence of this architecture, however, does not resolve the question of meaningful participation. A market can be open in formal legal terms while remaining difficult to enter or contest for particular groups of economic actors. The reduction of tariffs does not automatically provide a woman trader with access to credit, storage, transport, information, certification or bargaining power. Similarly, a merger can satisfy conventional measures of efficiency while creating or reinforcing market structures that make it harder for small suppliers, many of whom are women, to reach consumers. The central issue is therefore not whether women participate in African markets. They clearly do. The question is whether competition institutions are equipped to recognise the structural conditions under which that participation takes place.

This article identifies that problem as an institutional blind spot. Competition law has developed sophisticated tools for identifying cartels, exclusionary conduct, abuse of dominance and anti-competitive mergers. Yet its analytical categories do not always capture indirect or structural barriers that determine whether particular groups can participate effectively in markets. Where women are disproportionately represented among

informal traders and small producers, these apparently neutral omissions can produce gendered effects. The result is not necessarily an unlawful discriminatory rule; rather, it is a competition framework that may measure the competitive process without adequately measuring access to that process.

The South African experience provides a useful case through which to examine this problem. South Africa has one of the most developed competition-law systems on the continent. Its Competition Commission has used market inquiries to investigate structural features that impede, restrict or distort competition. The Fresh Produce Market Inquiry (FPMI), completed in 2025, identified barriers across the fresh-produce value chain, including problems associated with national fresh-produce markets, market agents, input costs, regulatory hurdles and barriers to entry for small-scale, emerging and historically disadvantaged farmers. The Inquiry produced 31 remedial actions and recommendations intended to promote competition, inclusion and lower barriers to entry (Competition Commission of South Africa, 2025). These findings demonstrate that competition policy can already examine structural market features beyond conventional firm conduct.

The article therefore asks: How can competition policy under the AfCFTA be operationalised to recognise and address gendered barriers to market participation while remaining consistent with the core objectives and analytical principles of competition law?

The central argument is that competition policy under the AfCFTA requires an operational mechanism for identifying gendered market exclusion where it is materially connected to competitive conditions. The article proposes the Child and Household Impact Assessment (CHIA) as such a mechanism. The CHIA is not conceived as a general welfare test or a requirement that competition authorities become social-policy agencies. Instead, it is a structured screening and assessment tool that can be activated in sectors and transactions where gendered market participation and household transmission effects are sufficiently material. It would enable authorities to assess whether changes in prices, supplier access, market concentration or bargaining conditions are likely to impose disproportionate constraints on women's participation and household economic resilience.

The paper makes three contributions. First, it reframes gendered exclusion as a competition-policy problem involving barriers to entry, contestability, bargaining asymmetries and potential foreclosure. Second, it applies feminist institutionalism to show why formally gender-neutral institutions can generate systematically unequal outcomes where institutional rules fail to account for differentiated access to resources and power. Third, it operationalises CHIA by proposing trigger criteria, proxy indicators, data sources and a staged decision process that can be integrated into existing competition institutions.

The argument does not require competition law to solve gender inequality. It instead requires competition institutions to recognise where gendered structural conditions are relevant to competitive outcomes. This distinction is crucial. The objective is not to substitute gender policy for competition policy, but to ensure that

competition analysis is sufficiently complete to identify material barriers that conventional indicators may overlook.

The remainder of the article proceeds as follows. Section Two reviews the literature on competition policy, gender and informal markets and introduces feminist institutionalism as the theoretical lens. Section Three explains the methodology. Section Four examines the AfCFTA competition architecture and its relationship with inclusive markets. Section Five uses South Africa as a case study. Section Six reconstructs the paper's "five fronts" as a diagnostic funnel demonstrating why existing instruments are insufficient. Section Seven develops the CHIA framework. Section Eight considers its policy implications and limitations, followed by the conclusion.

2. LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Competition law and the competitive process

Competition law traditionally seeks to protect the competitive process rather than individual competitors. Its core concerns include agreements that restrict competition, abuse of market power and transactions likely to substantially lessen or prevent competition. This focus is justified by the role of competition in promoting consumer welfare, efficiency, innovation, lower prices and market contestability. In this framework, the relevant question is ordinarily whether conduct or a transaction produces or is likely to produce an adverse effect on competition.

The difficulty for this article is not that such an approach is wrong. Rather, it is that competitive outcomes are shaped by the conditions under which firms and individuals enter markets. Barriers to entry, access to inputs, bargaining power, procurement arrangements and information asymmetries affect the ability of market participants to contest incumbents. Competition analysis that considers these structural conditions can therefore identify forms of exclusion without abandoning competition-law principles.

