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Editor's note

Competition policy is about promoting economic participation, economic efficiency, and consumer welfare. But, in the real world just what *are* the obstacles that rival businesses to large incumbent firms face when they bring their goods and services to markets? Some obstacles are intrinsic to the nature of the product, others may be a result of the conduct of the incumbent firms, while some barriers can be erected by regulations.

CCRED's work involves, amongst others, building and sharing knowledge about barriers to entry and expansion and the development of firm capabilities in the South African and regional economies. There is currently a shortage of research on what barriers individuals and firms need to overcome in order to gain access to productive sectors. This speaks in particular to the creation of an environment that allows for the entry of small and/or local firms to domestic and regional value chains and graduation up those value chains in the context of the growing international discourse surrounding inclusive economic growth and economic participation. In the domestic and regional context, this involves making it feasible for firms to enter and become *effective* rivals to established incumbents.

Most African economies are characterised by concentrated industries in key sectors, partly explained by the small size of domestic markets, scale and network economies, as well as the historical position of large multinationals and state support in some sectors. High levels of concentration and market power affect the economy in two ways. First, firms in positions of market power as monopolists or in cartel arrangements employ anti-competitive practices to prevent the entry of more efficient rivals (including small, local firms); second, firms in positions of market power lessen or prevent competition such that consumers are denied the benefits of dynamic rivalry amongst firms in the form of better prices, quality and choice.

These two effects are of course inter-related and directly undermine the attainment of economic development and transformation. In crude terms, if new potentially efficient local businesses cannot access markets or if their costs are raised indirectly by the anti-competitive behavior of established rivals, these firms will not be profitable. If these entrants are not profitable then they cannot compete on the basis of innovation, effort, achieving economies of scale and scope, or building capabilities through learning-by-doing; and they certainly cannot compete with incumbent firms on pricing and quality. Critically, these firms also cannot contribute to employment creation and the objectives of downstream industry development outlined in various country industrial policy strategies.

This breakdown in the processes of competitive rivalry ultimately results in a lack of competition which means downstream firms and the person on the street pay much more for their inputs and goods, respectively. This is not acceptable in the context of high inflationary pressures and income poverty.

In this context, this second Review touches on recent evidence of the exertion of market power by large multinational firms unilaterally and through regional market arrangements. We analyse the recent decisions in South Africa in the Sasol Chemical Industries and South African Breweries abuse of dominance cases, as well as regional competition dynamics in the road freight, sugar and cement industries. The Review also gives an update on recent competition cases across jurisdictions as well as information on our upcoming seminar on the linkages between regional integration and competition.

We trust you will find the articles interesting and relevant to your work.

Thando Vilakazi

In this issue:

Excessive pricing verdict in Sasol polymers case

Reena Das Nair, Pamela Mondliwa and Simon Roberts

On 5 June 2014, the South African Competition Tribunal ("Tribunal") found in favour of the Competition Commission[1] ("Commission") on allegations of excessive pricing of purified propylene and polypropylene, key inputs into plastic product manufacturing, against Sasol Chemical Industries (SCI) and levied a fine of R534 million in addition to behavioural remedies.[2]

The matter was referred to the Tribunal following an investigation into the polymers market by the Commission upon request by the Department of Trade and Industry (DTI). The DTI was concerned about poor growth of labour-absorbing downstream industries, such as plastic product manufacturing, and high input pricing was identified as a major challenge to downstream beneficiation in the plastics value chain for household products such as buckets, chairs, and industrial products such as motor car parts and water tanks.

Polypropylene, a type of polymer produced by SCI, is an important input for plastic converters and constitutes a significant proportion of the cost of manufacturing plastic products.[3] Polypropylene is made from monomer, purified propylene, which in turn is processed from feedstock propylene. Feedstock propylene is a by-product from Sasol's coal-to-fuel process. The price of both purified propylene and polypropylene, as intermediate products into plastics production, has significant implications on the price and competitiveness of domestic production of a range of plastic products.

Basis of Tribunal's decision

The Competition Act No 89 of 1998 defines an excessive price as a price for a good or service that bears no reasonable relation to the economic value of the good or service and is higher than this value. Thus the determination of economic value is central to an evaluation of excessive pricing. The Act gives no definition or direction on the determination of economic value and in its decision the Tribunal takes guidance from the Competition Appeal Court (CAC) decision in the matter brought by Harmony Gold against ArcelorMittal ('Mittal').

Excessive pricing, as a unilateral abuse by a firm unconstrained by effective competitive rivalry, is about the price charged relative to that which would prevail under conditions of normal and effective competition. It must also be shown that the pricing is to the detriment of consumers.

There was no dispute between SCI and the Commission that SCI has very low costs of production and exported about half its production and yet charged local customers at import parity levels. SCI's low production costs derive from the abundance of feedstock propylene, produced partly as a by-product of the coal-to-liquids fuel production process and the question was whether those advantages were a result of the SCI's innovation, risk-taking and investment or simply a result of its history of extensive state support.

There is no universal method of determining economic value for every excessive pricing case. It can be measured in a number of ways including through quantifying the economic costs of producing and marketing the good (price-cost test), assessing prices of the same firm for the same product in different markets (export prices), and/or assessing prices of the same/similar products in competitive markets (international comparators). In practice, both in South Africa and in other jurisdictions, economic value has been determined through the different methods described, and a preponderance of evidence is often used to arrive at a more robust conclusion. In the current matter each economic expert led evidence using a variety of tests but the Tribunal's decision was ultimately based on price-cost tests, export prices and international comparators, as discussed later.

There were numerous disagreements between SCI and the Commission on the prices and costs used in the price-cost tests to assess the extent of the excessive pricing. The Tribunal found that purified propylene prices during the complaint period (2004-2007, although the conduct pre-dated 2004), were in the range of 31.5% to 41.5% above costs.[4] For polypropylene, the Tribunal found that the price mark-up over costs were in the range of 17.6% to 36.5% (which includes both a conservative and more realistic measure range).[5] Compared to export prices, the Tribunal found that SCI's local prices for polypropylene were on average, 23% higher than average deep sea export prices, and between 41% and 47% above discounted prices charged in Western Europe.[6]

In determining the economic value of the products in question, the main issue of contention between the parties was the treatment of SCI's feedstock cost advantage.[7] The Tribunal, taking guidance from the CAC and the Constitutional Court found that history matters when evaluating excessive pricing, and thus central to the debate about SCI's cost advantage is the history of how SCI acquired its dominant position and the cost advantage. The Tribunal highlights that it is important to consider South Africa's unique history in the interpretation of its competition law. In other words, legislative imperative is important.[8] The preamble of the Act is very clear in that South African competition law seeks to address the previous excessive concentrations of ownership and control within the economy.[9] This must be read together with section 2 of the Act which makes clear that '*a history of such state largesse cannot be permitted to subvert competition nor should the market power inherited from erstwhile status as a* *state enterprise be exerted with continued impunity'.*[10] The Tribunal's enquiry concludes that in the context of this case, the Act intended that history should be taken into consideration.

A review of Sasol's history of state support led the Tribunal to conclude that SCI's low cost feedstock propylene arises from South Africa's natural resources. Sasol significantly benefitted from state support and its position in purified propylene and polypropylene are a result of that. Thus its position is not due to risk taking and innovation but rather due to past exclusive or special rights, in particular very significant historical state support for a considerable period of time. Therefore the feedstock cost advantage as a result of this support should be taken into account in the excessive pricing evaluation.

The notion that history matters in contemplating excessive pricing cases is mirrored in economic literature. Motta and de Streel (2007), Roberts (2008) and Evans (2009) indicate that those markets in which monopolies established dominance due to current or past exclusive or special rights are the very markets in which competition authorities should be concerned about excessive pricing, as high prices are usually merely a rent unrelated to market conditions.[11]

This decision sets important precedents for a number of reasons, one of which is the emphasis on considering, not only the provisions of the Act, but the preamble as well as the purpose of the Act (Section 2). In this case, the Tribunal reflects on the objectives of the Act when it contemplates whether the respondent's pricing practice bears no reasonable relation to economic value. The purpose of the Act is to promote the efficiency, adaptability and development of the economy (2 (a)) and to provide consumers with competitive prices and product choices (2(b)) and exploitative conduct undermines these drivers of growth. By clarifying that history matters, the decision gives guidance to entrenched dominant firms who acquired their positions due to previous state policies, suggesting that they should be cautious of engaging in conduct which could be considered exploitative, such as excessive pricing.

