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Editor's note

Thomas Picketty's *Capital in the Twenty-First Century* has reinvigorated the economic and political debates on inequality, and its relationship with wealth and economic growth. Not least because of the direct relevance of these issues to the African context, the book is illuminating in that it comprehensively deals with the questions of how the very rich became and remain rich. Using tax returns data the book teases out a 'simple' relationship wherein because capital ownership is highly concentrated, and because the marginal product of capital and the associated rate of profit outstrip the rate of economic growth, inequality rises as the incomes of the wealthy outstrip growth in the overall economy.

While Picketty's contribution has focused on the importance of the concentration of, and returns to, wealth of different kinds including inherited wealth, competition is an important part of the picture especially if understood broadly. In these terms, competition includes the disciplining of returns to entrenched dominant firms, many with an inherited legacy of state support, and addressing the need to lower barriers to entry to allow smaller firms to achieve scale and grow. In this context, inclusive growth properly considered cannot only be about increasing the incomes of the poor, but instead needs to account for firms, entry and building productive capabilities and knowledge as instrumental to fostering inclusion.

This resonates with Jean Tirole's Nobel Prize winning contribution, *Market Power and Regulation*, which in essence posits a role for beneficial public intervention, for instance through regulation and competition policy, where markets fail and competition is imperfect. Intervention, and regulation in particular, is about balancing the interests of different groupings in society and setting appropriate rules of the game. In this way, competition law and regulation act as referees in the process of unlocking and enhancing dynamic rivalry by dealing with unilateral and coordinated firm conduct which prevents or delays the entry of rivals. Without this, the structure of markets and the accompanying rules of the game do not change to accommodate new participants, key economic sectors remain concentrated, and new opportunities for the absorption of labour in the context of inclusive growth are stifled.

Competition legislation is certainly not a panacea but it has a lot to do with the rules of the game. For instance, some panellists and speakers at the recent 8th Annual Competition Conference hosted by the South African competition authorities argued, rightly in our view, for a more enabling legislation on exclusionary conduct in South Africa, which would allow the authorities to deal more directly with abuses of market power through complex conduct, without the restrictive pigeonholes created by the current provisions of section 8 of the Competition Act in particular. This would form part of positioning competition law enforcement as an incremental and complimentary lever to other economic policies for enhancing the inclusivity of economic growth through opening the door for increased access and dealing with powerful interests as echoed in Tirole's work.

Amongst Picketty's recommendations is a global wealth tax. While this is no doubt controversial, it marks a bold assertion about changing the rules to reduce inequality, in the same way that regulation and competition policy should seek to do.

In this context, this edition of the Review looks at cartel conduct and exclusionary practices in relation to large multinational firms with operations across several African countries as well. We look at recent developments in abuse of dominance cases in mobile banking in Kenya and Zimbabwe, as well as conduct in the pay-tv, poultry and beer industries in the region. We trust you will find the Review interesting and relevant to your work.

Thando Vilakazi

The beer industry in Africa: a case of carving out geographic markets?

Lauralyn Kaziboni and Reena Das Nair

Competition investigations on abuse of dominance by near-monopoly beer producers have typically been limited to national boundaries and within the jurisdiction of single national competition authorities. However, it is increasingly recognised that viewing transgressions as neatly falling within political borders is restrictive, and often misses the 'bigger picture' of the firm's overall strategy and conduct. For instance, conduct characterised as abuse of dominance in one country may be part of a broader picture of that firm being 'allocated' that country or region as part of a collusive agreement, while fellow cartel members are allocated other countries or regions. The implicit (or explicit) understanding may be that the firms will not target each other's allocated countries or regions. Therefore, addressing the abuse of dominance issues in a single country when such arrangements are in place is unlikely to solve the problem. This article highlights the importance of understanding behaviour and strategies of firms holistically, and across regions.[1]

In general, cartel conduct is more likely to occur in markets where there is a high concentration of firms, relatively homogenous products, high barriers to entry, stable demand conditions, firm symmetry, multi-market contact between firms, and cross ownership, among other facilitating factors, including sharing of disaggregated information.[2] Furthermore, cartel developments across countries have in the past been facilitated by the lack of an active regional regulator to oversee cross border arrangements.

It is well accepted that cartel behavior is detrimental to consumer welfare. Cartel conduct stifles competition as new entrants face substantial barriers to entry due to the actions of entrenched incumbents.[3] Lessened competition implies that dynamic rivalry is reduced, and consumers cannot benefit from variety, improved quality and lower prices.[4] In light of these detrimental effects and the increasing appreciation of regional cartel conduct, the COMESA Competition Commission has commissioned a study on cross border cartels in Africa that seeks to determine the effects of such arrangements.[5]

Findings from previous studies, such as in the cement industry, are illustrative of the coordinated strategies large firms could have in industries where scale economies and large investments are important. Cement is often produced by multinational companies that develop strategies on a wider regional basis as opposed to a country-by-country basis. Companies have operated in different countries by agreement with one another, either through the export of cement to those markets or by establishing plants locally. During the cement cartel period in the Southern African Customs Union (SACU) for example, PPC supplied the Botswana cement market, while Namibia was supplied by Afrisam in accordance with the cartel agreement. The understanding was that each would not target the other's territory. The companies were able to monitor the collusive agreement, inter alia, by sharing monthly sales information. The conduct resulted in higher prices and higher (economic) profit margins for the firms involved.[6]

Developments in the beer industry

Similar regional market allocation arrangements are present in the beer industry in Africa. Market allocation through cartel arrangements serves to maintain the dominant positions of incumbent firms in individual country markets, and often gives rise to incentives to abuse this position of market power. As put by the communications director of SABMiller (2009), the second largest beer producer globally, in reference to the relationship between Castel and SAB (discussed later):

> "*There may be antitrust laws at the national level, but none covering the continent. I don't see what the problem is.*"[7]

