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Please note that the articles reflect the views of the authors and not those of the University of Johannesburg or CCRED.

UNIVERSITY OF JOHANNESBURG

The first half of 2016 has been a busy and exciting one for CCRED!

In March, the Annual Competition and Economic Regulation (ACER) Week was hosted in partnership with the Competition and Consumer Protection Commission of Zambia, the Energy Regulation Board of Zambia, and the National Energy Regulator of South Africa. Along with four short learning programmes facilitated by lead academics and practitioners from the continent and abroad, a two-day conference brought together representatives from national sector regulators and competition authorities to present research and discuss issues of mutual interest in regulating *for* competition.

CCRED has also hosted public workshops showcasing the findings of our recent research, funded by the National Treasury, on barriers to entry and rivalry in the telecommunication, retail banking and grocery retail sectors in South Africa. This work, which is based on detailed firm-level interviews and sector analysis, focused on understanding in detail the experiences of firms in entering sectors of the economy and draws important lessons for policymaking as well as for competition policy enforcement and regulation. The individual reports are available on our website for these and upcoming research projects.

This Review focuses on developments in competition enforcement in the region. We reflect on the recent SADC MoU between competition authorities, before considering the economic links between the East African Community (EAC) member states as well as the potential benefits of the EAC Competition Authority which is set to launch soon. We also assess the publically available information on all merger transactions evaluated by the COMESA Competition Commission since 2013 and highlight the main trends in merger activity in the region. Lastly, we reflect on the key findings of the study on barriers to entry in the telecommunications sector in South Africa conducted by CCRED, and provide an update on merger and enforcement cases in different jurisdictions across the region.

We trust that you will find the Review informative and relevant to your work, and we welcome any feedback you may have.

Editor's note: SADC Competition Authorities sign MoU for cooperation on competition issues

Thando Vilakazi

In May 2016, representatives of the competition authorities from nine Southern African Development Community (SADC) member states met in Gaborone, Botswana to sign a Memorandum of Understanding (MoU) to cooperate on competition matters. The MoU deals with cooperation between authorities on competition law enforcement and policy, which is the first such agreement in SADC.

The MoU builds on commitments contained in the SADC Declaration on Competition and Consumer Policies signed by SADC member states in 2009. The declaration was intended at a high level to pave the way for cooperation between authorities including provisions on the sharing of information and establishment of competition laws in countries that did not have relevant legislation.

An important element of meaningful cooperation between countries is the ability to communicate with one another directly about ongoing cases. In most cases, this is confounded by the obligations of authorities to treat as confidential information received from firms if it is deemed to be commercially sensitive. This typically takes place in cases involving firms in South Africa, where the Competition Commission of South Africa may have access to information from previous or ongoing cases that could be of benefit to authorities in neighbouring country authorities for their investigations. This follows from the large number of cases handled by the authority in South Africa, and the success achieved in uncovering cartels in particular.

Underlying the reluctance of authorities to share information is the threat that firms may respond with legal action if their information is shared to parties outside of those specified in confidentiality undertakings. This is an important part of fairness in the treatment of firms. However, it clearly constrains any meaningful cooperation between authorities especially when firms have an incentive to conceal information in some cases. For example, a firm involved in a cartel may come forward as a leniency applicant in South Africa, however they may perceive the probability of getting caught to be much lower in another jurisdiction and as such would not want to have their conduct exposed there through the sharing of information between authorities. This is well within the rights of the firm, but it is completely against the objectives in the Declaration of enhancing enforcement in the region and enabling authorities to prosecute cases effectively.

Authorities themselves are rightfully self-preservationist in seeking to win their own cases and protecting their own independence and credibility. But this is somewhat shortsighted given the increased interdependence of economies in the region and the important role that competition policy plays in opening up markets for economic development. For example, South African firms are expanding their footprint in the region at an extremely rapid rate, and economies in the region have experienced levels of economic growth that are far higher than those experienced in South Africa. The future growth of firms in major production areas of Gauteng is inextricably tied to growth in the region given severe constraints to growth in the domestic market. The ability of firms to expand their operations, extend their geographic market and reach scale in their operations will rely on taking advantage of opportunities to grow in a wider regional market which has been confirmed in recent CCRED surveys with firms.