South Africa is particularly important in this respect because its competition regime has moved beyond a narrow concentration on firm conduct. Section 43A of the Competition Act 89 of 1998 defines a market inquiry as an inquiry into the general state of competition, levels of concentration and market structure. It permits consideration of barriers to entry, regulation, transformation measures, prices, customer choice, employment, entry and exit and other conduct or structural features. This provides an important legal foundation for the argument advanced here: competition institutions already possess analytical space within which structural conditions can be examined. The question is how that space can be used more systematically to identify gendered effects.

2.2 Gender, informal markets and unequal market participation

The literature on women and trade demonstrates that formal market opening can coexist with unequal economic participation. Women often face differentiated access to land, finance, technology, infrastructure and

information. These constraints affect productivity and the ability to reach formal value chains. The tralac literature on a gender-responsive AfCFTA similarly emphasises that women's unequal access to productive resources can limit their ability to benefit from trade liberalisation (tralac, 2018).

Informal trade is particularly important. Informal traders often operate outside the protections and economies of scale available to formal firms. The Food and Agriculture Organization's work on formalising informal trade in Africa identifies informal cross-border trade as economically significant while highlighting the administrative and institutional barriers faced by traders (FAO, 2017). UNCTAD likewise identifies informal cross-border trade as an important channel for women's economic empowerment, development and regional integration in Eastern and Southern Africa (UNCTAD, n.d.).

The evidence from South Africa makes these structural constraints concrete. Meyiwa et al. (2024), studying Black women's lived experiences of informal street trading in East London, identify a market environment characterised by thin margins, regulatory costs and supplier relationships in which small order volumes limit traders' access to discounts. The significance for competition policy is that the problem is not simply that women earn less. The structure of supplier relationships can affect their ability to compete downstream.

The same logic applies to smallholder agriculture. CCRED and Oxfam's research on women smallholder vegetable farmers identifies barriers to formal retail markets and difficulties associated with market access, compliance and supplier development. The Competition Commission's FPMI similarly found limited access of small and emerging farmers to formal retail channels and national fresh-produce markets, alongside structural barriers across the value chain (Competition Commission of South Africa, 2025; CCRED & Oxfam, 2025).

This literature establishes the empirical problem but generally does not answer the institutional question at the centre of this article: what should a competition authority do with this information when reviewing a merger, conducting a market inquiry or investigating market conduct?

2.3 AfCFTA, gender and inclusive integration

The AfCFTA framework increasingly recognises that trade integration must account for inclusion. Article 3(e) of the AfCFTA Agreement identifies sustainable and inclusive socio-economic development, gender equality and structural transformation among the objectives of the Agreement. The Protocol on Competition Policy, adopted in 2023, similarly refers to inclusive growth and structural transformation as objectives of continental competition policy (African Union, 2023).

The development of a Protocol on Women and Youth in Trade, adopted in 2024, is particularly significant. The Protocol acknowledges that women and youth face systemic, structural and financial challenges that hinder meaningful participation in intra-African trade and seeks to create an enabling trade environment in which women and youth can seize opportunities presented by the AfCFTA (African Union, 2024). This development

strengthens rather than weakens the argument of this paper. It demonstrates that gender-responsive trade policy is becoming embedded within the AfCFTA architecture. The unresolved question is how those commitments should interact with competition institutions.

The existing literature has tended to examine gender mainstreaming at the level of trade policy, market access and national strategies. It has paid less attention to the operational design of competition enforcement. This creates a gap between the recognition of gender as an objective and the institutional mechanisms used to make that objective meaningful.

2.4 Feminist institutionalism as a theoretical lens

This article uses feminist institutionalism to explain the institutional blind spot. Feminist institutionalism examines how institutions are structured by formal rules, informal norms, power relations and gendered assumptions. Mackay, Kenny and Chappell (2010) argue that institutions do not simply constrain actors; they shape behaviour through rules, norms and practices and can reproduce gendered patterns of power. Feminist institutionalism therefore provides a useful framework for analysing institutions that appear neutral while producing differentiated effects.

Applied to competition policy, the approach does not require the claim that competition authorities intentionally discriminate against women. Instead, it asks whether the institutional rules, categories and indicators used by competition authorities are sufficiently sensitive to the different conditions under which market actors participate.

This is important because the traditional competition-policy unit of analysis is often the firm or market. Women in informal economies may not appear as firms in the same way as formal corporations. Their constraints may also arise from combinations of factors rather than a single identifiable act of exclusion. A competition institution that is designed primarily around formal undertakings and measurable market shares can therefore systematically under-observe participants operating at the margins of formal markets.

Feminist institutionalism also helps explain why adding gender language to policy documents is insufficient. Institutional change requires changes to rules, routines and decision-making practices. The proposed CHIA therefore represents an institutional intervention: it seeks to modify what competition authorities are required to ask, what evidence they collect, and what impacts they consider material.