Such market allocation arrangements have led to competition concerns against beer producers in a number of countries in Africa. A recent example of this is the regional cartel that was uncovered and prosecuted by the Competition Commission of Mauritius (CCM). The arrangement between Stag Beverages Ltd, a subsidiary of Castel, and Phoenix Beverages, was the first cartel investigation in Mauritius. A financial penalty of MUR27 million[8] (approximately USD900 000) was imposed wherein Phoenix received lower penalties as they took advantage of the leniency programme offered by the CCM, although behavioural remedies were also imposed. Stag and Phoenix had agreed to share the Mauritian and Malagasy beer markets in contravention of Section 41 of the Mauritian Competition Act. Under the agreement, Stag was to exit the Mauritian beer market, and dismantle their operations in Mauritius while continuing its operation in Madagascar, with the reciprocal exit of Phoenix from Madagascar.[9]

In other countries on the continent, SABMiller has maintained its position as the dominant beer producer, with brewing and beverage operations in Africa across 15 countries and new capacity investments in Zambia, Nigeria and Uganda. Furthermore the firm is represented in an additional 21 countries through a strategic alliance with the Castel Group (excluding South Africa and Namibia). Since 2001, Castel holds a 38% stake in SAB's African subsidiary while SAB has a 20% stake in Castel's African operations. According to SAB, the strategic alliance was undertaken to hedge against risk in the African political environment and to increase investment opportunities. Moreover the strategic alliance in SAB's view aims to "capitalise on bulk purchasing opportunities; enhance SAB's strategic position in African markets and benefit from future opportunities to increase cooperation between the SAB and Castel." This strategic alliance further allows SAB a pre-emptive right to acquire Castel's Africa operations should it wish to sell, and effectively means that the beer producers do not compete against one another in the allocated territories.[10]

Similar arrangements have been observed in other African countries. In 2009, East African Breweries, a subsidiary of Diageo,[11] traded 20% of their shares of its local subsidiary, Kenya Breweries, for a similar proportion in Tanzania Breweries, a subsidiary of SAB International. This ultimately resulted in Kenya Breweries and Tanzania Breweries allocating the Kenya and Tanzania markets, respectively, as they both exited the other market akin to the SAB-Castel and the Phoenix/ Stag arrangements.[12] The agreement not only resulted in job losses, but led to the elimination of competition in both markets, and the end of a price war that had kept prices stagnant for five years.[13] Dismantling these arrangements would most likely stimulate competition in the region.

Because competition authorities tend to assess the conduct of the dominant beer producer within geographic markets often defined along political borders, competition investigations historically have been focused on abuse of dominance conduct in each country and not broader regional arrangements that may have given rise to those monopolies. In 2009, Tanzania Breweries Limited (TBL), a subsidiary of SABMiller was accused by Serengeti Breweries Limited (SBL), a subsidiary of East African Breweries, of abusing its dominance by entering into branding agreements with outlet owners which excluded the participation of SBL and other smaller breweries.[14] More recently in 2014, the Competition Tribunal of South Africa dismissed the distribution case between the Competition Commission and SABMiller and 14 SAB appointed distributors.[15]

Despite the ostensible rationale for cross shareholding agreements, these also present a risk to competition in that they eliminate any competition between large beer companies. These strategic alliances and extensive cross ownership agreements have not been interrogated by national or regional competition bodies, and the cases discussed suggest a need to do so. These cases highlight that the analysis in certain competition matters should gravitate from analysis of abuse of dominance in a single country, towards analysis of possible regional cartel activity as the COMESA Competition Commission hopes to do in future.

Notes

1. Recent studies show that this applies across several different industries, including in cement and sugar. See, for example, Paelo, A. 'Regional dimensions of competition and trade in sugar and cement'. *CCRED Quarterly Competition Review* (August 2014).

2. Bernheim, B. D. & Whinston, M. D. (1990). Multimarket contact and collusive behaviour. *The Rand Journal of Economics*, 1-26.

3. Roberts, S. (2012). 'National Dominant Firms, Competition Law and Implications for Economic Development in Southern-Africa: case study of energy, beer and food'. *Instituto de Estudos Sociais e Económicos Conference,* Conference Paper 17.

4. Levenstein, M., & Suslow, V. Y. (2003). Contemporary international cartels and developing countries: economic effects and implications for competition policy. *Antitrust LJ*, 71, 801.

5. Nkambule, N. 'Puma Energy mergers with Excel Swaziland' (7 October 2014). *Swazi Observer.*

6. See note 1.

7. See note 3.

8. A financial penalty of MUR 20, 299, 355 was imposed on Phoenix, while MUR 6, 575, 377 was imposed on Stag.

9. See Competition Commission of Mauritius. 'Commissioners Endorse the Recommendations of the Executive Director and Direct Phoenix Beverages Ltd and Stag Beverages Ltd to Pay Financial Penalties of MUR27 Million for Collusive Behaviour' (22 August 2014).

10. South African Breweries. Annual Report 2001, p. 18.

11. East African Breweries is Eastern Africa's largest brewer and is in fact a subsidiary of Diageo, one of the largest brewers in the world.

12. Wahome, M. 'East Africa: Brewers Move to End Turf Wars' (15 May 2002). *All Africa.*

13. Jenny, F. 'Competition Enforcement in Testing Times: beyond the national level'. Presented at Competition Principles Under Threat, IDRC Pre-ICN Forum on Competition and Development, Zurich, Switzerland, 2 June 2009.

14. Judgement by the Fair Competition Commission of Tanzania. May 2010. Serengeti Breweries Limited vs Tanzania Breweries Limited. Complaint No. 2 of 2009.

15. Kaziboni, L. 'SA Tribunal finds no case against SAB distribution'. *CCRED Quarterly Competition Review* (August 2014).

Exclusive agreements in pay-tv

Anthea Paelo and Pamela Mondliwa

Kenya's recent competition case against DSTV in the pay-tv industry is only one more in a growing list of complaints relating to exclusive agreements in the industry in African countries. In this particular case, Zuku, a satellite pay-tv provider and competitor to DSTV,[1] approached the Competition Authority of Kenya (CAK) to protest MultiChoice's (DSTV's parent company) exclusive rights over content such as broadcasting of the English Premier League (EPL).[2] The complainant alleges that this conduct amounts to a restrictive trade practice in violation of Kenya's Competition Act, Part III of Section A.[3] Sporting events and particularly broadcasting live games draws a lot of consumers and is considered "must have" content for premium pay-tv packages and in some jurisdictions it has been regarded as an essential facility.[4] An essential facility can be defined as an "infrastructure or resource that cannot reasonably be duplicated, and without access to which competitors cannot reasonably provide goods or services to their customers".[5] Zuku argues that SuperSport (a subsidiary of MultiChoice) which owns the broadcasting rights for the EPL sells its exclusive content only to DSTV, a vertically integrated retail distributor.