Fostering an environment where markets in the region are open for business and not captured by firms with market power therefore has direct, mutual benefits for the countries in the region. The strategies of firms are increasingly regional, and as such competition law enforcement needs to transcend the comforts of political borders.

Meaningful cooperation requires that authorities look beyond their own discomfort with sharing information or their successes, and consider wider benefits for economies in the region not because it would be nice to have an integrated regional market, but because the future growth of our economies depends on it. Implementing the provisions of the MoU will require authorities to take some bold steps and the MoU itself is definitely one in the right direction. Authorities throughout the world have been finding practical ways to cooperate for many years and often share information with authorities in this region on major investigations. There should be no constraint to making this happen between neighbours, and firms should not be allowed to hold competition authorities to ransom in this regard.

Notes

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- Odendaal, N. 'Nine SADC countries enter new MoU for cooperation in competition matters' (6 June 2016). *Engineering News.*
- Competition Authority of Botswana website. *'*SADC Competition Authorities to sign MoU*'.*

Prospects for the East African Community Competition Authority

Shingie Chisoro Dube and Anthea Paelo

In 2015, the East African Community Council of Ministers adopted the East African Community Competition (Amendment) bill which provided for the establishment of the East African Community (EAC) Competition Authority (EACCA).[1] The competition authority has jurisdiction over all five member states of the EAC; Burundi, Kenya, Rwanda, Tanzania and Uganda. National competition laws and regulations are limited to political boundaries without extended powers to regulate company activities across borders, while the EAC Competition Authority will have jurisdiction over all mergers and enforcement matters with cross-border competition effects.[2]

This article discusses economic linkages between EAC member states, the history of mergers and acquisitions, as well as competition concerns that motivate the establishment of the authority.

Economic links between the member states

The EACCA had been scheduled to launch in June 2015, however, efforts to operationalise the Act were disrupted by conflicts with competition laws and institutions in the member states.[3] It is not clear at this stage when the authority will launch operations in full. The difficulties may have resulted from the fact that some of the countries do not have a background in competition law enforcement, which comes through extended experience in dealing with cases, advocacy and engagement with public and private stakeholders.[4] Country institutions may also be under-resourced and not sufficiently capacitated to make decisions independently.[5] For example, Rwanda, Uganda and Burundi (each without fully established laws and institutions) failed to submit nominees for the posts of commissioners to the regional competition authority partly because there were no commissioners in their own jurisdictions.[6] In addition, differences between countries regarding policies on policy priorities, investments, public procurement, and trade and industry policies within member states creates challenges in adopting a regional competition act which is aligned with national competition laws.[7]

Despite these challenges, common economic linkages between member states make it ideal to operate a regional competition authority in East Africa. The member countries are relatively small economies that share common ports and transport infrastructure. Member states have low levels of economic growth in comparison to other countries in sub-Saharan Africa where the average gross domestic product (GDP) per capita of US$1 034 in 2014 (Table 1). Together, countries in the EAC have an average GDP per capita of US$ 456.16 and an annual GDP growth rate of 5.76 percent per year in 2014. Although the EAC member states have low GDP per capita by country and collectively, economic growth has been significant in the period and faster than the Sub-Saharan Africa average in most cases.

Strong growth coupled with a large combined population of approximately 151 million means that there may be opportunities in future for firms to expand and gain economies of scale by accessing the larger regional market.