The theoretical proposition is consequently straightforward: where institutional categories systematically exclude or under-measure the conditions of particular market participants, formally neutral rules can reproduce substantive inequality. A gender-responsive competition framework should therefore be assessed not by whether it contains gender language, but by whether its institutional procedures are capable of detecting gendered competitive effects.

3. METHODOLOGY

This article uses a qualitative doctrinal and policy-analysis approach combined with a South African case study. The case study is selected because South Africa has an established competition-law institutional framework, a developed Competition Commission, experience with market inquiries and an extensive informal economy. This provides a useful setting in which to examine how structural market barriers interact with competition policy.

The analysis draws on four categories of sources. First, it examines primary legal and institutional materials, including the AfCFTA Agreement and Protocol on Competition Policy, the Protocol on Women and Youth in Trade, and South Africa's Competition Act. Second, it uses official Competition Commission materials, particularly the Fresh Produce Market Inquiry. Third, it draws on academic and policy literature concerning gender, informal trade, competition and market participation. Fourth, it uses empirical studies of women informal traders and smallholder farmers in South Africa.

The analysis is not intended to establish a causal estimate of the effect of gender on competition outcomes. Rather, it is an institutional analysis: it identifies recurring market conditions that disproportionately affect women and asks whether existing competition tools have mechanisms for recognising those conditions. The CHIA framework is then developed deductively from the institutional gap identified in the literature and case evidence.

The paper therefore makes a conceptual and policy contribution rather than claiming that CHIA has already been empirically validated. This distinction is important. The proposed thresholds and proxy indicators should be understood as a feasible starting framework that requires piloting, calibration and further empirical testing before formal adoption.

4. THE AfCFTA COMPETITION FRAMEWORK AND THE CHALLENGE OF INCLUSIVE MARKETS

The AfCFTA's competition architecture represents a major institutional development. The Protocol on Competition Policy seeks to ensure that anti-competitive practices do not undermine the functioning of the continental market and establishes a framework addressing agreements, abuse of dominance, mergers and acquisitions, abuse of economic dependence and other anti-competitive practices (African Union, 2023).

The Protocol is significant because the expansion of markets can also expand the scale at which market power is exercised. A merger involving retail, logistics, food processing or agricultural inputs may have effects that extend across national borders. Continental coordination can therefore improve enforcement and prevent national regulatory fragmentation from becoming an avenue for anti-competitive conduct.

At the same time, the Protocol's objectives provide a basis for considering inclusion more seriously. It expressly links competition with market efficiency, inclusive growth and structural transformation. This means that the argument for gender-responsive competition policy does not require competition authorities to abandon

the Protocol's objectives. Instead, it asks what inclusive growth means when market participants do not have equal capacity to access and contest markets.

The Protocol's architecture should also be read alongside the 2024 Protocol on Women and Youth in Trade. The latter acknowledges structural and financial barriers to women's participation and calls for an enabling trade environment. The two instruments therefore create complementary policy spaces: the Women and Youth in Trade Protocol identifies participation as a continental concern, while the Competition Policy Protocol provides institutions for addressing market structures and conduct.

The institutional gap lies in the connection between these spaces. A gender commitment in trade policy does not automatically become a competition remedy. Conversely, a competition authority may identify a market distortion without systematically asking whether its distribution and transmission are gendered. CHIA is proposed as the bridge between the two.

This bridge is particularly important because the AfCFTA does not operate in a vacuum. National competition authorities remain central to enforcement. The continental framework must therefore be translated into institutional practices capable of operating with varying levels of administrative capacity. A model that requires every authority to conduct extensive bespoke social-impact studies would be unrealistic. The appropriate response is a proportionate mechanism that uses existing competition procedures and data wherever possible.

5. SOUTH AFRICA AS A CASE STUDY

5.1 Why South Africa?

South Africa provides a useful test case because it combines an advanced competition-law regime with persistent structural inequality and a large informal economy. Its competition framework includes merger regulation, abuse-of-dominance provisions, prohibited practices and market inquiries. The Competition Commission has therefore developed institutional experience in examining market structures rather than focusing exclusively on individual firms.

The South African case also demonstrates why the distinction between social policy and competition policy cannot be absolute. The Competition Act's market-inquiry provisions allow authorities to consider barriers to entry, market structure, prices, employment and other market outcomes. The legal framework therefore already recognises that competition may be impaired by structural features that are not reducible to a single anti-competitive agreement.

5.2 The Fresh Produce Market Inquiry

The Fresh Produce Market Inquiry is central to the paper because it illustrates what becomes visible when competition authorities investigate an entire value chain. The Inquiry commenced in 2023 and concluded with

a final report in January 2025. It examined the state of competition in South Africa's fresh-produce markets and identified barriers across the value chain.