Similar cases have emerged in South Africa and Botswana with cases being brought against MultiChoice. There has also been a case relating to tying and bundling and exclusive content in Egypt where the Egyptian Competition Authority determined that obligating viewers interested in watching world cup football matches to subscribe for a year was abuse of dominance.[6] The case in South Africa also concerns MultiChoice's exclusive rights to SuperSports' content. Sports programming is well known for drawing in a number of subscribers especially when broadcasting major sports events such as the world cup. MultiChoice in South Africa is said to have so much exclusive sports content that it is in "excess of what is offered by Sky Sports in the UK"[7], a firm that faced similar charges in Europe.[8] Two complaints were lodged with South Africa's Competition Commission regarding the monopoly MultiChoice's subsidiary SuperSport holds over premium sports content like the Premier Soccer League (PSL), the EPL, Springbok Rugby games and Super Rugby matches, cricket and the local sports tournaments.[9] The complainants allege that MultiChoice's refusal to give downstream competitors access to their exclusive sports content is anti-competitive. Botswana's competition authority is investigating DSTV's channel bouquet bundling and pricing structure to determine whether the pay-tv operator's dominance enabled it to price its material excessively.[10]

Evolution and structure of the pay-tv market

The pay-tv market evolved from the US cable-tv system in which everyone had access to Free to Air (FTA) channels provided by a national broadcaster. Profits were earned from advertising and public subsidies. However new transmission technology emerged that allowed conditional access to valuable content by means of an encryption code for a subscription fee.[11] Thus in order to attract more paying consumers, pay-tv operators had to acquire exclusive content not already provided on FTA channels. Following this, consumers only had access to premium content such as recent movies and major sports events if they subscribed to a particular pay-tv opera-

Table 1: Different levels of pay-tv production in Kenya[12]

Content production (Kenya in-house production)	KBC
	DSTV
Channels (commercial television)	Example: KBC (Channel 2), KTN, Nation TV, Family TV, Citizen
	TV, Sayare TV, Channel 42, K24, **DSTV**/CTN/Zuku (multiple channels)
	East Africa TV, Radio Africa Holdings, **M-Net**
Wholesale distribution (satellite operators)	**MultiChoice (DSTV)**
	Intelsat, SES S.A
Retail distribution (satellite TV)	**DSTV**
	Zuku

tor. To increase the value of their premium content, production companies began issuing licences and pay-tv operators were willing to pay very high prices for the exclusive rights to transmit this content 'live' in the case of sports events or in the first window period for movies.

New technology and the changing structure of the pay-tv market has now allowed for vertical integration along the value chain which allows the monopoly (the rights holder) to leverage its position further down the value chain. There are four main levels along the supply chain; production of content, acquisition and 'assemblage' of content into channels, programming of channels into bundles to be sold to subscribers, and transmission via technological platform.[13] Vertical integration across all four levels of the supply chain can raise anti-competitive concerns. This is because the firm has the incentive to increase profits by foreclosing its downstream competitors in retail distribution through denying access to must have content. DSTV in Kenya is present at every level of the pay-tv industry (Table 1).

Anti-competitive effects of exclusive rights in pay-tv

The Kenyan Act does not set the legal and economic tests for a restrictive trade practice assessment and the appropriate criteria for evaluating exclusive agreement cases may vary from one jurisdiction to the other. Competition authorities often deal with exclusive agreements in one of two ways; as an abuse of dominance where one of the contracting parties must be shown to have market power, or as an anti-competitive agreement. Exclusive agreements are not necessarily anti-competitive and thus an authority evaluating these cases will have to identify a theory of harm supported by strong evidence whereby the arrangement results in substantial foreclosure which has harmed competition – an effects-based test. An assessment of exclusive agreements will generally include; establishing that there is an exclusive agreement, the definition of the relevant market and the suppliers within that market, the extent of competitive effects from the arrangement and balancing this with possible pro-competitive justifications for the agreement.[14] Establishing whether the conduct has anti-competitive effects will be the most challenging step of the analysis but there is guidance from case precedence.[15] The analysis may include a determination of the coverage of the conduct in the relevant market, the duration of the agreements, existence of alternative sources of supply, scale economies, ease of entry and market dynamics, evidence of competitive effects such as increased prices or exit of firms and the potential efficiencies.[16]

Exclusive rights in pay-tv markets act as a barrier to entry by raising competitors' costs and deterring or delaying entry into the market.[17] As the holder of the rights stands to gain more profits by increasing the number of potential viewers, pay-tv operators have to pay higher prices for the exclusivity of the premium content to make up for the reduced profits the rights holder gets by selling to only one pay-tv operator. In Europe, authorities have recognized this as the pay-tv incumbents' strategy to foreclose rivals by raising their costs and deterring entry.[18] It also has the added disadvantage of raising prices for consumers. For instance, in Kenya, MultiChoice's premium content allows it to charge almost twice as much as for its Compact bundle compared to Zuku its closest competitor.[19]

Furthermore, because, the industry is characterised by network effects, the incumbent pay-tv operator enjoys the positive externalities of having grown a large customer base. The customer base enables the operator to continue to pay for the highly priced exclusive premium content and has the added benefit of locking in customers due to high switching costs. These switching costs mostly arise due to technology. In order to switch from one operator to the other, installation of hardware such as satellite dishes and decoders for the particular operator has to take place and the cost is incurred by the consumer.

There are arguments in favour of exclusive agreements on efficiency grounds. Exclusive agreements and vertical arrangements reduce the transaction costs generated by asymmetric information, prevent free-riding, and protect intellectual property and brand-name however these factors need to be carefully balanced against the risk of anti-competitive outcomes.[20]

The remedies typically applied from international cases[21] include placing a ban on exclusive rights arrangements or exclusive vertical contracts, limiting the scope and duration of exclusive rights arrangements, having the competition authorities direct the nature and process of establishing exclusive rights arrangements, wholesaling exclusive premium content or retailing channels created from wholesaled exclusive content.[22] Short exclusive contracts and wholesale of premium content or the retail of channels with exclusive content are most likely to increase competition. Completely banning the exclusive vertical arrangements on the other hand could severely impede the operation of the market by undermining the incentive to invest in producing and purchasing content.[23]

Conclusion

There is a notable shift in the treatment of exclusive content agreements in pay-tv markets by competition authorities towards a view that access to content is imperative for entrants to be able to compete with incumbents. In Europe, rights sharing remedies have been applied and conditions have been placed on the duration and scope of exclusivity. In some cases, exclusivity has been banned altogether. This would encourage competition based on quality of service, pricing, packaging strategies and technological advances, which have consumer welfare benefits.