Table 1: Key economic indicators[8]

	Country	Population (2014)	2011	2012	2013	2014
GDP per capita (constant 2005 US$)	Burundi	10,816,860	148.1	149.0	150.7	152.7
	Kenya	44,863,583	613.0	624.0	642.1	658.7
	Rwanda	11,341,544	393.0	417.2	426.5	445.6
	Tanzania	51,822,621	536.2	546.2	567.6	588.3
	Uganda	37,782,971	424.9	429.4	429.2	435.5
	Sub-Saharan Africa	973,402,912	990.1	1001.4	1017.7	1034.1
GDP growth (annual %)	Burundi		4.2	4.0	4.6	4.7
	Kenya		6.1	4.6	5.7	5.3
	Rwanda		7.9	8.8	4.7	7.0
	Tanzania		7.9	5.1	7.3	7.0
	Uganda		9.7	4.4	3.3	4.8
	Sub-Saharan Africa		4.2	3.9	4.4	4.4

Trade between the countries is also growing, and a customs union has operated in the region since 2005. From 2010 to 2014, imports and exports by member states from others within the region have grown significantly across countries based on the estimated compound annual growth rates (Table 2). Most interesting is the emergence of Rwanda as an exporters into the region (although not at the levels attained by Kenya and Tanzania as yet), and the growth of Uganda's exports as well.

The use of common ports and transport routes, and the customs union, facilitates increased trade between member states and increases the ability of firms to compete across the region.[10] Two main transit corridors facilitate imports and exports in the region and there are plans to extend the railway line coverage linking all member states.[11] The Northern Corridor which starts from the port of Mombasa services Kenya, Uganda, Rwanda, Burundi and Eastern Democratic Republic Of Congo (DRC). The Central Corridor which starts from the port of Dar es Salaam services Tanzania, Zambia, Rwanda, Burundi and Eastern DRC.[12]

Mergers and acquisitions in the EAC region

In customs unions, there is potentially increased competition between firms as they expand operations across national borders, increase output and exploit opportunities for cost saving in production in a larger market.[13] As firms expand across borders they are likely to engage in mergers and acquisitions. For example, in the retail industry Kenyan supermarket chains such as Tuskys and Nakumatt have opened up several branches across countries in East Africa. Nakumatt has 52 stores, 34 of which are in Kenya, 9 in Uganda, 3 in Rwanda, 5 in Tanzania, and 1 store in Burundi.[14] Tuskys has 44 stores in Kenya and 6 in Uganda.[15] Tuskys acquired two Ugandan supermarket chains, Good Price and Half Price, in 2011.[16] Both firms have plans for further expansion into the rest of the region.[17]

In the banking and finance sector, Kenyan banks Kenya Commercial Bank, Equity Bank, Fina Bank and Commercial Bank of Africa have operations in more than three member states with 16 branches in Tanzania, 31 branches in Uganda and 16 branches in Rwanda.[18] The telecoms sector has also experienced a number of mergers and acquisitions. In 2012 Airtel with operations in Kenya acquired Warid Telecom in Uganda cementing its position as the second largest player in Uganda's market.[19] Orange Group exited all its East African operations in 2015 when it sold its 70% stake in Telkom Kenya to Helios and its operations in Uganda to Africell.[20] In mobile money services, cross-border transactions are increasingly possible due to linkages and partnerships between firms across countries. Telecom Company Tigo currently allows for cross-border transfers between Tanzania and Rwanda.[21] In December 2015, MTN Uganda and Safaricom signed a memorandum allowing for Safaricom mobile money users to transfer money into MTN mobile money accounts in Uganda.[22]

Competition concerns

While expansion and growth of firms is important for continued trade and development in the region, it can also create conditions for certain anti-competitive conduct. In an open, regional market with a regional competition authority it is perhaps less likely for a firm to establish a dominant position other than through mergers and acquisitions. The expectation is that rivals from across the region can more easily compete across borders and undermine the concentration of market

Table 2: Imports and exports in the EAC region (US$ thousands)[9]