The Tribunal's enquiry to determine whether the excessive prices were detrimental to consumers considered the impact on the downstream industry in light of the purpose of the Act. The finding was that the excessive prices, maintained by the exercise of market power by SCI, resulted in missed opportunities for innovation and development for the domestic manufacture of downstream plastic goods.

In effect, the exploitative conduct of the respondent in this matter has undermined industrial policy efforts to build productive capabilities in the plastics sector. Post-1994 industrial policy clearly identified an objective to retain and increase the natural resource advantage that South Africa has, and to encourage the transfer of that natural resource advantage through to the growth of downstream, higher value-added and labour intensive industries.[12] One of the efforts to ensure that there was a conducive environment to achieve the industrial policy objectives was to review regulation and in particular in those sectors of the economy where regulation previously was designed and maintained to protect insiders such as incumbents in the fuel industry.

One such review was undertaken for the Liquid Fuels Industry Task Force in 1995 by Arthur Andersen. A key question of this review was whether the protection of Sasol Synfuels (through the regulatory framework) had a negative effect on the pricing of chemical feedstocks and thus on the competitiveness of downstream businesses. Arthur Andersen concluded that the prices charged for chemical feedstocks were generally competitive as the local prices for Polifin's (which later become SCI) major product streams approximated the export price and were significantly lower than the import price.[13] This meant that the low cost advantage of chemical feedstocks (as by-products from fuels production) was at that time being passed on to the downstream plastic producers. However, SCI had apparently changed its pricing behaviour sometime around 2000-2002, when it began charging prices at import parity levels (resulting in a difference of some 20% to 30% between local and export prices).

The South African plastics sector performed well between 1994 and 2002, following which it stagnated and then declined.[14] Though there are multiple factors which may have contributed to the decline in the performance of the plastics sector, it is likely that the change in the approach to pricing of the input products by SCI was an important factor. Developing productive capabilities in employment-absorbing sectors such as plastics in middle income countries is imperative to achieve sustainable and more inclusive growth.[15] Thus exploitative conduct that undermines the process of developing these capabilities is particularly harmful.

Separate to the administrative penalty the Tribunal sought remedies related to forward-looking pricing. For polypropylene, SCI is required to price on an ex-works basis without discriminating in price between any of its customers no matter where they are located.[16] This remedy is consistent with the principles of a notional competitive market. This is because, in a situation where supply vastly exceeds demand, as is the case in South Africa, the expectation is that competition would drive prices towards the export price, which is the next best alternative to local sales, provided that export prices cover all costs and include a reasonable rate of return.

This does not necessarily mean that the local market price will be identical to the export price – the prices will still differ between customers, in both local and export markets, depending on a range of factors including the volumes they buy, the terms of sale, grades of product and any after sales support and assistance.

The implementation of the proposed remedies will lead to a reduction input costs for local plastic convertors as the price of polypropylene accounts for approximately 40%-60% of total costs.[17] The remedy will allow convertors to enhance local production thereby enabling them to compete more effectively with imported final plastic products, to manufacture locally rather than overseas and to introduce new products to South African consumers, adding to their choice of product through greater innovation. For purified propylene, SCI and the Commission are required to propose a pricing remedy that is in line with specified principles.[18]

The Act also allows for victims, in this case mainly plastic convertors, of anticompetitive conduct to claim damages against the respondent, either through individual claims or through class action damages. SCI has appealed the decision at the Competition Appeal Court.

Notes

1. The team of economists who worked on this matter for the Competition Commission presently work at CCRED (Simon Roberts (Director), Reena das Nair (Senior Researcher) and Pamela Mondliwa (Researcher)). Simon Roberts testified in the Competition Tribunal hearing.
2. *Competition Commission vs Sasol Chemical Industries*, case no. 48/CR/Aug10. The decision as well as the non-confidential expert and factual witness statements are available on the Competition Tribunal website.
3. The importance of polypropylene as an input cost for plastic converters was emphasized by industry players who testified in the Tribunal hearings. See factual witness statements of representatives from plastic convertors such as Usabco and SA Leisure.
4. This range was for what was called 'Tier 1' and 'Tier 2' sales of purified propylene to the main buyer, Safripol. (See note 2, para 315).
5. See note 2, para 357.
6. See note 2, paras 368 and 374. The Western European mark-ups were for two grades of polypropylene, homopolymer and raffia grade polypropylene, respectively.
7. See note 2, para 76.
8. See note 2, para 96.
9. See note 2, para 97.
10. Mittal (CAC) as quoted by the Tribunal Decision at para 97.
11. Motta, M. & de Streel, A. (2007) 'Excessive Pricing in Competition Law: Never Say Never?' in *The Pros and Cons of High Prices*, Stockholm: Konkurrensverket - Swedish Competition Authority 2007: Chapter 2, p. 14-46; Roberts, S. (2008). 'Assessing Excessive Pricing: The Case of Flat Steel In South Africa', 2008 (4), in *Journal of Competition Law and Economics* 871, 888; and Evans, D. S. 'Why Different Jurisdictions Do Not (and Should Not) Adopt the Same Antitrust Rules', in *Chicago Journal of International Law*, Vol. 10, No. 1, Summer 2009, 161.
12. Rustomjee, Z. (2012). Witness Statement in Competition Commission v Sasol Chemical Industries. Case No. 48/CR/Aug10 (non-confidential).
13. Mondliwa, P. & Roberts, S. (2014). 'Review of economic regulation of liquid fuels and related products'. Available at: http://www.competition.org.za/regulatory-entities-capacity-building-project/ [23 July 2014].
14. See note 13**.**
15. Tregenna, F. (2007). 'Which sectors can be engines of growth and employment in South Africa?' Presented at HSRC EGDI Roundtable, 21 May 2007.
16. See note 2, para 507.
17. See note 2, para 437.
18. See note 2, at para 491 for discussion on the specified principles.

Routes to market: enhancing competition in regional road freight

Lebogang Nleya

Road transport is the main mode of transport and a facilitator of international and domestic trade in Africa, accounting for between 80 and 90% of passenger and freight transport in the region.[1] High transport prices adversely affect the prices of goods and the terms of trade faced by exporters and importers in the continent. In this context, the current round of SADC negotiations on trade in services has identified road transport as one of the primary areas for trade policy harmonization, including improving competitive outcomes in the sector. This sector has also attracted the attention of some competition authorities, for instance in Malawi where the competition authority is conducting a market inquiry in the road transport sector. It is against this backdrop that the current state of competition and regulation in this sector is assessed.

Much of the literature on road transportation of goods in Africa identifies infrastructure constraints and the inconsistent application of regulation as some of the main drivers of poor outcomes in this sector.[2] A recent CCRED study on competition in the road freight sector in Malawi, Tanzania and Zambia also found that outcomes in terms of price and quality of service are affected by the implementation of pro-competitive regulation and the vertical relationships that prevail between large users of road transport (such as copper exporters) and transport operators. Through benchmarking some of the findings against outcomes in West and Central Africa, which are largely driven by formal and informal arrangements to protect domestic industries, we consider factors which drive competitive outcomes in road freight.

Comparing prices and performance

Earlier studies have found that the average cross-border transport prices along major routes throughout Africa did not compare favourably with benchmarks in countries around the world (Figure 1). Transport prices reflect the rates that customers pay for these services. Measured in US cents per ton per kilometre, rates between Chad and Cameroon (Douala – Ndjamena), and Kenya and Uganda (Mombasa – Kampala) were just more than double those in other developing countries such as Pakistan and Brazil, and the US.