In several African jurisdictions there are an increased number of complaints regarding exclusive content agreements as leading to high barriers to entry and raising consumer prices for pay-tv content. Where these agreements are of a longer duration or a broad scope and the market is highly concentrated, the likelihood of anti-competitive harm is generally greater. However, a number of these cases, including in Kenya and South Africa, have yet to be concluded. In evaluating these complaints, it is critical for authorities to balance any findings of anti-competitive effects against the efficiency justifications that will typically be put forward by respondents, including whether those efficiency gains will be passed-through to consumers.

Notes

1. Deloitte. Competition study – the broadcasting industry in Kenya. Dissemination Workshop (March 2012).
2. Mbole, K. 'Zuku to take CCK to court over DSTV monopoly on content' (19 March 2013). *Humanipo*.
3. Kenya Competition Act No. 12 of 2010.
4. See, for example, European Commission, Newscorp/Telepiu merger, Case No. COMP/M.2876.
5. South African Competition Act No. 89 of 1998.
6. African Competition Forum. (2014). 'ECA on violation to Competition Law concerning World Cup Matches Broadcasting'. *African Competition Forum Newsletter*.
7. Mochiko, T. 'MultiChoice's pay-TV dominance in the spotlight' (4 June 2013). *Business Day.*
8. See, for example, 'Decision under section 3(3) of the Broadcasting Act 1990 and section 3(3) of the Broadcasting Act 1996: Licenses held by British Sky Broadcasting Limited'.
9. Gedye, L. 'DStv's grip on sports under scrutiny' (2 June 2013). *City Press.*
10. Benza, B. 'Competition Authority probes MultiChoice' (22 October 2014). *Mmegionline*.
11. Nicita, A. & Ramello, G. B. (2005). 'Exclusivity and Antitrust in media markets: The Case of Pay-TV in Europe' in *International Journal of the Economics of Business*, 12(3):371-387.
12. See note 11.
13. See note 11.
14. International Competition Network (ICN). Chapter 5: ICN Unilateral Conduct Workbook.
15. See, for example, European Commission in Newscorp/Telepiu, Case No. COMP/M.2876; and note 8.
16. See note 14.
17. See note 11.
18. See note 11.
19. See note 1.
20. See note 11; de Fontenay, C. & Gans, J. (2004). 'Can vertical integration by a monopsonist harm consumer welfare?' *International Journal of Industrial Organization*, 22(6): 821–834; and Ratshisusu, H. (2010). 'Preconditions of a Competitive Pay-TV Market: The Case of South Africa'. Presented at the Annual Competition Commission Conference 2010.
21. See note 11.
22. Paterson, P., Sethi, P. & Saadat, U. 'Content Access: The New Bottleneck?' *Communications Policy & Research Forum 2011*, Sydney.
23. See note 22.

Part two: Mobile money in Kenya and Zimbabwe

Lebogang Nleya and Genna Robb

In the April edition of this Review, we discussed some emerging competition issues with mobile money in Africa. In a number of countries the telecoms companies that provide the mobile payments service have established positions of significant market power which have raised concerns of potential abuse of dominance. Since then, there have been several interesting developments in Kenya and Zimbabwe, on which this article focuses.

The Competition Authority of Kenya (CAK) recently investigated Safaricom, the largest mobile network operator (MNO) in Kenya, for charging unregistered users of Safaricom's M-Pesa high fees and allegedly threatening M-Pesa agents who offer rival products. In 2012 Airtel filed a complaint with the CAK to force Safaricom to remove the exclusive arrangements that it held with agents in its agent network to allow access by rival MNOs. Airtel also argued that by charging twice the amount for mobile cash transfers to Airtel customers than it charged for Safaricom-to-Safaricom transactions, Safaricom was abusing its dominant position in terms of mobile subscribers and mobile money transfer services. In its defense Safaricom argued that forcing it to open up its agent network would be unfair because it had invested billions of shillings to develop it.[1] Having investigated the case, the CAK ordered Safaricom to open up its M-Pesa agent network to rival mobile money firms. In its judgment, the CAK did not rule on the cost of transactions, which would require further inputs from the Central Bank of Kenya and the Communications Authority.[2]

The high prices that Safaricom was charging customers to send and receive cash from other networks were illustrative of the effects of the high barriers to entry and the exclusion of competitors, which inhibited the growth of rivals. Given Safaricom's position of market power, it has a strong incentive to maintain proprietary control of the use of its platform and the results of this could be monopoly profits, exclusion of competitors, and high switching costs for consumers considering a switch away from Safaricom. While Safaricom should be given the opportunity to earn returns on its investments, these returns should have a direct relationship with the level of investment made and should not amount to an accumulation of additional monopoly rents for the dominant incumbent.

The recent collaboration of Airtel with Equity Bank (Kenya's biggest lender by market value) to offer a mobile banking service is set to present a competitive threat to Safaricom.[3] Equity Bank's 9.1 million customers are expected to gain access to their bank accounts via their mobiles once its Mobile Virtual Network Operation (MVNO) launches.[4] In addition three new players, Tangaza, Finserve and Zioncell, have also acquired MVNO licences and will soon introduce a mobile money offering, resulting in a further threat to M-Pesa's dominance. The three will be hosted by Airtel and can offer customer registration, SIM card issuance, billing and customer care, as well as mobile money services.[5]

Interestingly, soon after this announcement was made Safaricom announced new tariffs that took effect from the 21st of August 2014 which saw tariffs for transaction values ranging between KSh 10 and KSh 1500 being reduced by 67%. Tariffs for sending higher amounts exceeding KSh 1500 will now be an average of 0.8% of the transaction value but withdrawal fees will remain unchanged. Safaricom states that the rationale behind revising the tariffs is that 65% of all person-to-person transactions are within the low to medium tiered bands and this reduction in tariffs is set to provide more Kenyans with affordable access to financial services.[6]