Country	US$	2010	2011	2012	2013	2014	CAGR
Tanzania	Imports	295,199	378,129	678,597	397,026	706,459	19.07%
	Exports	558,027	408,955	613,303	421,614	598,144	1.40%
Uganda	Imports	576,535	692,615	646,946	616,601	684,609	3.50%
	Exports	428,591	503,743	580,270	627,416	642,244	8.43%
Burundi	Imports	83,745	268,861	174,375	171,295	126,052	8.52%
	Exports	17,940	28,452	4,663	29,800	25,454	7.25%
Kenya	Imports	256,539	307,705		334,534		6.86%
	Exports	1,279,232	1,571,180		1,285,408		0.12%
Rwanda	Imports	399,098	438,831	512,734	480,982	533,954	5.96%
	Exports	55,918	80,974	342,293	453,014	353,075	45.04%

Note: Transhipment of goods through the common ports may result in underreporting of imports for member countries without ports. Data for Kenya not available for 2014 – CAGR calculated based on the period 2010 to 2013.

power at the regional level. However, previous competition cases on cartels suggest that cartel conduct is more likely. Many key sectors may be characterised by tight oligopolies in small economies with high entry barriers.[23] These characteristics make it likely that incumbent firms will seek to protect their positions through jointly undermining entry, and coordinating pricing and output and allocating markets. In the Southern African Customs Union (SACU) area, a cartel operated in the cement industry between the major multinational firms.

The cement industry in East Africa raises concerns in this regard, particularly given that a number of the same firms that were involved in the cartel in SACU are present across countries in East Africa. It has been alleged that the East African Cement Producers Association (EACPA) is used to facilitate collusion between the main producers including firms linked with multinationals Lafarge, Holcim and Heidelberg.[24] In SACU, the South African Cement Producers' Association (SACPA) facilitated information exchange and coordination of output and prices in the entire SACU area, and certain country market were allocated between members.

The lessons from the SACU experience are that certain conduct may not be detected by individual country authorities and there is a role for monitoring and enforcement by regional authorities. This is an important advantage presented by the EACCA which is in a position to enforce across countries. Similar conduct has been identified in South Africa which has had an effect across national borders and in many cases industrial associations have been at the centre of arrangements. Certain arrangements such as those between major producers in the beer industry are candidates for assessment at a regional authority level[25], and cartels in general should be a focus of a regional body.

Individual mergers that lead to higher concentration in sectors in East Africa may not necessarily be prohibited when considered at a regional level, and may in fact have substantial benefits for the region in terms of integration of markets and investment. However, the authority will need to be mindful of 'creeping' acquisitions that when considered together increase competition over time. The risks to competition in this case result both from the concentration over time which may allow individual groups to exercise unilateral market power in the region, and from likelihood that greater concentration may lead firms to agree to coordinate their conduct across borders rather than compete.

The interlinked nature of the economies in the EAC, trade flows, transport linkages and increased economic growth demonstrate the potential for the EAC to develop an integrated regional economy. The potential gains to consumers can be undermined by anti-competitive conduct that is not detected at the cross-country level, which motivates for the introduction of the EACCA.

Notes

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Review of COMESA merger and enforcement activity

Maria Nkhonjera and Tatenda Zengeni

Since opening its doors in January 2013 the COMESA Competition Commission (CCC) has seen growth in the number of its merger cases. This growth followed a number of challenges initially faced with the interpretation of certain provisions of the Act, jurisdiction and high filing fees.[1] To date a number of changes have been made to the law which include a publication of merger assessment guidelines in October 2014[2], and a review of the merger notification thresholds and filing fees in April 2015.[3] The Commission handled 13 transactions in 2013, which increased significantly to 44 in 2014.[4] In 2015, a total of 18 mergers where notified at the Commission based on the information available on its website. The CCC is yet to investigate an enforcement case as we discuss below.

In this context, the article reviews the developments in terms of reported COMESA merger cases (on its website) and assesses the key trends in merger activity and major transactions which have taken place in the region. We also comment on the future of enforcement activity by the authority.