Based on the available literature, the outcomes seem to be worse in West and Central Africa, compared to East and southern Africa. Despite being a labour intensive sector with the lowest truck driver's wages and fixed costs in the world, the road freight sector in West and Central Africa has the highest relative transport prices and poorest services.[4] This suggests that operating margins for trucking companies are high in this region. Variable costs (including the costs of lubricants, tyres and fuel, and bribes to a lesser extent) account for close to 70% of the transport costs.[5]

In addition to high transport prices, the trucking sector in West and Central Africa is characterized by unreliability, small informal operators, old vehicles, and policies and regulations that do not encourage efficiency.[6] For instance, transporting goods from Tema port in Ghana to Ouagadougou in Burkina Faso (a distance of about 1050 km) costs five times as much as transporting goods over the same distance from Newark to Chicago in the US.[7]

Figure 1: Comparison of average transport prices (US cents per ton per km)[3]

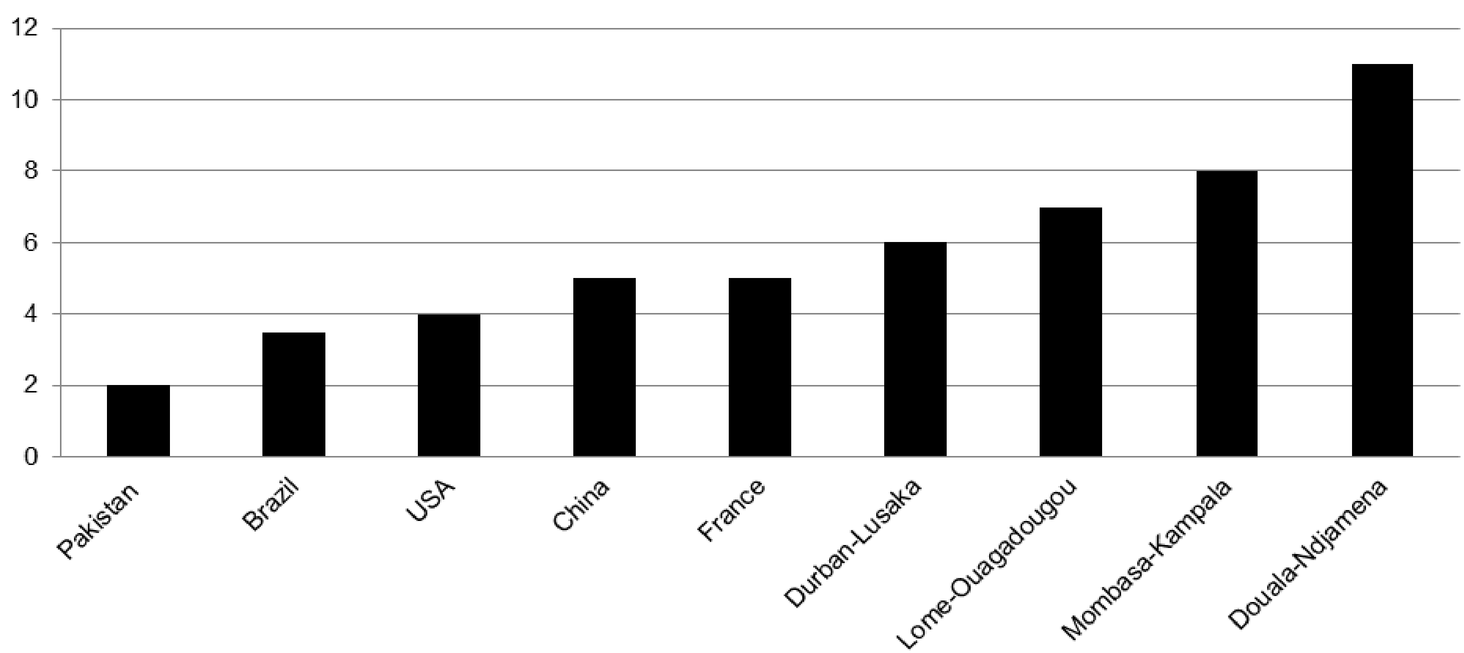
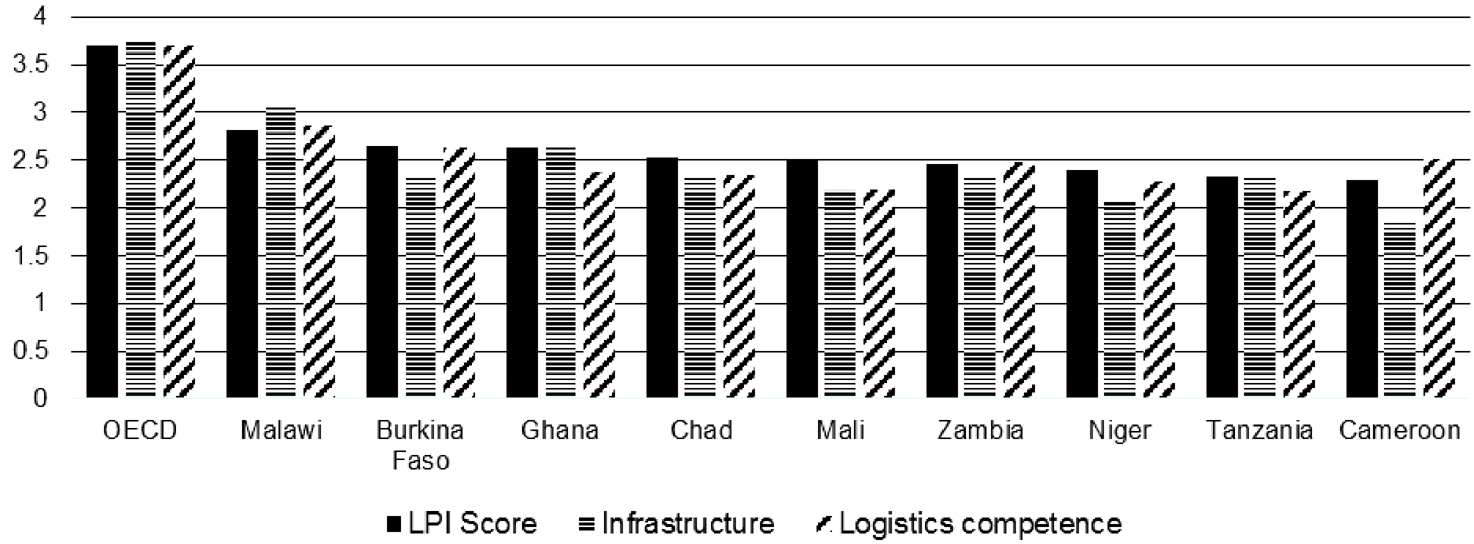


Figure 2: Country comparison - Logistics Performance Index (LPI) 2014[8]



Furthermore, several of these countries still lag behind when it comes to the efficacy and adequacy of trade logistics systems based on the World Bank Logistics Performance Index (LPI) (Figure 2).

In terms of the performance of domestic logistics systems, the outcomes in East and southern African countries are not much better although Malawi has outperformed Zambia and Tanzania in terms of the LPI. Similarly, cross-border rates measured in $ per ton per kilometre along major routes between these countries are also comparable, although it is clear that per ton rates from the ports of Beira and Dar es Salaam to Lusaka are relatively higher than those to Lilongwe in Malawi (Table 1). These rates apply specifically to the transportation of fertilizer which was the subject of the CCRED study.

The dynamics in the domestic markets are significantly different. For instance, domestic transport rates in Malawi were found to be higher than cross-border rates.[10] Currently, domestic transport rates in Malawi are between $0.13 and $0.14 per ton per kilometre which are higher than the corresponding estimate in Zambia of approximately $0.10 and those in Tanzania which lie between $0.09 and $0.12 from Dar es Salaam to different locations in Tanzania. This may have to do with economies of distance where longer distances incur lower rates, as well as fierce competition between cross-border operators from different countries. However, we also expect cross-border rates to also account for expected delays and fees at different border posts, weighbridges and bribery at checkpoints along the routes, and a lack of return loads such that rates would be higher as each of these factors increases. We consider other possible drivers of high prices across countries.

Drivers of transport prices in southern and East Africa

Several countries in southern and East Africa have made some progress in terms of improving competitive outcomes in road freight. For example, the Zambian road freight industry is characterized by improving transport quality, declining transport prices, high competition between Zambian, Zimbabwean and South African cross-border operators which have improved cost-competitiveness, and improvements in road infrastructure. This is partly because of a regulatory environment which has encouraged greater competition. For instance, from 2008/9 Zambian companies could import second-hand trucks on a duty-free basis thus lowering finance, depreciation and insurance costs. The authorities have also improved the processes for obtaining trucking permits. The effect of these improvements has been relatively lower transport prices.