The timing of this intervention suggests, however, that this is likely to be a competitive response to the new entrants to the market. The new tariffs are shown in tables 1 and 2 together with a comparison of tariffs for P2P transactions in different African countries. M-Pesa's tariff reduction in Kenya means that they are now the cheapest in the $1 to $10 range for transfers to registered recipients but not so cheap for unregistered recipients. Zimbabwe (especially Econet) is relatively

Table 1: Comparison of mobile money tariffs in selected African countries for registered recipients[7]

	M-Pesa Kenya	Airtel Kenya	Econet Zimbabwe	Telecel Zimbabwe	M-Pesa Tanzania	Airtel Tanzania	Airtel Uganda	MTN Uganda	MTN Rwanda
$1	0.14	0.17	0.14	0.15	0.32	0.42	0.21	0.36	0.22
$5	0.42	0.73	0.54	0.45	0.55	0.42	0.58	0.72	0.68
$10	0.46	0.73	1.04	0.84	0.90	0.60	0.58	0.72	0.76
$100	2.15	1.79	5.05	4.10	1.96	1.32	2.22	2.74	2.74

Note: Light gray shading indicates the cheapest provider at a given transaction value, dark grey indicates the most expensive

Table 2: Comparison of mobile money tariffs in selected African countries for unregistered recipients[7]									
	M-Pesa Kenya	**Airtel Kenya**	**Econet Zimbabwe**	**Telecel Zimbabwe**	**M-Pesa Tanzania**	**Airtel Tanzania**	**Airtel Uganda**	**MTN Uganda**	**MTN Rwanda**
$1	N/A	0.17	N/A	0.15	0.32	0.42	0.11	0.55	0.36
$5	0.61	0.73	1.04	0.80	0.55	0.42	0.61	1.10	1.23
$10	0.69	0.73	1.94	1.45	0.90	0.60	0.61	1.18	1.41
$100	3.15	1.79	10.05	8.60	1.96	1.32	3.82	6.41	4.25

Note: Light gray shading indicates the cheapest provider at a given transaction value, dark grey indicates the most expensive.

expensive for transactions of $10 and upwards to both registered and unregistered recipients but relatively cheap at very small transaction sizes of $1 for registered recipients only. In Tanzania, both providers charge the same to both registered and unregistered users whereas MNOs in the other countries charge more to unregistered recipients. This is consistent with the fact that in a market where providers are of a similar size rather than having one much larger player, the MNOs have a greater incentive to promote interoperability to gain customers and they don't have the market power in either the voice or mobile money market to charge more aggressive rates to unregistered users.

In Zimbabwe the Competition and Tariff Commission (CTC) is investigating whether Econet through its Ecocash mobile money transfer service has contravened the competition law in its dealing with banks and suppliers. Econet refused to allow banks access to its Unstructured Supplementary Service Data (USSD) platform for channeling their mobile banking service.[8] Instead, it encouraged them to use its Ecocash platform although it has since agreed to allow them access but on a separate USSD code from the one it uses and at a higher charge for the use of the platform. Banks are of the view that not only are the prices too high but they are also discriminatory against non-Ecocash users. This conduct may be part of a strategy by Econet to protect Ecocash's market share, in order to maintain its position in the primary market for mobile services (voice, sms, data).

Network effects

In our earlier article we defined network externalities as products for which the utility that a user derives from consumption of the good increases with the number of other users consuming the good, which means that it is beneficial for customers to join the dominant network.[9] In Zimbabwe, Econet has a high market share in both the mobile services and mobile money transfer markets, with a 65% market share in mobile services and 90% in the mobile money transfer market through Ecocash.[10] Econet's Ecocash is the leading mobile banking platform and its success can be at least partly ascribed to a combination of network effects and lack of interoperability between Ecocash and the other available mobile payments platforms. There is currently no mandated interoperability in the mobile payments market in Zimbabwe. As a result, Econet has chosen to keep its Ecocash platform unintegrated with the other MNO's mobile payments platforms. This effectively protects Econet's strong position in the market because if customers want to transact with an Ecocash customer (which is very likely given the market share of Ecocash), they have an incentive to also be with Ecocash.

In markets with network effects where there is one large player, it is rarely in the interest of the large player to interoperate with smaller competitors as it can more effectively protect its strong position by maintaining a separate network. Smaller players on the other hand benefit from interoperability as it reduces the network effects present in the market and allows them to compete for customers more easily. In markets where there is more equivalence of size between the different operators, it is more likely to be in everyone's interest to allow interoperability, as all can provide a more attractive service to customers through doing so.

In this case there is a further advantage to Econet from maintaining Ecocash as a separate platform and not allowing it to interoperate with other platforms. This is through reducing switching in its core mobile services market. Without interoperability, in order to transact with an Ecocash or Econet customer, it is necessary to be an Ecocash subscriber which means also being an Econet subscriber. Thus with network externalities present, Econet can use its ubiquity in mobile money to induce customer loyalty and reduce switching in the mobile services market as it is beneficial for customers to be on a platform/network with more users.

Having said this, in such situations, mandating interoperability involves a tradeoff between allowing firms to recoup initial investments made, particularly when there were risks involved, and reducing the monopoly profits that dominant firms could be accumulating through excluding rivals.[11] In both of the cases discussed above, the dominant firms could argue against interoperability on the basis that they invested a substantial amount in the mobile money infrastructure, but the question is - should that come at the expense of competition? And at what point will they have been adequately compensated for any risk incurred? In order to ensure that incentives to innovate and invest are protected, this tradeoff needs to be weighed up, however, firms should not be able to exploit their market power and exclude potential rivals indefinitely on the basis that they once made a risky investment.

In this regard, the CAK decision that has forced Safaricom to open up its agent network to other MNOs will ease the entry of Equity Bank to the market. This speaks to one aspect of interoperability which is likely to benefit consumers. To address monopoly control and other spill-over effects that may arise from strong network externalities competition authorities and sector regulators can also pursue different approaches, such as regulating network and platform interoperability whilst ensuring fair compensation for investments made.[12] Such an approach would go some way towards increasing the levels of rivalry to Econet's offering in the Zimbabwean market.