Drivers of merger activity in Africa

M&A activity in Africa is being driven by global businesses looking at high growth African economies to expand their operations. For example, between 2014 and 2015 the value of M&A transactions in Sub-Saharan Africa increased by 12% year-on-year for transactions involving firms in this region.[5] Most mergers have taken place in South Africa, Mauritius and Nigeria, with the largest proportion of acquirers coming from Europe.[6] In addition, East Africa has shown growth as a destination for inbound M&A and regional expansion of multinational firms.[7] Cross-border acquisitions by African firms make up a large share of M&A deal volumes and are expected to rise as African companies expand regionally. Notably, South Africa firms have led in terms of acquisitions and expansion.[8]

A growing middle class in Africa as an important source of demand has contributed to the growth in opportunities for expansion by firms, particularly in financial and consumption industries such as retail.[9] This creates the opportunity for both foreign and domestic companies to benefit from rising demand for goods and from regional expansion.[10]

CCC merger activity highlights

It is expected that merger activity in COMESA mirrors the broad trends in the continent discussed above. We have reviewed the merger case information available on the COMESA website for 55 transactions from the inception of the authority to March 2016. Below we outline the key facts and trends emerging from the assessment:

⇒ Since 2013, 12 merger notifications have been in the financial services sector which is the most in any sector. These transactions have been in the provision of insurance products, primarily, and the banking and investment banking subsectors. Interestingly, 75% of these transactions have involved acquiring firms from South Africa and Kenya including a number of acquisitions by the Old Mutual group.

⇒ 8 mergers have taken place in the construction sector including the global acquisition of Lafarge by Holcim which was approved considered in relation to 12 COMESA member states. This particular merger created the largest player globally and in Africa in cement production. New entry and large investments in the sector led by Dangote Cement presents the most significant competitive threat to the merged entity in Africa.[11] In 2013, PPC, a major cement producer in South Africa, also acquired CIMERWA which transaction had potential effects in DRC, Rwanda, Uganda, Zambia and Zimbabwe.

⇒ The acquisition of Greenbelt Fertilizers by Yara International, a global leader in fertilizer production and trading, signifies the removal of a potentially significant competitor in the regional market for fertilizers. Greenbelt has grown in recent years in Zambia, and made investments in fertilizer blending capacity across the region including at the Beira port in Mozambique. The transaction, which was approved in 2016, contributes to high levels of concentration in the regional market which may raise competition concerns in future given a history of coordinated conduct by the major suppliers of fertilizer in the region.[12] In 2014, Yara acquired OFD Holdings in a global transaction which also affected 12 COMESA member states.

⇒ Mergers in the ICT/telecommunications, petroleum, and agriculture (including fertilizer) were the most common in the period considered after mergers in financial services and construction.

⇒ The acquisition of Coca-Cola Sabco by Coca-Cola Beverages Africa was approved by the CCC in 2015. The merger is likely to have significant implications for the ability of entrant beverages firms to access bottling and distribution capacity, and thus their ability to compete in the market against the largest soft-drink beverage operation in Africa.[13] In this regard, the South African competition authorities granted conditional approval in 2016 subject to conditions relating to employment, access to retailer cooling space for smaller competitors, localisation of production and inputs, economic empowerment (R800 million investments), and location of the headquarters

and tax residency in South Africa.[14] The merger was unconditionally approved by CCC and in Namibia, and conditional approvals were granted in Kenya and Tanzania as well.

⇒ The number of member states affected by a transaction is important given the fact that the CCC is in some cases required to cooperate closely with the competition authorities in different member jurisdictions in order to obtain information and consider the transaction. A greater number of affected jurisdictions implies greater likely challenges in expeditiously considering transactions. The Exor/PartnerRE transaction involved 16 member states (the most in a single transaction), while Holcim/Lafarge and Yara/OFD each potentially affected 12 states, for example.

⇒ Country authorities have in most approved the same transactions where transactions have implicated multiple jurisdictions. At the CCC level, almost all transactions have been approved without conditions.