The Commission reported that the fresh-produce market was valued at more than R53 billion annually, excluding informal sales channels and exports, while the participation of historically disadvantaged farmers and market agents remained negligible. It identified concerns at national fresh-produce markets, the role of market agents, input costs, regulatory hurdles and systemic barriers to entry for small-scale, emerging and historically disadvantaged farmers. The report ultimately made 31 remedial actions and recommendations intended to promote competition, inclusion and lower barriers to entry (Competition Commission of South Africa, 2025).

The relevance to this article is not that the FPMI was a "gender inquiry." It was not. Its significance is that structural competition analysis can reveal conditions that affect groups of market participants differently. When small producers face compliance costs, limited access to markets, input constraints and weak bargaining positions, the competitive process is affected.

CCRED and Oxfam's work adds the gender dimension. Their research identifies women smallholder vegetable farmers as particularly constrained in accessing formal retail value chains. Certification and compliance requirements can operate as entry barriers where producers lack the capital and institutional support necessary to meet them. Supplier-development commitments may also be insufficient where powerful downstream buyers retain significant discretion over procurement.

The competition implication is clear: a formally neutral requirement can produce exclusionary effects where compliance costs interact with unequal access to capital and infrastructure. A gender-responsive competition assessment would not automatically classify such a requirement as unlawful. Instead, it would ask whether the requirement is objectively necessary, proportionate and competitively justified, and whether less restrictive mechanisms could achieve the same objective.

5.3 Informal women traders in East London

The East London evidence provides a different perspective because it focuses on downstream informal traders. Meyiwa et al. (2024) document the lived experiences of Black women informal street traders, including the challenges associated with permit costs, competition, customer relationships and supplier bargaining.

The significance for competition policy lies particularly in small order volumes. Where suppliers offer better terms to larger buyers, small traders may face systematically higher input costs. Quantity discounts are not inherently anti-competitive; they can reflect legitimate economies of scale. The competition question is whether differential terms reflect cost differences or whether they are used strategically to foreclose smaller downstream competitors.

This distinction illustrates why CHIA should not be a presumption of illegality. A gender-responsive assessment should identify the mechanism through which harm occurs and then apply conventional competition analysis. If a pricing structure is cost-justified, the assessment should record that. If it creates exclusionary effects without a legitimate efficiency rationale, the authority should investigate further.

5.4 Warwick Junction and household transmission

Warwick Junction in Durban illustrates how market participation and household conditions interact. Research on female informal traders has documented occupational health risks and the lack of accessible childcare for informal workers. These studies should not be treated as proof that a particular competition-law violation caused the health or childcare outcomes. That would overstate the evidence.

Their importance is instead diagnostic. They show that informal women workers often operate without the institutional buffers available to formal employees and businesses. Where market income is volatile and childcare is unavailable, a small increase in input prices or a reduction in access to a profitable market can have effects beyond the trader's enterprise.

This is the point at which the "household" enters competition analysis. The household is not proposed as a replacement for the firm or consumer as the unit of competition analysis. Rather, it is a transmission mechanism. Market conditions affect the income of a trader; that income affects household purchasing power; household purchasing power affects food, education and care decisions. CHIA would measure this transmission only where it is materially connected to the market under investigation.

6. FROM FIVE FRONTS TO A DIAGNOSTIC FUNNEL

The original paper identified five areas in which competition policy must respond to women: regulatory reform, industrial policy, affordability, agency effectiveness and cross-border merger review. These are retained here, but they are reorganised as a diagnostic funnel rather than five disconnected themes.

The funnel begins with the conditions that shape market entry, moves through the competitive mechanisms that shape participation, and ends with the household effects transmitted by market outcomes. The purpose is to demonstrate that the problem is not simply that competition policy lacks a gender clause. It is that several existing instruments stop at different points in the causal chain.

6.1 Entry conditions: regulatory reform and market access

The first layer concerns entry conditions. Licensing fees, registration requirements, certification and administrative procedures can have disproportionate effects on small traders and producers operating with low margins. Regulatory requirements may be legitimate and necessary, particularly in food and health-related markets. The competition question is whether they create unnecessary barriers to entry or reinforce incumbent advantages.

This is where gender-disaggregated evidence becomes useful. If women constitute a substantial share of small-scale market participants, a regulation that increases fixed compliance costs may reduce contestability disproportionately. Competition authorities should therefore be able to identify whether the regulatory feature has a material effect on entry and whether alternative approaches could achieve the regulatory objective at lower competitive cost.