Table 1: Selected cross-border rates for the transportation, 2012-2014[9]

From	To	Cost ($/ton)	$/ton/km	Distance
Dar es Salaam	**Lusaka**	140-220	0.07-0.11	1951
Dar es Salaam	**Lilongwe**	90-125	0.06-0.08	1515
Beira	**Lilongwe**	77	0.08	948
Beira	**Lusaka**	120	0.11	1048

Similarly, the road freight sector in Tanzania has become highly competitive due to an influx of trucks after rail transport on the TAZARA network (between Tanzania and Zambia) was significantly reduced in 2010, resulting in relatively lower domestic transport rates. Furthermore, the relaxation of government regulations which initially restricted the transportation of heavy loads to rail freight and the removal of surcharges for the purchase of second-hand trucks are some of the factors that have led to the increase in entry and competition.[11]

However, the biggest challenge in the Zambian market remains high fuel costs relative to other African countries.[12] Along with high fuel costs, domestic operators have been disadvantaged in terms of domestic toll roads, taxes and levies that are otherwise not incurred by competing operators in neighbouring countries.[13] This impedes the ability of these firms to grow their operations and compete in cross-border markets, although they can still operate domestically. In order to protect these domestic operators from further foreign competition, governments are often influenced by trucking lobby groups to continue to enforce restrictions on cabotage (which are widely applied in SADC) prohibiting foreign firms from transporting cargo between two points within a foreign country. This has the effect of allowing smaller domestic operators to dominate local routes.

In most African countries with agrarian economies, a significant proportion of domestic transportation involves transporting goods (inputs such as fertiliser and other consumption goods) from main cities and ports to farming areas. However, domestic truck operators in most countries have few opportunities for return or back loads due to limited production of goods in rural areas. Where trucking companies do not have return loads, they tend to factor the costs incurred over both legs of a trip into the price of one leg, resulting in higher prices to customers. For instance, Malawi has a heavily regulated road freight sector, characterized by relatively higher domestic transport prices than other countries in southern Africa, few large players in the market and small owner-driver operators, and empty back loads (especially on rural routes). Further, rural routes have high transport prices because of the poor quality of feeder roads and low levels of trade volume.[14] There are also indications that the road transport agency in Malawi has a practice of recommending transport rates for the market, which truck owners can use as a benchmark. This distorts competition in the domestic market. Together these factors drive the relatively high domestic transport rates. One of the few advantages of operating in the Malawian market has been that there are no weight limits for trucks which means that domestic trucking companies in particular can benefit from earning additional margins (in the short term) on larger loads.[15]

Drivers of transport prices in West and Central Africa

Previous studies on road transport in West Africa in particular have found that high prices were driven by corruption at roadway checkpoints[16] and high vehicle operating costs that resulted from poor roads and infrastructure.[17] This is despite significant investments by donors and governments in infrastructure improvement programmes. However, indications are that these outcomes are also driven by anti-competitive arrangements led by interest groups such as trucking associations that are able to manipulate the regulatory environment.

For instance, in West Africa some domestic and cross-border routes are ‘regulated’ through quota and queuing systems operated through freight bureaus, industry associations and shippers’ councils. These organisations often have influence over port processes for incoming cargo. Similarly, Central Africa’s trucking system is also characterized by cartels whereby freight bureaus and transport associations govern the system. One example is that these associations divide cargo destined for Burkina Faso, Mali and Niger between trucks from landlocked and port countries on a first-come-first-served basis.[18] Formal systems such as the one-third/two-third system contained in the ECOWAS Interstate Transport Convention allocate two-thirds of freight passing through the ports for inland countries to transporters from the destination states. While these bilateral agreements which are implemented differently across countries try to ensure fairness, it distorts the competition between cross-border transporters which has been shown to have positive benefits in Zambia, for instance.

As a result of these formal and informal regulations, it is difficult to penetrate the market as a new entrant leading to low levels of competition and high transport prices.[19] These informal systems allow older trucks to compete with newer vehicles and as a result, importers prefer to pay higher prices to get reliable trucks which are in better road condition.[20] Furthermore, queuing systems mean that truckers have to wait their turn to be allocated a load regardless of the condition of their vehicles. Due to an oversupply of trucks some operators offer bribes to ensure that they receive a load.[21] Similar systems are in place at some of the copper mines in Zambia and the DRC, where truck operators sometimes rely on having ‘connections’ and agents waiting at the mines to secure loads. However, the prices in these markets tend to be moderated by the fact that powerful buyers of transport services such as copper mines are able to dictate the prices they are prepared to pay for reliable transport, especially where there is an oversupply of trucks. The countervailing buyer power of large firms is an important factor in affecting outcomes in road freight markets.

Importantly, these systems prevent trucking companies from competing on the basis of prices and the quality of their service (including roadworthiness).[22]

The situation in some countries is somewhat different as there is a seasonal undersupply of trucks. For example, this occurs during the cocoa harvesting season in Ghana and prior to the farming seasons. The queuing and quota system do not operate to a great extent in Ivory Coast and Ghana and as such there seems to be less market power vested in the associations. In these countries, some truckers and freight forwarders in the 'formal' sector will contract directly with importers and exporters to transport their goods.[23] However, prices in Ghana remain high driven by this undersupply, restrictions on cabotage which restrict competition and efficiency as well as axle load limits[24] as in Tanzania. Asymmetry in the application of axle limits between countries restricts the ability of trucking companies to carry optimal loads and obtain optimal return loads when they transit between countries that apply different limits.

Conclusion

With increasing intra-regional trade flows in recent years, it will become more important for countries to harmonize policies which affect road freight. Road transport is an integral part of the value chain for trade in goods between countries in the continent, and regulatory solutions between countries through regional bodies and better implementation of those efforts to harmonize regulations can result in reduced costs and improved outcomes. Improving infrastructure remains an important precondition along with reviving the role of rail networks.

However, there is also scope for interventions that directly seek to increase rivalry such as investigations into the use of industry associations in transport to distort competition. These systems are deeply entrenched along routes in West Africa in particular such that competition authorities would benefit from working with both users of transport services, port regulators, industry associations and the road freight firms themselves as well. As evidenced in Zambia, the introduction of pro-competitive regulatory measures and allowing for effective entry from foreign competitors can reduce the prices of transport. Competitive outcomes are improved not by simply increasing entry to the sector, but encouraging competition based on price and quality of service (including adherence to safety and performance standards).

Notes

1. See Ward, N. & Barreto, E. (2011). 'Technical Report: Road Freight Transport Services Diagnostic Study' for USAID Southern African Trade Hub; and Raballand, G. & Macchi, P. (2008). 'Transport Prices and Costs: The Need to Revisit Donors Policies in Transport in Africa'. World Bank.
2. See note 1.
3. Teravaninthorn, S. & Raballand, G. (2009). 'Transport prices and costs in Africa: A review of international corridors'. World Bank.
4. See '"Organised Chaos": Analysing Governance in the Private Transport and Trucking Sector Ghana'. IDL Group Working Paper No. 5.
5. Amjadi, A. & Yeats, A. J. (1995). 'Have Transport Costs Contributed to the Relative Decline of Sub- Saharan African Exports?' Policy Research Working Paper No. 1559. World Bank.
6. See note 4.
7. West Africa Trade Hub (WATH). (2010b). 'Transport and Logistics Costs on the Tema-Ouagadougou Corridor'. Technical Report No. 25.
8. World Bank Logistics Performance Index 2014.
9. Ncube, P., Roberts, S. & Vilakazi, T. (forthcoming, 2014). 'Study of competition in the road freight sector in the SADC region - case study of fertilizer transport and trading in Zambia, Tanzania and Malawi'. CCRED, University of Johannesburg.
10. See note 9.
11. See note 9.
12. Raballand, G., Kunaka, C. & Giersing, B. (2008). 'The impact of regional liberalization and harmonization in road transport services: a focus on Zambia and lessons for landlocked countries'. Africa Transport Department Policy Working Paper No. 4482. World Bank.
13. See note 9.
14. Lall, S. V., Wang, H. & Munthali, T. (2009). 'Explaining high transport costs within Malawi: Bad roads or lack of trucking competition?' World Bank Policy Research Working Paper No. 5133.
15. See note 9.
16. See note 7.
17. See note 3.
18. See note 7.
19. See note 4.
20. See note 4.
21. See note 7.
22. Zerelli, S. & Cook, A. (2010a). 'Trucking to West Africa's landlocked countries: Market structure and conduct'. USAID/West Africa Trade Hub Technical Report No. 32.
23. See note 22.
24. See note 22.