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Regional dimensions of competition in poultry

Tatenda Zengeni

The growth of the poultry industry in African countries and its potential for labour absorption has attracted significant investments to the sector.[1] The strategic importance of the sector has also resulted in the proliferation of policies to support local producers in order to gain from the potential for localised growth. Consumption of poultry meat as a source of protein is expected to rise by 2.8% per year between 2013 and 2022 whereas the consumption of pork, beef and other meat products is expected to grow at 2.2% and 1.9% per year, respectively, in developing countries.[2] The ability of countries in the region to benefit through these developments will not only rely on support offered to local producers, but the competitive interactions of local firms with the large, vertically integrated incumbents operating at multiple levels of the value chain. Given the tight oligopolistic structure of these markets which are dominated by large firms operating throughout the region, it is critical to take a regional view when analysing competitive dynamics in poultry. This article reviews the main findings of recent research on competition and the role of government policy in the poultry sectors of Botswana, Namibia, South Africa, Zambia and Zimbabwe.

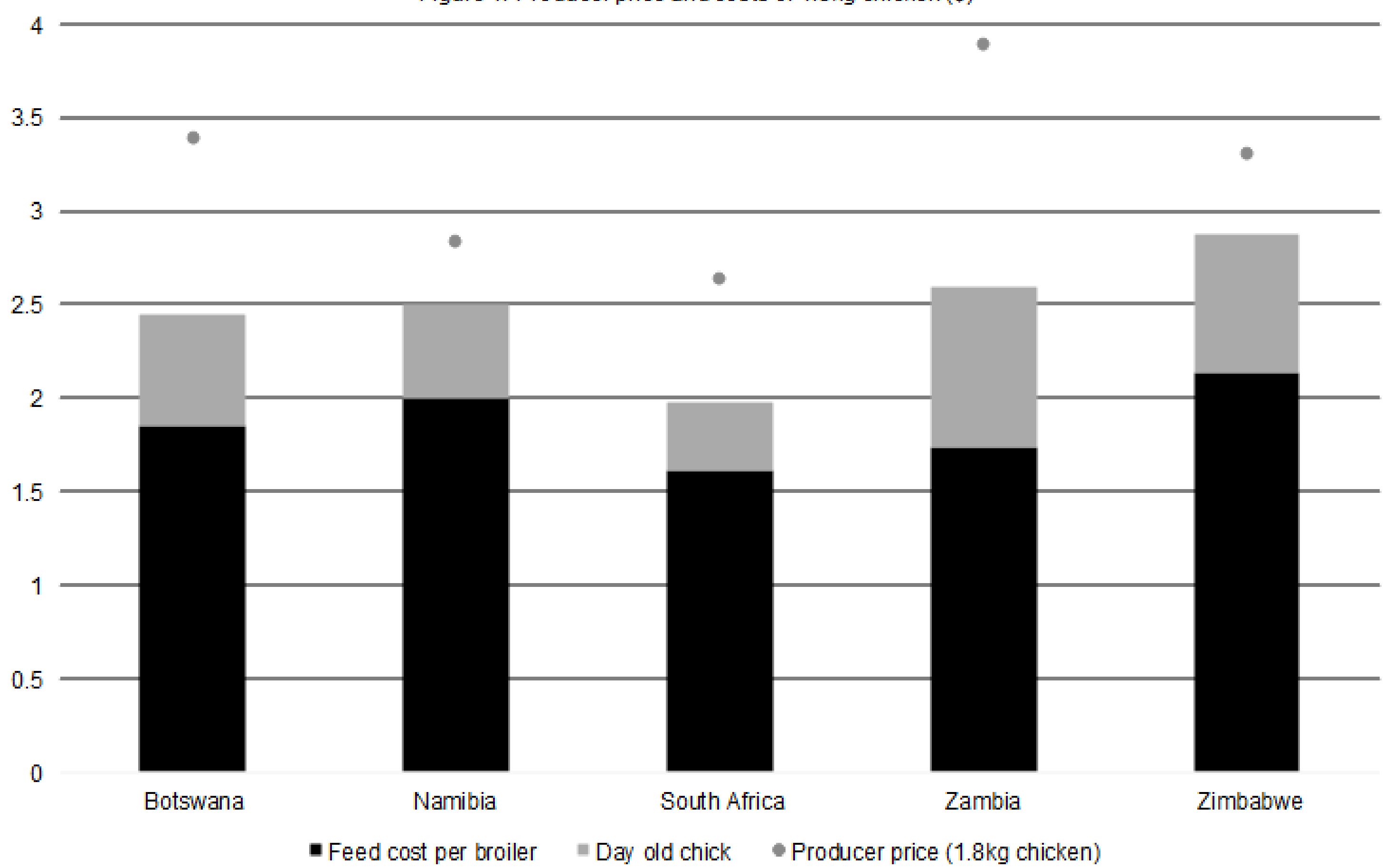
Poultry prices

A comparison of the producer prices in 2012 for 1.8kg of chicken in the countries under review shows that South Africa has the lowest and Zambia the highest prices at $2.64 and $3.90, respectively (Figure 1).

One of the factors explaining the difference in prices is the cost of feed. The cost of feed, as the most important input in production, in the total producer price of chicken ranges from $1.61 to $2.13 in the five countries, or approximately 60% to 70% of the producer price. South Africa which has the lowest producer price of chicken of $2.64 also has the lowest feed cost at $1.61. Zimbabwe's feed cost is the highest in the group of countries at $2.13 partly because the country has not been able to produce sufficient maize and has had to rely on importing maize from Zambia.[4]

Zambia has a feed cost of $1.74 per broiler. Of particular interest is the fact that Zambia, with feed costs that are close to the lower end of the range in the region, has the highest prices for chicken. This is despite the fact that Zimbabwe, Botswana and Namibia have far smaller industries in terms

Figure 1: Producer price and costs of 1.8kg chicken ($)



of scale and have to import inputs. Botswana and Namibia have feed costs of $1.85 and $2.00, respectively, and producer prices of $3.39 and Namibia's $2.84.[5]

This suggests that there may be other factors driving prices in Zambia. Specifically, some firms noted that it is often cheaper to import feed from sources in South America than it is to source it from Zambia, despite their relative advantage in producing feed and particularly soya. This may also have to do with the quality of feed from Zambia. Other factors to consider are the high levels of concentration at the breeding level for day old chicks which are the second key input into poultry production. The price for day old chicks contributes on average 20% to 30% of the producer price for chicken in all countries.[6] South Africa, which has relatively more players at that level, has the lowest price of day old chicks at $0.37 while Zimbabwe and Zambia, with fewer players at this level of the value chain, have more than double the South African price at $0.75 and $0.85, respectively. The effects of concentration are exacerbated by high barriers to entry, including significant capital requirements and scale economies.