6.2 Market structure: industrial policy and supplier development

The second layer concerns market structure. Supplier-development programmes and transformation measures demonstrate that competition policy can interact with industrial policy. The FPMI's recommendations concerning small-scale and emerging farmers show that market access may require more than the removal of explicit anti-competitive conduct.

However, industrial policy should not be confused with competition enforcement. The CHIA would not instruct competition authorities to favour women-owned firms regardless of competitive effects. Instead, it would require the authority to identify whether market structures or conduct prevent capable suppliers from entering or expanding and whether remedies can improve contestability without distorting competition unnecessarily.

6.3 Competitive outcomes: affordability and bargaining power

The third layer concerns prices and bargaining. Food affordability is especially important because fresh produce and other essential goods connect producer markets, retail markets and household welfare. The FPMI focused on products that are essential to households and identified structural distortions affecting the value chain.

The key competition issue is the transmission of market power. A supplier cartel can increase input costs. A dominant buyer can reduce producer margins. A concentrated retail market can affect consumer prices. Each mechanism has different legal implications, but all can have downstream consequences for women traders and households.

CHIA would therefore operate after conventional competition analysis identifies a plausible material effect. It would not substitute a household-impact calculation for proof of anti-competitive conduct. Instead, it would add distributional information to the authority's assessment of the likely consequences of the conduct or transaction.

6.4 Institutional capacity: agency effectiveness

The fourth layer concerns institutional capacity. The original paper correctly identifies that women cannot use remedies they do not know exist. Yet describing agency capacity simply as a failure is incomplete. A more useful approach is to ask how a standardised assessment tool could improve institutional focus.

CHIA could provide competition authorities with a screening template that identifies when gendered effects are likely to be material. It could also support stakeholder engagement with women traders' associations, producer groups and informal-market organisations. This would reduce the need for each authority to design a methodology from scratch.

Capacity-building should therefore accompany CHIA. Competition authorities would need guidance on gender-disaggregated data, proxy modelling, stakeholder consultation and proportionality. Regional cooperation could support common templates and indicators, reducing duplication across jurisdictions.

6.5 Cross-border mergers: the final point of convergence

The fifth layer concerns continental transactions. Cross-border mergers in retail, logistics, food processing and agricultural inputs may create effects across several jurisdictions. If each national authority applies different assumptions about informal participation, remedies may become fragmented.

A common CHIA framework could improve coordination by providing a shared vocabulary. Authorities could identify whether a transaction affects sectors with high informal participation, whether supplier concentration is likely to increase, and whether household-level price effects are material.

The diagnostic funnel therefore ends at merger and market-conduct review. It shows why CHIA is needed: existing instruments can identify structural, behavioural and price effects, but they do not provide a consistent mechanism for connecting those effects to gendered participation and household transmission.

7. OPERATIONALISING THE CHILD AND HOUSEHOLD IMPACT ASSESSMENT

7.1 What CHIA is—and is not

CHIA is proposed as a structured competition-policy assessment designed to identify material gendered and household effects associated with competition decisions. It should not be a general social-impact assessment attached to every competition matter.

The principal design principle is proportionality. Most cases should not require a full CHIA. A preliminary screening should determine whether the transaction or conduct falls within a category where gendered household effects are reasonably foreseeable and potentially material.

CHIA therefore has three stages: screening, targeted assessment and integration into the competition decision.

7.2 Trigger thresholds

The first problem identified by the critique is the risk of creating an impossible threshold based on data that do not exist. A rule stating that CHIA applies whenever women constitute more than 50 percent of informal participants would be difficult to administer because informal participation is often poorly measured.

The proposed framework therefore uses multiple trigger indicators rather than a single percentage.

A CHIA screening should be considered where at least two of the following conditions are present:

1. The transaction or conduct concerns an essential-goods sector such as fresh produce, food processing, agricultural inputs.
2. The relevant market contains substantial informal participation, even where precise gender-disaggregated data are unavailable.
3. Existing evidence indicates significant participation by women among producers, traders or downstream distributors.
4. The transaction materially increases concentration or bargaining power in a market with small suppliers.
5. The conduct or transaction is likely to affect prices or input costs for household-essential goods.
6. There is evidence of structural barriers to entry or supplier access that disproportionately affect small or women-led businesses.
7. The transaction is cross-border and may affect informal trade corridors or regional value chains.

These criteria are deliberately broader than a numerical female-participation threshold. They allow the authority to use sectoral evidence, market inquiries, trader associations, household surveys and administrative data.

7.3 The data problem and proxy indicators

The second major implementation problem is data. Competition authorities cannot conduct a household survey for every merger. CHIA must therefore rely primarily on existing data and transparent proxies.

A basic household-income exposure index could be constructed as:

Household Exposure = Expected price or input-cost change × expenditure or input-share weight × female-household participation proxy.