SA Tribunal finds no case against SAB distribution

Lauralyn Kaziboni

The Competition Tribunal of South Africa ("Tribunal") has dismissed the case between the Competition Commission ("Commission"), and SAB and 14 SAB-appointed distributors (ADs).[1] The complaint was initially lodged in 2004 when Big Daddy, an 'un-appointed' independent distributor (customer) of SAB, alleged that SAB, the dominant upstream manufacturer of beer, was pricing beer at the same level for both the retail and wholesale/distributor levels of the market and was thus preventing independent wholesalers/distributors such as itself from making any profit. In South Africa, SABMiller has 7 breweries, 40 depots, 34 000 customers (retailers) and an estimated market share in clear beer of 90%. It is therefore a must stock product for distributors in the downstream 'market for liquor distribution' as defined in the proceedings. The Commission referred the case to the Tribunal in 2007 as a violation of sections 4(1) (b) (restrictive horizontal practice), 5(1) & (2) (restrictive vertical practices) and 9 (price discrimination by a dominant firm) of the South African Competition Act (the "Act"). We discuss the Tribunal's findings under each of the sections below.

This matter highlights the challenge which can arise in abuse of dominance cases of accurately characterising the conduct complained of and framing it as a violation of specific sections of the competition legislation. This exercise can be confounded by the fact that often firm strategies do not fit neatly into one or more category of abuses as per the Act. The effects complained of may in fact be the result of a combination of dominant strategies that have the effect together of raising a rival's costs or harming consumers, or both. In this matter, the Commission framed a case under several sections of the Act and took the view that the effect of the strategies employed by SAB reduced intra-brand competition, which refers to competition between dealers of the same manufacturer and not between different manufacturers (inter-brand). Although aspects of the same arrangements could also affect inter-brand competition in terms of effectively restricting distributors from carrying protects of rivals to SAB, this inducement aspect of the case was separated from the current enquiry for technical reasons.

The first aspect of the case had to do with the fact that SAB allocated territories to ADs through vertical arrangements where ADs could distribute only SAB beer, and only to specific allocated regions. SAB's own depots, through which 90% of its beer production is distributed, did not compete in the areas serviced by the ADs although they were not prevented from doing so. The Commission argued that SAB had violated section 4(1) (b) by dividing markets through allocating customers and territories to these ADs, who were meant to be competitors to one another and direct rivals to SAB's own distribution depots. However, the Tribunal established that the ADs were not sufficiently independent from SAB in a manner that would make them competitors to one another, and SAB's own depots. This is partly because the ADs were created through SAB's appointed distributor system which was formed in the 1980s to improve distribution to rural areas. Additionally, through their wholesale or franchise vertical agreements, SAB controlled important aspects of the ADs' business including limiting them to distributing only SAB beer in specified areas, remunerating the ADs through a fee determined by SAB, influencing their marketing strategies and enforcing strict performance and reporting standards. In some cases, where an AD's business failed, SAB would simply assume their operations or convert these businesses to SAB depots.

To the extent that the businesses of the ADs were effectively run as extensions of SAB's own distribution functions, they were not considered by the Tribunal to be competitors at a horizontal level to one another and SAB's own depots. This led to an extensive consideration of the nature of the vertical agreements held with ADs, and particularly the different terms offered to independent 'non-appointed' distributors vis-à-vis the ADs.

In this regard, SAB was accused of unlawful price discrimination in violation of section 9(1) of the Act. Specifically, ADs were paid a service fee for distributing SAB's beer in the form of a discount on the retail price, while the independent distributors were not similarly remunerated for performing what the Commission alleged were the same functions. In this case the Commission had to show that SAB as a dominant manufacturer of beer was charging purchasers of its beer different prices for goods of the same grade and quality sold in 'equivalent transactions' with the effect of substantially preventing or lessening competition. The determination in competition law of what constitutes equivalent transactions is often a difficult and contentious exercise.

The Tribunal decided that the transactions between SAB and the ADs or independent distributors were not equivalent. SAB was purchasing the service of distributing beer from ADs while the ADs purchased beer from SAB. On the other hand, the independent distributors only purchased beer from SAB, and SAB did not purchase their distributing services in return. Furthermore, it was argued that the differential distribution service fee paid to ADs was to compensate them for the onerous contractual obligations they had to meet. The contractual obligations entailed meeting performance and service level requirements and providing universal service to all SAB customers. The requirements and remuneration were apparently different for non-appointed distributors, which necessitated different competitive strategies. For instance, while the

ADs distributed SAB's beer exclusively (although they were not required to), the independent distributors also stocked other beer brands in addition to SAB's beer. In order to compete profitably independent distributors could either deliver a larger proportion of non-SAB products or they could charge a premium on SAB's products. However, the latter could not be profitably executed as independent distributors would likely lose sales to ADs who sold SAB's beer at the recommended price. At the same time delivery of a larger proportion of non-SAB products was not viable, as there was a preference for SAB beer in the market.

Taken together, these factors implied that the contractual relationships between SAB and the different groups of distributors were different, and that in effect this warranted differential treatment from SAB. The Commission argued that the specific terms of these vertical agreements also raised concerns in terms of a lack of competitive discipline on ADs from 'rivals' in other territories and a reduction in choice for customers. For instance, prices within the ADs' territories were higher and customers were deprived of the choice of the best allocated supplier and hence lowest cost access to beer since the agreements granted exclusivity to individual ADs over specific geographic areas. The Commission considered this to be a violation of section 5(1) which speaks to an agreement between parties in a vertical relationship which has the effect of substantially preventing or lessening competition. SAB contested this argument through arguing that the current system allowed ADs to achieved economies of scale in distribution. The AD system ensured that the customers paid the lowest transportation costs when considering the full costs of transporting beer from the breweries to the depots (primary distribution), and then from the depots to retail customers (secondary distribution). Furthermore, SAB indicated that if the exclusive territories were removed, they could easily distribute using their own depots and not the ADs considering that SAB was already distributing 90% of their own products.

The Tribunal decided to dismiss this allegation on the basis that the Commission had not shown sufficient evidence to establish that distribution costs and thus the price of beer would have been lower if distributors in different territories were allowed to compete with one another on the prices offered to customers (based on lower distribution costs). Similarly, no benefits in terms of non-price competition were demonstrated if distributors from different territories were allowed to compete although the Commission had argued that service delivery was sub-optimal since customers could not select the most efficient AD for themselves (in terms of closeness and distribution schedule).

The vertical agreements also allowed SAB to recommend the selling price that ADs could offer to customers and above which they could not sell. This was apparently in order to prevent the ADs from taking advantage of their exclusivity in each region by charging higher prices to the detriment of consumers. According to the Commission this constituted a contravention of section 5(2) (which prohibits resale price maintenance) at the wholesale distributional level. However, it was found that although SAB's IT systems monitored and controlled pricing, and did not allow distributors to offer discounts, distributors did offer discounts to customers and were not contractually prohibited from doing so.

Overall, having ruled against the Commission's case on each of the alleged contraventions, the Tribunal identified two faults with the Commission's case. Firstly, the case brought by the Commission concerned only 10% of SAB's distribution system which would have made any possible intervention have little or no impact on intra-brand competition in the market as a whole. Secondly, the Commission was left to speculate on the possible effects of the conduct because there was no evidence of a time when the market operated differently. Establishing a substantial counterfactual is often difficult in cases where particular conduct has been the established practice in a market for a long period of time. In this case it proved difficult to estimate how much more efficient the independent distributors could have been had the vertical arrangements in the AD system not prevented direct competition between distributors in the market. The Commission has appealed the Tribunal's decision to dismiss the case.

Notes

1. Competition Commission and South African Breweries Ltd and SAB's Appointed Distributors, case no. 134/CR/Dec07 (011148).

Regional dimensions of competition and trade in sugar and cement

Anthea Paelo

There are important linkages between firm behaviour, competition and trade and agricultural policy. This discussion reviews the main insights from the African Competition Forum studies on the regional cement and sugar industries, pointing out cross-cutting issues in these industries and their effect on competition and regional trade.