It is worth noting that South African firms have led in terms of acquisitions of firms in the COMESA area. South Africa is not currently a COMESA member state although it features more than any other country in terms of transactions considered, particularly as transaction have involved acquisitions by emerging South African multinationals. South African firms, including MTN, Old Mutual, PPC, Sanlam, Telkom, SAB and Steinhoff International, have been involved in at least 16 of the 55 transactions considered. The balance of transactions has involved a large number of acquiring firms from different European countries, as well as some from Kenya which is consistent with the findings in the various M&A market reports referred to above.

CCC enforcement activity

The authority has yet to assess an enforcement case although this is an area in which it intends to place greater emphasis going forward. At the recent Annual Competition and Economic Regulation (ACER) Week in Livingstone, Zambia, CCC representatives emphasised the importance of enhancing enforcement activity, particularly against cartels, in the region. Challenges in this regard include jurisdictional issues between domestic authorities and CCC, and cooperation in terms of sharing of information and investigations between countries. Another important issue raised relates to the adoption in different countries of the COMESA regulation, and inconsistencies between countries in terms of penalty frameworks and the adoption of corporate leniency policies (CLP). In this regard, differences between countries in penalties and CLPs distort the incentives of firms to come forward and admit to cartel conduct in all countries in which the conduct had an effect, with firms preferring to make admissions in countries where the likelihood of getting caught was higher, potential penalties if found out were higher, and where firms were guaranteed fair treatment in the CLP process.

Notes

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Competition vs national champions in telecoms in South Africa

Pamela Mondliwa and Tamara Paremoer

Telecommunications facilitates economic growth and participation. As such, countries should care about the competitive outcomes in this sector. When competition works in telecommunications it can result in expanded services, lower prices, and it can stimulate innovation. The South African record of telecommunications policy and regulation has, however, been poor. Telkom was trusted to invest in the sector and ensure expanded access. Instead, it undermined entrepreneurial activity across a range of services. Telkom has been fined on two occasions by the competition authorities for abusing its dominance.

The first movers in mobile telecommunications, Vodacom and MTN, were allowed to establish a strong duopoly, alongside Telkom's de facto fixed line monopoly. Subsequent entrants in these markets (Neotel, Cell C and Telkom Mobile amongst others) were simply expected to compete with incumbents while the playing field was far from level. This resulted in very poor outcomes which have taken lengthy competition and court cases to address. Even where there have been successes, these have been partial.

On the other hand, interventions aimed at introducing competition have yielded positive outcomes. Our analysis shows that after the Independent Communications Authority of South Africa's (ICASA) decision to cut mobile termination rates (MTRs) in 2011, the challenger operators (Cell C and Telkom Mobile) were better able to compete with incumbent operators. The MTRs decision led to a R1.09 reduction of the termination rate with 81% and 91% pass through to Vodacom and MTN consumers, respectively. The price cuts were driven by the challenger operators and the incumbents lowered prices to meet challengers' offerings. Prices to customers declined by 88c on the Vodacom network and 99c on the MTN network between 2010 and 2015.

The total consumer savings generated by the MTRs for MTN and Vodacom customers amount to R47.2 billion over the period 2010 to 2015. MTN and Vodacom call volumes also increased at a compound annual average growth rate of 18% over the same period. This is an indication of what was gained as a result of the intervention and, conversely, the cost of not having facilitated effective competition sooner.

The decision by ICASA to introduce asymmetry and reduce the termination rates can be described as regulating *for* competition, by creating a more level playing field. This is important as the telecommunications industry has inherent characteristics that raise barriers to entry such as network effects, making it difficult for entrants to reach scale.

The incumbent firms can pursue strategies to take advantage of these scale effects. For example, the incumbent firms provide substantial discounts for on-net calls (calls on the same network) and charge high premiums for off-net calls (calls between different networks). This is problematic as the challenger networks are not able to meet dynamic discounting strategies where the MTRs are higher than the effective prices. The incumbents have the benefit of a much larger subscriber base.