The model need not claim false precision. Its purpose is screening. For example, if a proposed merger is expected to increase the price of a staple input by four percent, the authority can estimate the proportion of household expenditure represented by that good and assess exposure among female-headed or women-dependent households using existing household survey data.

The authority could also use a Supplier Vulnerability Index combining supplier concentration, average supplier size, dependence on a small number of buyers, switching costs, access to alternative markets, access to finance and evidence of informal participation.

A high score would not prove anti-competitive conduct. It would indicate that deeper assessment is justified.

7.4 Household transmission indicators

CHIA should measure only impacts that have a plausible transmission mechanism. The following indicators are therefore proposed.

Economic indicators include expected changes in input prices, retail prices, supplier margins, access to procurement channels, market-entry costs and supplier switching opportunities.

Gender indicators include the proportion of producers or traders who are women, the proportion of women-owned or women-led enterprises, gender-disaggregated participation in affected value chains, access to finance and productive assets, and dependence on informal channels.

Household indicators include expenditure shares of affected goods, prevalence of female-headed households in affected areas, dependence on income generated by the affected market, likely changes in household disposable income and potential effects on food affordability.

Child-related indicators should be used cautiously. The assessment should not claim that a competition decision directly causes child poverty unless evidence supports that causal conclusion. Instead, child effects should be treated as downstream risks associated with household-income changes, particularly in essential-goods markets.

7.5 A four-stage implementation process

Stage One: Screening. The competition authority completes a short CHIA screening form during the initial assessment of a merger, complaint or market inquiry. The screening asks whether the sector is essential to household welfare, whether informal participation is material, whether women are substantially represented among affected market participants and whether there is a plausible risk of increased concentration, foreclosure or price effects. If the answer is no, the authority records that CHIA is not triggered.

Stage Two: Proportional assessment. If triggered, the authority uses existing datasets and market information to estimate likely effects. This should normally be desk-based. Stakeholder submissions can be invited from women traders, producer organisations and other affected participants where evidence is insufficient.

Stage Three: Integration with competition analysis. The CHIA findings are incorporated into the existing competition assessment. They should inform questions about market definition, barriers to entry, buyer power, foreclosure, efficiencies and remedies where relevant.

Stage Four: Decision and monitoring. The authority records whether the identified impacts require no additional action, monitoring, behavioural remedies, structural remedies, supplier-development commitments, access commitments or further investigation.

7.6 The decision matrix

A practical decision matrix could operate as follows. Low CHIA risk combined with low competition concern would ordinarily support approval or closure. Moderate CHIA risk combined with moderate competition concern could support approval with targeted monitoring or behavioural commitments. High CHIA risk combined with substantial competition concern could justify enforceable remedies addressing access, procurement, switching or supplier dependence. High CHIA risk combined with severe and unremediable competition harm could support prohibition or referral for the appropriate competition-law remedy.

The matrix is not intended to create a new independent ground for prohibiting a transaction based solely on gender or household effects. The competition authority would still need to act within its legal mandate. The value of CHIA lies in improving the evidence base and remedy design.

7.7 Institutional responsibility

At national level, competition authorities should own the screening methodology because it must fit existing enforcement procedures. Trade and gender institutions should provide data and technical support rather than replacing competition authorities' decision-making roles.

At regional and continental level, AfCFTA institutions could develop model guidance, common definitions and data standards. This would support consistency without requiring every jurisdiction to adopt identical enforcement outcomes.

7.8 CHIA and the environmental-impact-assessment analogy

Environmental impact assessment provides a useful institutional analogy, but the comparison should not be overstated. Environmental assessment emerged because decision-makers recognised that conventional project appraisal could externalise ecological costs. CHIA similarly seeks to make a category of effects visible before a decision is finalised.

The analogy is therefore methodological rather than legal. CHIA does not imply that household impacts are equivalent to environmental harms or that competition authorities should adopt environmental-law

procedures wholesale. The lesson is that institutions can expand their analytical capacity by requiring decision-makers to identify impacts that conventional metrics systematically externalise.

7.9 Safeguards against mission creep

The most serious objection to CHIA is that it could transform competition authorities into general social-policy institutions. The framework should therefore contain explicit safeguards.

First, CHIA should be triggered only where there is a plausible connection to competitive conditions. Second, it should be proportionate to the scale of the transaction or investigation. Third, it should rely on transparent indicators rather than subjective moral judgments. Fourth, it should not create an automatic presumption against transactions affecting women-dominated sectors. Fifth, it should remain subject to the statutory mandate and procedural safeguards of the relevant competition authority.

These safeguards are essential to the credibility of the proposal. The argument is strongest when CHIA is presented as a competition tool that improves market analysis, not as a parallel welfare regime.