Cement industry

The cement industry across the region is highly concentrated and largely oligopolistic with many of the firms conducting operations and holding controlling interests across different countries and even among smaller fringe independent suppliers. The ACF study assessed competition issues in Botswana, Kenya, Namibia, South Africa, and Tanzania.1 Looking at the country level, in three of the countries one producer (or group of associated producers) accounts for more than 50% of production capacity. In Zambia and Kenya companies associated with Lafarge have accounted for the majority of capacity. In Namibia recent entrant Ohorongo is effectively the only local producer. In South Africa and Tanzania three to four producers have accounted for 80% of production, while Botswana is largely served by imports from South Africa in addition to small local producers.

A comparison of estimated ex-factory prices reveals that Zambia's prices have been the highest throughout the period assessed (of 2000 to 2012) while South African prices have been the lowest apart from at the height of the cartel in 2005 when Tanzania prices were slightly lower (Figure 1). Kenya prices have generally been the next highest, until recent years when the divestiture of Lafarge's associated company from Athi River Mining and the entry of two smaller producers (National Cement and Mombasa Cement) increased competition somewhat. Tanzania prices, on the other hand, have remained substantially lower than those in Kenya, apparently reflecting greater local competitive rivalry and an openness to imports which meant it saw nominal reductions in local currency cement prices after 2007 (not observed in either Zambia or Kenya). Botswana and Namibia prices, on their part, have tracked above South African prices, although the entry of Ohorongo in Namibia led to a sharp reduction in prices relative to the other countries and are close to the post-cartel prices in South Africa.

These outcomes were largely influenced by a cement cartel which covered the southern African Customs Union (SACU) until 2009 involving the four producers (PPC, Lafarge, Afrisam and NPC) who agreed on market shares in the region and shared monthly sales information. A comparison of the post-cartel ex-factory prices in the period 2010-2012 shows that prices in most of the countries remain above those in South Africa (Table 1).

Competition in the cement industry is severely undermined by the fact that the same firms are present in different neighbouring countries, especially where those firms have a history of collusive behaviour between them. In the context of smaller domestic markets, it is of course likely that we see more concentrated markets and so the nearest competitor

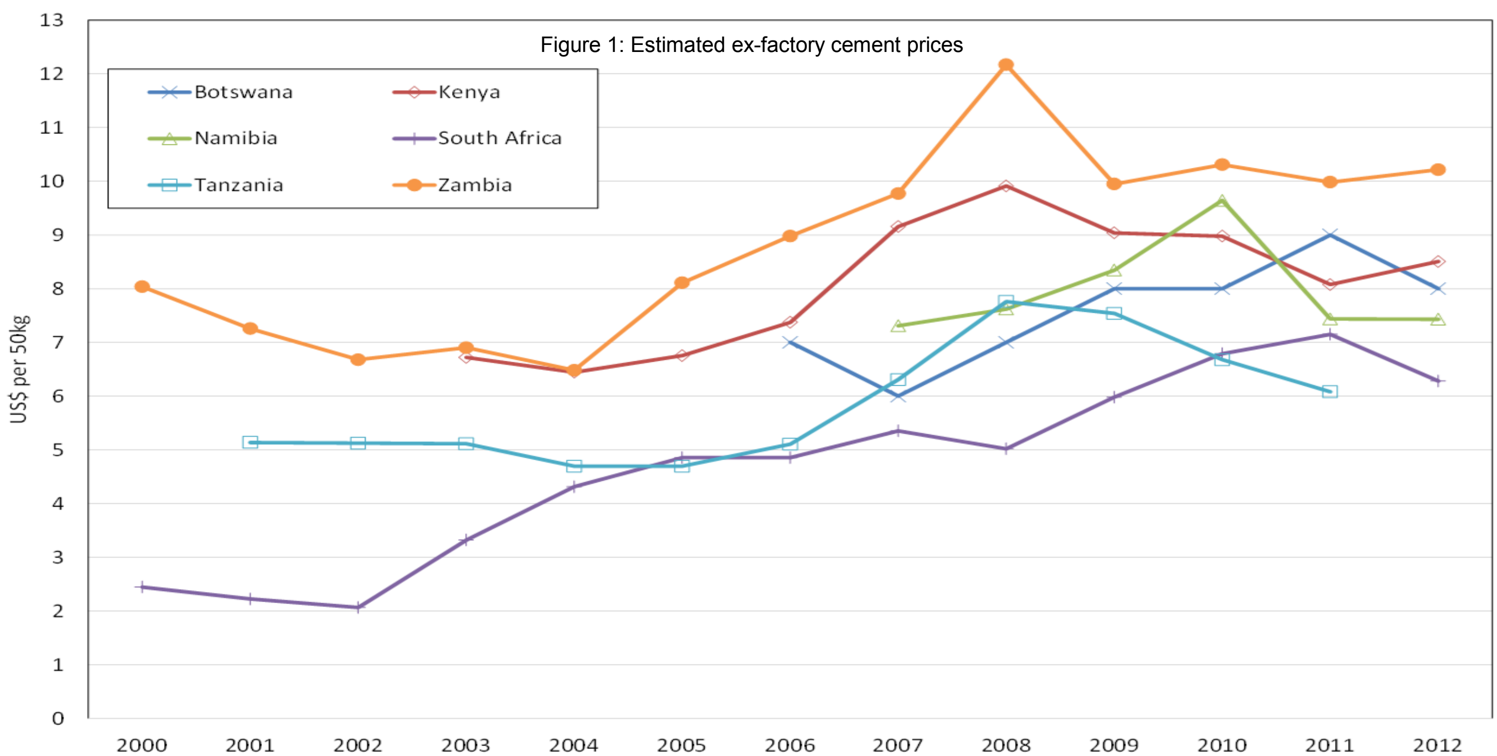


Table 1: Post-cartel ex-factory cement prices per 50kg bag	
South Africa	$6.50
Tanzania	≈ $6.50
Namibia	$7.50
Kenya	$8.50
Botswana	Between $8 & $9
Zambia	$10

may in fact be located across the border and can be a source of competitive rivalry. However, if firms have allocated territories in the region to one another effectively creating territorial monopolies, barriers to entry are heightened and competition and trade is distorted.

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Sugar industry

Kenya, Namibia, South Africa and Zambia have substantial sugar industries where domestic and trade regulation have resulted in outcomes which are inconsistent with the structure of markets. Kenya and Tanzania for example are net importers and have historically protected their industries from imports, although Tanzania has been more progressive in lifting these restrictions.1 Zambia and South Africa are low cost net exporters. Zambia is also the most productive and most efficient producer, with 106 tons of cane produced per hectare compared to the 40 to 60 tons of cane per hectare in the other study countries. Similarly, Zambian producers use 8.1 tons of cane to produce a ton of sugar (in 2011) compared to 8.35 in South Africa, 9.93 in Tanzania and 10.74 in Kenya.

What is most interesting is the market structure in each country. In Zambia, Zambia Sugar (Illovo, now Associated British Foods) has made massive investments in milling infrastructure since the mid-2000s and now has a market share in excess of 90%. The scale of production in Zambia is approximately double what is needed for domestic consumption which suggests that Zambia Sugar's investments were also geared towards export markets. However, Zambia's exports within the region are still mostly into DRC, with the remainder of production going towards markets outside of Africa.