Internationalisation of poultry firms in the region

The relatively small size of country markets also means that actually achieving scale domestically is especially difficult, making regional markets more attractive. In this context, a small number of firms operate across most of the countries, with the main groupings being as follows:

- Astral/Tiger in South Africa, Botswana and Zambia
- Pioneer/Tydstroom/Bokomo/Brink in South Africa, Botswana, Zambia
- Rainbow/Zamchick in South Africa and Zambia
- Country Bird/Dada/Ross Africa in South Africa, Botswana and Zambia
- Irvines in Botswana and Zimbabwe.

The poultry industry in the five countries has increasingly become controlled by South African producers. Astral Food Ltd, Rainbow Chicken, Country Bird, and Pioneer Foods are all vertically integrated firms operating in South Africa.[7] Other firms, such as Irvines from Zimbabwe have limited cross-border operations or links. Poultry industries in Botswana and Namibia are relatively young with low levels of competition at the various levels of the value chain. Namibia Poultry Industries is the sole producer in Namibia, relying on inputs from South Africa[8] while in Botswana there is greater rivalry in broiler breeding between firms such as Tswana Pride, Dikoko tsa Botswana, Richmark, Moleps and Bobbsie/Godwill.[9]

The fact that many of the large firms have operations which are widely spread across the region suggests that although the structure of the regional market is oligopolistic, there is potential in the sector for greater distribution of value chains and production. Opportunities going forward could include sourcing greater volumes of feed from Zambia and other sources within the regional market. Certainly producers in Namibia and Botswana already source certain inputs from within the region. This is a feature of the market which is less developed in other sectors such as sugar.[10]

Government intervention

Governments across the five countries have intervened at different stages to support the development of their respective poultry industries. The Botswana government has placed tight trade restrictions that include banning imports of day old chicks and controlled imports of chicken meat and live birds among others.[11] Namibia, which has a fairly young industry, has put in place quantitative restrictions on chicken imports which allow monthly chicken imports limited to 600 tons. Import licenses have also been introduced. Similarly in 2012, after facing stiff competition from imports, the South African government intervened to protect its industry by introducing temporal anti-dumping duties of 62.93%, and 46.59% *ad valorem* against imports of whole frozen and boneless cuts, respectively, from Brazil.[12] The Zimbabwean government has applied a similar approach in protecting its industry through increasing tariffs, with imported chicken being restricted by a combination tariff of either 40% duty or US$1.50/kg.[13] Finally, in Zambia there are restrictions on imports of chicken and day old chicks in order to promote domestic producers.

The high levels of protectionism in this industry draw from both industrial policy objectives, as well as the desire of governments to protect the industry which is considered strategic in terms of its labour absorbing characteristics. Of course, protection of this nature is not misplaced if firms are given appropriate incentives to develop their capabilities and competitiveness in the period of protection both in terms of their ability to compete domestically and in regional markets over time. During the period of protection domestic rivalry must be promoted in order to achieve the intended results in the long term.

Conclusion

The protection of domestic industries also means insulating large incumbent firms from competition which allows them to develop and sustain positions of market power over time. Similarities in terms of cost structures between vertically integrated operators tend to increase the ability and incentives of firms to tacitly or explicitly coordinate their conduct across the region. The cartel and abuse of dominance cases which have been brought in South Africa against some of the largest regional producers suggest that the industry is prone to anti-competitive behaviour and warrants careful competition law scrutiny if the potential benefits of developing effective regional value chains (which leverage existing cost advantages) and rivalry in this sector are to be achieved.[14]

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New CCRED Working Paper:

Barriers to entry in liquid fuel distribution in South Africa

Abstract:

Barriers to entry, by reinforcing the market power of incumbent firms in liquid fuel distribution, have meant that the pace of transformation throughout the fuel value chain in South Africa has been slow. The ability of new firms to enter the sector, develop capabilities, and become effective competitors to the major oil companies is important for achieving transformation and introducing dynamic rivalry in the liquid fuels sector. This paper draws on interviews with market participants and publicly available sources to assess the nature and extent of barriers to entry and expansion of firms in wholesale of liquid fuels.

The analysis categorises barriers to entry along six main themes, namely: the costs of entry, skills and training, access to supply, access to customers, and the reactions of incumbents to entry, and policy and regulatory challenges. However, it is clear that these challenges at the wholesale level form part of a broader set of concerns in the value chain as a whole, relating to access to infrastructure and low levels of competition between the major oil companies themselves. The paper concludes by suggesting a set of short and long-term remedies for increasing access and competition in transportation and storage, wholesaling infrastructure, and in retail.

This work forms part of our core research theme on barriers to entry, and can be accessed from our website.