7.10 Legal fit: integrating CHIA without creating a parallel test

The legal defensibility of CHIA depends on keeping the assessment connected to existing competition-law questions. The framework should therefore be understood as an evidentiary and analytical layer rather than a free-standing substantive prohibition. In merger review, for example, the authority would continue to determine whether a transaction is likely to prevent, restrict or distort competition. CHIA would assist the authority in understanding how increased concentration, buyer power, reduced supplier access or higher prices may affect market participation. Where those effects are material, the information can inform the design of conditions or remedies that address the identified competitive problem.

This approach is consistent with the broader logic of South Africa's market-inquiry provisions. Section 43A of the Competition Act defines an adverse effect on competition by reference to features of a market that impede, restrict or distort competition. It expressly permits consideration of market structure, barriers to entry, regulation, prices, employment and entry and exit. The significance of this provision for CHIA is not that it creates an existing statutory gender assessment. It does not. Rather, it demonstrates that competition law can legitimately examine structural market conditions and outcomes in a manner broader than a narrow investigation of an individual firm's conduct. CHIA would build analytical guidance around that existing capacity.

The same principle should govern market-conduct investigations. If evidence indicates that a dominant buyer's procurement practices disadvantage small suppliers, CHIA could identify whether women-owned or women-led suppliers are disproportionately exposed and whether the conduct creates downstream foreclosure. The competition authority would still have to establish the relevant elements of the applicable offence.

Gendered impact would strengthen the authority's understanding of competitive significance; it would not automatically establish liability.

The distinction is important for procedural fairness. Firms should be able to understand which evidence is relevant, how indicators are calculated and how CHIA findings affect the final decision. The methodology should therefore be published in guidance, subject to consultation and periodically reviewed. Any quantitative proxy should include a statement of assumptions and, where feasible, sensitivity testing. Where evidence is weak, the authority should say so rather than converting uncertainty into a presumption of harm.

Remedies should follow the mechanism of harm. If the problem is exclusion from procurement channels, an access or supplier-development remedy may be appropriate. If the problem is discriminatory or strategically exclusionary pricing, the authority should consider whether conduct-specific relief is justified. If concentration is the central concern, structural remedies may be more appropriate. If the principal issue is a regulatory barrier outside the authority's competence, the competition authority should record the finding and refer the matter to the responsible regulator.

This remedy-based approach also addresses a possible objection that CHIA would politicise competition decisions. A competition authority should not prohibit a transaction merely because its household effects are politically unpopular. The framework instead requires the authority to connect the identified impact to a competitive mechanism and then choose a remedy proportionate to that mechanism. In this respect, CHIA strengthens legal reasoning because it forces the authority to explain the pathway from market structure to affected participation.

The framework can also support more coherent continental enforcement. The AfCFTA Competition Policy Protocol applies to economic activities and conduct with a continental dimension and significant effects on competition in the continental market. As cross-border markets deepen, the same transaction may be examined through different national lenses. A shared CHIA screening methodology could reduce evidentiary fragmentation by encouraging authorities to ask comparable questions about informal participation, supplier dependence and household exposure. Harmonisation should, however, remain methodological rather than substantive: national authorities may legitimately reach different outcomes based on their legal mandates, market conditions and evidence.

Finally, CHIA should be treated as an iterative institution. A pilot phase could collect information on how often screening is triggered, what indicators are available, how long assessments take and whether the information changes remedies. After a defined period, the methodology could be revised. This is preferable to imposing an elaborate mandatory system immediately. It also responds directly to the capacity concern identified in this paper: the strongest case for CHIA is not that competition authorities can suddenly do everything, but that a standardised, proportionate tool can help them do one currently underdeveloped task better.

8. POLICY IMPLICATIONS

The proposed framework has implications at three levels.

At the national level, competition authorities could pilot CHIA in sectors where the evidence base is strongest, particularly fresh produce, informal retail and agricultural inputs. South Africa is well positioned for such a pilot because the FPMI has already generated extensive information on market structure, barriers to entry and supplier participation.

At the continental level, AfCFTA competition institutions could develop voluntary guidance and common indicators. The objective should initially be harmonisation of analytical practice rather than immediate mandatory implementation across all Member States.

At the data level, governments and regional institutions should improve gender-disaggregated market data. CHIA cannot become effective if informal participation remains systematically invisible. Data collection should therefore be treated as part of competition-policy capacity rather than as a separate gender-policy exercise.

There are also implications for competition-agency capacity. Agencies should develop internal expertise in gender-disaggregated data, informal markets and household economics. This does not mean creating large new bureaucracies. A small specialist function or interdepartmental working group could provide technical support while investigators retain responsibility for competition analysis.