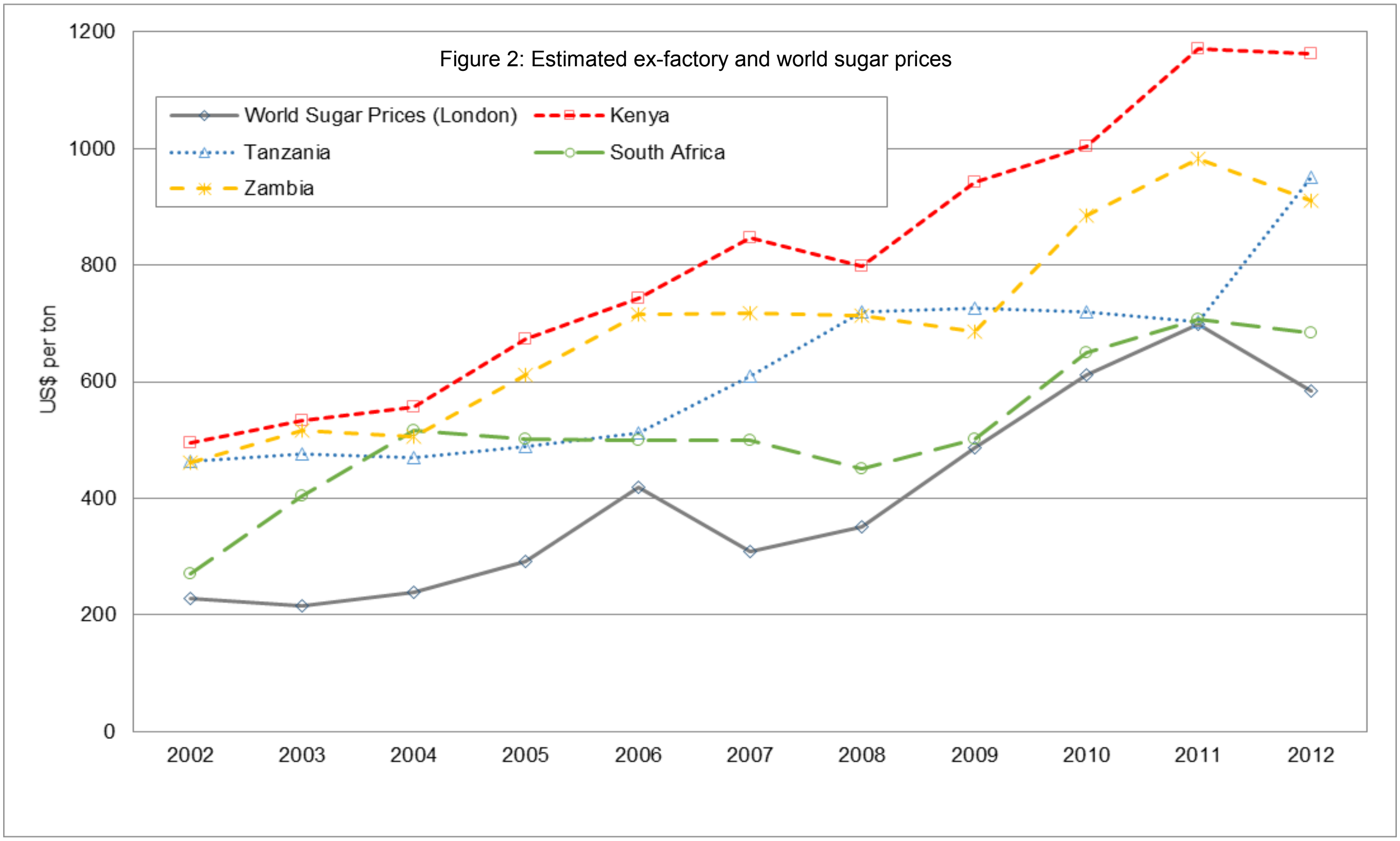
Kenya, on the other hand, has a large number of producers, but the four largest still account for 78% of production. None of these firms are major multinationals (although some ownership is by foreign interests) and imports are heavily controlled. The emphasis on increasing domestic entry to this market as part of agricultural policy has not been matched by investments into increasing effective competition and supporting the production of sugar cane. In Tanzania, two companies account for 70% of production (with the largest, Kilombero, being 75% owned by Illovo, and the second company TPC being majority owned by Sukari of Mauritius that also has interests in Kenya). In South Africa, three companies (Illovo, TSB and Tongaat Hulett) account for over 80% market share.

Another key characteristic of the sugar industry is the role of the state. The industries in Kenya and Tanzania in particular have had a substantial role played by the state. In Kenya extensive state ownership appears to have been associated with poor performance and a painful adjustment process, as new private entrants compete with state-owned and privatized mills. Overall there is a shortage of cane resulting in excess milling capacity while imports in Kenya are required to meet the domestic shortfall. However, imports from outside COMESA through the COMESA safeguards are constrained by high levels of protectionism and sluggish production in member states. Furthermore, what is most concerning is the limited imports from stronger producers such as those in South Africa and Zambia. Appropriate agriculture and industry policy is therefore important to grow production and improve efficiencies in countries such as Kenya and Tanzania.

Sugar prices also vary considerably across countries (Figure 2). As net importers, Kenya and Tanzania's prices should be heavily influenced by the openness to imports. Instead, Kenya has recorded much higher prices than Tanzania reflecting choices made around protecting the local industry.

Despite being a low cost producer and substantial net exporter, prices in Zambia are among the highest while prices in South Africa have been lowest of all the four countries (estimated on an ex-factory basis) (Figure 2). Zambian prices have been close to 50% higher than South African prices for much of the period 2002 to 2012, on an ex-factory basis and not accounting for additional costs such as marketing which may affect this difference. Although relatively lower than the comparators, South African prices are sustained by local market regulation which ensures that world prices do not depress the local price. This suggests that South African domestic prices could be lowered.

Exports from Zambia are largely to the EU and to countries in the region without significant sugar industries such as DRC, meaning that consumers in other countries in the region are not benefiting from greater import competition on the basis of lower costs of production in Zambia. While Zambian produc-



ers may have a preference for exports into Europe, given the very large transport costs these exports are likely to yield prices to the producer which are not much better than sales to the local market. At the same time, the Zambian market is effectively protected against imports through non-tariff barriers as well. This ensures that sugar prices in Zambia remain high despite the production efficiencies.

The competition concerns within and across countries are linked to the particular choices about regulations and trade barriers. This is not to argue for wholesale liberalization, indeed it is a regulatory regime in South Africa which has yielded substantially lower prices than in other countries. It is therefore not clear that the exercise of unilateral market power in Zambia would be addressed by liberalization.

Conclusion

A discussion of the two industries has shown that there are certain cross-cutting issues. The low levels of effective competition have substantial negative impacts for countries' economies, increasing the costs of investment and infrastructure and raising prices to consumers. Cross-country comparisons suggest prices in some countries are as much as 50% in some years above levels in more competitive markets, without obvious differences in production costs. Trade barriers also tend to reinforce the market power of large firms in individual countries. In order to achieve more competitive outcomes, complementary policies (including industrial and agricultural policies) are required to support entrants in national economies, lower production costs and improve efficiencies, operating alongside effective competition enforcement at national and regional level.

Notes

1. Mbongwe, T., Nyagol, B. O., Amunkete, T., Humavindu, M., Khumalo, J., Nguruse, G. & Chokwe, E. (2014). 'Understanding competition at the regional level: An assessment of competitive dynamics in the cement industry across Botswana, Kenya, Namibia, South Africa, Tanzania and Zambia'. African Competition Forum.

2. Chisanga, B., Gathiaka, J., Nguruse, G., Onyancha, S. & Vilakazi, T. (2014). 'Competition in the regional sugar sector: the case of Kenya, South Africa, Tanzania and Zambia'. African Competition Forum.

Regulatory Entities Capacity Building Project

CCRED has recently completed its work on the Regulatory Entities Capacity Building Project which arose from a unique partnership between the Economic Development Department and the University of Johannesburg. CCRED was responsible for implementing the project.

Briefly, the first phase of the project involved critically assessing the historical performance of South African economic regulators in key sectors; and in the second phase developing and implementing capacity building programmes aimed at addressing needs in terms of the economic, legal and financial analysis of regulatory issues, and strategic planning and knowledge management. At the core of the project, the first phase sector reviews focused on 3 major regulated sectors energy, transport, and telecommunications, as well as several specific case studies.

Some of the project outputs of the second phase included the design and facilitation of four short learning programmes, nine seminars, and a series of guest lectures by experts on topical regulatory issues in infrastructure development, energy, and regulatory performance in state institutions.

Energy: The review assessed the market structure, key stakeholders, linkages, challenges and the technical, financial, socio-economic and environmental performance of the electricity, renewable energy and the liquid fuel industries. Perhaps most topical in this sector review is the assessment of the compatibility of renewable energy with the strategic objectives of South Africa's electricity supply value chain; as well as cases in fuel regulation, polymer chemicals and piped gas regulation.