Quarterly competition case update - Mergers and acquisitions			
Country	**Target**	**Acquirer**	**Status**
Botswana	64% share in Gaborone Sun Hotel	MHG International Holdings (Mauritius)	Ongoing
	50% of RCS Investment Holdings Limited	BNP Paribas Personal Finance SA	Approved
	Chicken Licken franchised businesses of Nanzz (Pty) Ltd	Setso Home (Pty) Ltd	Approved
Kenya	yuMobile	Safaricom and Airtel	Approved with conditions
	Apollo Investments Ltd	Swiss Re Direct Investment Company Ltd	Approved
Namibia	Kalahari Sands	MHG International Holdings (Mauritius)	Ongoing
	Fides Bank Namibia Ltd	Trustco Group	Approved with conditions
South Africa	Kalahari.com	Takealot.com	Ongoing
	Neotel	Vodacom	Ongoing
	Certain of the radio access network assets of Telkom SA SOC Ltd	MTN (Pty) Ltd	Ongoing
	Business Connexion Group Ltd	Telkom SA SOC Ltd	Ongoing
	South African Oil Refinery (Pty) Ltd	Engen Holdings (Pty) Ltd	Ongoing
	MDM Engineering Group Ltd (MDM.L)	Foster Wheeler AG	Approved with conditions
	Liberty Star Consumer Holdings (Libstar)	Abraaj Group	Approved
	Holcim	Lafarge	Approved with conditions
	Viamedia	Blue Label Telecoms	Approved
	Sasol Chemical Industries' A2100 Air Separation Unit and associated plants, storage facilities, and certain pipelines	Air Products South Africa (Pty) Ltd	Approved
	Share capital and immovable property of Gauteng mixed-use retail complex Jubilee Mall	Resilient Properties	Approved
	Dial-a-Bed	Coricraft Group (Pty) Ltd	Approved with conditions
	Afrihost	MTN	Approved
	51% of Main Street 1254 (Pty) Ltd (Watertech)	Grohe Luxembourg Four SA	Approved
Swaziland	Excel Swaziland	Puma Energy	Approved
	Majority holdings of Lesotho Sun, Maseru Sun, Royal Swazi and Ezulwini Sun	MHG International Holdings (Mauritius)	Ongoing
Zimbabwe	SeedCo	28% to Groupe Limagrain (France) 49% of its shares in Quton to Mahyco (India)	Ongoing

Quarterly competition case update - Main enforcement cases	
Country	**Case summary**
Botswana	The Competition Authority suspended a multi-million Pula tender, awarded by Hukuntsi Sub-District council due to suspicions of collusion in the tender process
	The Competition Authority rejected an application by Choppies Distribution Centre (Pty) Ltd, Payless Supermarket (Pty) Ltd and Woodblock (Pty) Ltd for an exemption from the provisions of the Competition Act on grounds that it would lead to a lessening of competition
Kenya	The Competition Authority of Kenya is investigating the pricing and conditions of USSD access in the telecoms market
Malawi	The Competition and Fair Trading Commission is investigating the Insurance Association of Malawi on allegations of price fixing
South Africa	The Commission is investigating exclusive clauses in long term lease agreements between owners of large retail shopping centres and retail tenants following a complaint by Massmart
	The Commission found no conclusive evidence of anti-competitive conduct relating to the exclusive supply agreements for antiretroviral products between Aspen Pharmacare, Mylan Inc. and its affiliates
	The Commission ordered N17 Toll Operators to pay a fine equivalent to 2% of the firms' annual turnover for the financial year that ended on March 31 2013 for colluding with building companies
	Media24 and Paarl Media withdrew a merger filing following the Competition Tribunal's decision to grant permission for rival, Caxton, to intervene in the proceedings and an order for the Commission to investigate the Naspers control structure
	Netcare lost its application to stop the Commission from using KPMG's technical services in its inquiry into the private health care industry
	Settlement agreements have been agreed between the Commission and two companies, Cape Express and Propack Removals, for collusion in the provision of furniture removal services
	Rhodes Food Group agreed to pay a fine of R1.2m for its part in price fixing, collusive tendering and market allocation with its Western Cape-based competitor Langeberg & Ashton Foods on food products sold to export markets
	Investigations have been launched into price fixing, market division and collusive tendering in the market for the manufacture and supply of automotive components supplied to original equipment manufacturers. The collusion could have taken place from 2000 to date and involved 82 automotive component manufacturers in respect of 121 automotive components
	The National Hospital Network (NHN) have been given a further exemption from the Competition Act in which they can as a network agree and implement prices negotiated with medical schemes for services provided by the hospitals

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

JUNIOR RESEARCHER / RESEARCH INTERNSHIP CONTRACT POSITIONS

CCRED undertakes economic research, teaching and advice on competition, regulation and industrial development in Africa. The economics of competition and regulation is central to understanding the nature and trajectory of economic growth. CCRED has a number of ongoing research programmes around understanding competition, inclusive growth and local economic development (please see our website for more details).

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The candidate should possess the following:

⇒ Strong academic training in economics, with relevant experience, and

⇒ Demonstrated ability to produce high quality research output.

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Enquiries can be addressed to the Director of CCRED, Professor Simon Roberts, at sroberts@uj.ac.za.

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We're proud to announce that CCRED has recently launched a new-look website to make it more accessible, interactive and useful to you. You can now access all of our latest projects, papers and information on forthcoming training and events through the site!

New features:

⇒ Upcoming training courses and short learning programmes for 2015 including Core Principles in Regulation and Competition Economics, Financial Analysis and Accounting for Regulation, and our Advanced Competition Economics course

⇒ Info and reports on current and completed CCRED projects

⇒ Publications by CCRED researchers and associates including our working paper series, journal articles and conference papers

⇒ All articles from our Quarterly Competition Review

⇒ Info on the 1st Annual Competition and Economic Regulation (ACER) Week, Southern Africa, which we are hosting at Victoria Falls in March 2015!

We hope you find the site interesting and useful, and we look forward to your feedback!

1ST ANNUAL COMPETITION AND ECONOMIC REGULATION (ACER) WEEK, SOUTHERN AFRICA

16 to 21 March 2015, Elephant Hills Hotel, Victoria Falls, Zimbabwe

The Zimbabwean Competition and Tariff Commission (CTC) and CCRED are honoured to host the **1st ACER Week in Southern Africa**. The ACER Week offers an opportunity to share lessons and developments in competition and economic regulation internationally, with a special focus on Southern Africa. The training and conference programme is designed for competition and regulatory authority practitioners, other government department staff, regional and international experts, academics in the competition and regulation field, as well as students.

16-19 March 2015: The three intensive **Short Learning Programmes** which aim to contribute to developing the capacity of competition authorities and economic regulators in the region are:

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⇒ Advanced Competition Economics

⇒ Costing and Financial Analysis for Competition and Economic Regulation

Course facilitators include Professor Massimo Motta, Dr Javier Tapia, Professor Chiara Fumagalli, and Professor Simon Roberts. Full course outlines can be accessed on our **website**.

20-21 March 2015: ACER Conference keynote speakers include Professor Massimo Motta and Dr Witness Simbanegavi alongside heads of regional authorities. The call for papers can be accessed on our **website**.

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