Finally, the framework creates an opportunity for women's organisations and informal-trader associations to become evidence providers within competition processes. Participation should not be reduced to consultation for its own sake. The objective is to improve the authority's understanding of market conditions that may otherwise remain invisible in formal datasets.

8.1 A practical roadmap for implementation

Implementation should occur incrementally. In the first phase, the AfCFTA Secretariat and national competition authorities could develop a common screening template and a small set of core indicators. In the second phase, selected authorities could pilot the framework in fresh produce, agro-processing and informal retail, where the South African evidence demonstrates clear relevance. In the third phase, the results of the pilots could be compared and used to refine thresholds, proxies and guidance. Only after this learning process should consideration be given to formalising CHIA through binding regulations or amendments where legally necessary. This staged approach makes the proposal institutionally credible: it treats CHIA as regulatory innovation that must be tested against administrative capacity rather than assuming that a new mandate automatically produces better enforcement.

This sequencing also creates an opportunity for cooperation with statistical agencies and universities, which can improve data quality without placing the entire research burden on competition authorities. Over time, the resulting evidence could support a more rigorous empirical literature on gender and competition in African markets.

9. LIMITATIONS AND FUTURE RESEARCH

The proposal has several limitations.

First, the empirical evidence linking specific competition interventions to household and child outcomes remains limited. The paper therefore does not claim that CHIA has already been empirically validated. Future research should test the framework through pilot cases.

Second, informal markets are difficult to measure. Proxy indicators can reduce the data burden but cannot eliminate measurement uncertainty. Authorities should therefore publish methodological assumptions and conduct sensitivity analyses.

Third, the relationship between gender and competition is not uniform. Women are not a homogeneous economic category. Race, class, geography, disability, age and business size can interact with gender to produce different market experiences. CHIA should therefore use gender as one analytical dimension rather than assuming that all women experience identical effects.

Fourth, not every unequal outcome is a competition problem. Some barriers are primarily caused by infrastructure, labour markets, social policy or local government regulation. The value of CHIA lies partly in helping authorities distinguish competition-related effects from problems that should be referred to other institutions.

Future research should therefore test CHIA through simulated merger cases and market inquiries, compare outcomes with and without the assessment, and develop empirically validated thresholds for supplier vulnerability and household exposure.

10. CONCLUSION

The central argument of this article is not that competition law should become gender policy. It is that competition law cannot fully understand competitive markets if it systematically overlooks the structural conditions under which significant groups of market participants compete.

The AfCFTA has created an important institutional foundation. Its Competition Policy Protocol recognises market efficiency, inclusive growth and structural transformation as objectives of continental competition policy. The Women and Youth in Trade Protocol separately recognises the systemic and financial barriers that women face in participating meaningfully in intra-African trade. The challenge is therefore no longer whether

gender belongs somewhere within the AfCFTA architecture. It is how those commitments are translated into the everyday procedures of competition institutions.

South Africa demonstrates both the possibility and the limitation of current approaches. The Fresh Produce Market Inquiry shows that competition authorities can examine structural barriers to entry, supplier access and market participation. Research on women traders and smallholder farmers shows that these barriers are experienced within gendered economic structures. Yet the institutional connection between market power and household transmission remains underdeveloped.

The Child and Household Impact Assessment is proposed as a response to that gap. Its purpose is not to replace conventional competition analysis, create an automatic preference for women-owned businesses or transform competition authorities into welfare agencies. Its purpose is narrower and more defensible: to provide a proportionate mechanism for identifying material gendered and household effects where those effects are connected to competitive conditions.

The contribution is therefore institutional as much as conceptual. CHIA changes the question a competition authority is able to ask. Instead of asking only whether a market is concentrated, it asks who can contest that market. Instead of asking only whether a price has increased, it asks who is exposed to that increase and through what market mechanism. Instead of treating women's participation as a social-policy concern external to competition, it asks whether structural barriers to their participation reduce contestability, reinforce bargaining power or facilitate foreclosure.

The broader lesson is that inclusive markets cannot be assumed simply because markets are formally open. Competition must be capable of being exercised by those who depend upon it. For the AfCFTA, this means that gender responsiveness should not remain a principle located in policy documents while competition institutions operate through gender-neutral routines. If the continental project is to produce inclusive growth and structural transformation, its competition institutions must be able to see the participants whose exclusion conventional metrics can overlook.

CHIA is therefore offered not as the final answer, but as an institutional starting point: a practical framework through which African competition authorities can begin to connect market structure, gendered participation and household economic resilience. Its ultimate value will depend on piloting, measurement and refinement. But the principle is clear. A competition regime cannot protect a competitive market fully if it cannot see who is prevented from competing.

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