Transport: The reports provide an overview of the ports sector in South Africa and the justification for regulation, assesses the institutional arrangements against approaches used internationally, discusses the South African regulatory framework and provides a detailed review of the tariff determinations and pricing formula by the regulator, as well as issues of service provision. Within this sector, the freight rail sector review critically assesses the factors that have influenced the bias against general freight, the history of investment and regulatory decisions, and outcomes in terms of competitive dynamics in the South African freight rail system.

Telecommunications: This study provides an in-depth assessment of regulation and performance with specific reference to interconnection and leasing facilities; competition, price setting and collateral rules; and economic principles for spectrum pricing and assignment. In addition the report analyses the links between the economic regulation of the sector and economic growth.

Some of the overarching findings of the studies include the fact that economic regulation in South Africa, as a legacy of previous government policy, is still untenably biased towards protecting the interests of insiders. In most cases, regulation has not appreciated the value of regulating *for* competition as a progressive step towards realising increased economic participation at different levels of domestic value chains. For those interested in the findings of these sector review studies, the webcasts, presentations and review papers can be accessed on our website at: http://www.competition.org.za/regulatory-entities-capacity-building-project/

Quarterly competition case update - Mergers and acquisitions			
Country	**Target**	**Acquirer**	**Status**
Botswana	90% shares in Payless	Mohamed Saleem Abdul Malique	Approved with conditions
	Suashish Diamonds Botswana (Pty) Ltd	Arjav Diamonds NV	Approved with conditions
	Pinks Family Outfitters	Woolworths Group	Approved with conditions
	Lerala Diamond Mines Ltd	Kimberly Diamond Mines Ltd (through Mantle Diamonds Ltd)	Approved with conditions
	50.5% shares in Pula Steel and Casting Manufacturers (Pty) Ltd	BCL Ltd	Approved with conditions
	Adcock Ingram Holdings Ltd	CFR Inversiones SPA	
	Evolution (Pty) Ltd, Gym Active & CNS Gym	Humaree Investments (Pty) Ltd t/a Jack's Gym	Approved with conditions
	Little Green Beverages	BOE Private Equity Investments	Approved
Kenya	Rafiki Millers Ltd and Magic Oven	Tiger Brands	Approved
	Seven outlets of Dormans	ArtCaffe	Approved
	CMC Motors Group	Al Futtaim (Dubai)	Approved
	Ukwala (one store of six proposed)	Tuskys Supermarkets	Approved with conditions
	73.35% shares in Genesis Kenya	Centum	Approved
	16.48% more of the shares in Scangroup	Cavendish Square Holdings (WPP subsidiary)	Approved
Mauritius	Lafarge	Holcim	Proposed divestiture (ongoing)
Namibia	Camelthorn Brewing	Namibian Breweries Ltd	Approved
	Navachab Gold Mine (AngloGold Ashanti Namibia)	Guinea Fowl Investments Twenty Six	Approved with conditions
South Africa (recent large mergers only)	Great Wall Motors SA (Pty) Ltd	Super Group Holdings (Pty) Ltd	Approved
	Cartons and Labels Business (Nampak Ltd)	Bucket Full (Pty) Ltd (Caxton and CTP Publishers and Printers (Ltd)	Approved with conditions
	Sturrock Grindrod Maritime Holdings (Pty) Ltd	Grindrod Holdings South Africa (Grindrod Ltd)	Approved
	Unicorn Calulo Shipping Services (Pty) Ltd	Grindrod Shipping SA (Pty) Ltd	Approved
	Irene Mall (Pty) Ltd	Resilient Properties (Pty) Ltd	Approved with conditions
	Jacmes Motors CC	Barloworld South Africa (Pty) Ltd	Approved
	25% share in Melrose Arch Investment Holdings (Pty) Ltd	Liberty Group Ltd	Approved
	Darryl Investments (Pty) Ltd	Masstores (Pty) Ltd	Approved
	LC Golf SA (Pty) Ltd	Standard Bank of SA Ltd	Approved
	Pharmed Pharmaceuticals (Pty) Ltd	Imperial Holdings Ltd	
	Vividend Income Fund Ltd	Arrrowhead Properties Ltd	Approved
	RTT Holdings (Pty) Ltd	Friedshelf 1508 (Pty) Ltd	Approved with conditions
	AFHCO Holdings (Pty) Ltd	SA Retail Properties (Pty) Ltd	Approved
	Robor (Pty) Ltd	Fountainhead Property Trust	Approved
	Menlyn Corporate Park (Pty) Ltd	Firstrand Bank Ltd (trustees of Emira Property)	Approved
	Saicom Group (Pty) Ltd	Paycorp Group (Pty) Ltd	Approved
	Water treatment business of Clariant Southern Africa (Pty) Ltd	Improchem (Pty) Ltd	Approved
Tanzania	Shoprite Tanzania (2 stores)	Nakumatt Holdings	Approved
Zimbabwe	8.6% shares (held by Altech) in Liquid Telecom	Econet Wireless Global Ltd	Approved

Quarterly competition case update - Main enforcement cases	
Country	**Case summary**
Egypt	Three mobile network operators investigated for simultaneously levying a stamp tax on customers and agreeing to collect the tax amount using a similar method
	ECA found against BeIN Sports for abuse of dominance regarding the broadcast of World Cup 2014 matches
	Egyptian Competition Authority's decision to issue fine of $10.3 million to Egyptian Company for Mobile Services upheld
Kenya	Tuskys and Ukwala fined for horizontal management agreement which applied to three Ukwala supermarkets
	Lafarge under investigation for anti-competitive effects of cross-shareholding and cross-directorship in rival cement companies
	Banks under investigation for possible collusive conduct in relation to interest rates
	CAK has ordered Safaricom to end exclusivity agreements with its M-Pesa agents to allow access to other network operators following Airtel complaint; CAK did not make a ruling on the interoperability and cost of transactions cases
	CAK investigating abuse of dominance complaint by Zuku against DSTV regarding exclusive agreements on content sharing
Malawi	CFTC investigating allegations of price fixing by Insurance Association of Malawi
Mauritius	CCM has fined Phoenix Beverages Ltd and Stag Beverages Ltd/Castel Group for collusive conduct (market allocation involving the Mauritius and Madagascar beer markets)
Namibia	NACC investigating Namibian Association of Medical Aid Funds and members regarding benchmark tariff-setting and anti-competitive governance structures
Swaziland	Supreme Court upholds SCC decision against Eagle's Nest (Pty) Ltd and 5 others
South Africa	CCSA has referred cartel case for market allocation against Pioneer Fishing and Blue Continent Products in the fishing industry (BPC). BPC has been granted conditional leniency
	Competition Tribunal imposed a R534 million fine on Sasol Chemical Industries Ltd for excessive pricing of purified propylene and polypropylene
	CCSA conducted a raid at the premises of firms in the auto body repair market
Zimbabwe	CFTC is conducting a complaint filed by the Bankers Association of Zimbabwe regarding access to Econet Wireless' Ecocash mobile money transfer platform

Note: Based on competition authority websites and publicly available sources.

Public Platform: Competition and Regional Integration (20 August 2014)

Regional integration in Africa is about leveraging the size and growth of African markets and promoting greater access. African economies have struggled with harnessing the potential of relatively small domestic markets and harmonising trade and development policy towards mutually beneficial outcomes. A history of extractive colonial rule and poor development of capabilities has resulted in economies characterised by concentrated industries with high barriers to entry and poor competitive outcomes. Critical to reversing these outcomes is increasing market access and fostering greater competitive rivalry driven by innovation and investment in productive capacity. It also hinges on constraining the exercise of market power by large multinationals and regional cartels.

This seminar will explore recent evidence on the linkages between competition policy and regional integration and debate the scope for a new regional agenda in this area. The session will explore evidence on the role of firms as inhibitors to greater regional trade, including the outcomes of recent competition cases in construction, cement and fertilizer trading. It will also draw on research findings of African Competition Forum studies on cement, poultry and sugar in Southern and East Africa.

Presentation: Prof Simon Roberts and Thando Vilakazi are researchers at CCRED with a special focus on barriers to entry and regional competition dynamics.

Discussant: Prof Lawrence Edwards is based in the UCT School of Economics with considerable research in international trade and labour, and the determinants of trade flows and policy.

VENUE: MELROSE PLACE, 12A NORTH STREET, MELROSE, JOHANNESBURG

TIME: 18:00-19:30

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