From the customer's perspective it is rational to belong to the larger community to allow for a greater proportion of discounted calls. This makes it difficult for challenger networks to attract new customers. Examples of this 'closed network pricing' in South Africa includes MTN Zone and Vodacom4 less which have dynamic discounting for on-net calls which, based on location and the time of day, can be up to 100%. In 2013, 95% of MTN's pre-paid subscribers were on MTN Zone, despite MTN having price plans with rates lower than the standard charges of MTN Zone. Vodacom and MTN enjoyed first mover advantages in constructing extensive networks, which allowed them to aggregate and simultaneously intermediate users while setting prices in a relatively weak regulatory environment. They continue to reap the benefits of this position.

The positive impact of competition has not been limited to the mobile sector. When Seacom entered the market for undersea cables in 2009 the cost of bandwidth for typical Internet Service Providers (ISPs) fell by 35%. Prior to Seacom's entry the only cable available was Telkom's SAT-3 cable. Another example is the 87% reduction in the price of transmission over long distance fibre between Bloemfontein and Johannesburg from 2013 to 2014 due to the construction of two new open access fibre links by Fibre Co and the NLD Consortium.

The recent entry of a number of fibre-optic broadband providers in South Africa offering open access networks has also stimulated competition and resulted in significant price reductions. In response, Telkom's wholesale network, OpenServe, recently announced price reductions for wholesale fixed line access of up to 57% for an important wholesale service (IP Connect, similar to bitstream access). The creation of OpenServe itself was a response to the fines and settlements with the Competition Commission. Greater competition from new entrants likely also played a role in this.

The impact of entry in these examples gives an indication of what is at stake if entrants are blocked or undermined. The price of voice communication has come down and the next challenge for South Africa will be meeting SA Connect targets by ensuring universal access to broadband at affordable prices. South Africa's broadband is poor and expensive and

is becoming even more so relative to our peers.

What can be done to facilitate competition going forward?

Regulating for competition

⇒ Experience demonstrates that there is a need to change the balance of regulation to favour rivals including allowing for effective services competition by Mobile Virtual Network Operators (while allowing for a fair return on infrastructure for mobile network operators).

⇒ The on-net/off-net price discrimination case requires swift and thorough investigation by the competition authorities.

⇒ Spectrum should be assigned in a timely manner through transparent auction processes which do not disadvantage new entrants.

⇒ Implementing local loop unbundling will give 'value added network services' companies access to Telkom's last mile infrastructure (the most expensive network layer), removing their reliance on the main rival. Access should also be granted to Telkom's poles and ducts on reasonable terms.

⇒ Infrastructure sharing (including mobile site access and RAN sharing) should be regulated more effectively. TV white spaces spectrum can be allocated to fixed wireless providers to allow for more reliable services and allow them to become better competitors.

Facilitating broadband rollout

⇒ Support competition rather than a national champion for broadband roll out.

⇒ Finalize the rapid deployment guidelines to facilitate 'rights of way' applications for roll out.

⇒ Aggregate demand from local municipal offices, clinics, police stations, and department offices so that government can be an anchor tenant in rural areas and procure services through a competitive tender process.

Notes

The article draws on CCRED research on barriers to entry in the telecommunications sector, funded by the National Treasury.

Quarterly competition case update - Mergers and acquisitions			
Country	**Target**	**Acquirer**	**Status**
Botswana	40% Shares in Simon Little T/A Helicopter Horizons	Andrew Philip Baker	Approved
	100% issued share capital in Penrich Insurance Brokers	African Essence Enterprises	Approved
	Lot 5483, Jwaneng land, buildings and improvements, comprising, inter-alia, a fully developed commercial retail property owned by United Promotional Enterprises (Pty) Ltd	Debswana Pension Fund	Approved
	80% of the issued share capital in Virtual Business Network Services (Pty) Ltd	Synergy Communications	Approved
	Ellerine Furnishers (Botswana) (Pty) Ltd and Ellerine Retail (Botswana)	Lewis Stores Botswana (Pty) Ltd	Approved with conditions
Kenya	Orbit Chemical Industries	Catalyst	Approved
	Orchid Capital	Genghis Capital	Approved
	10% of I&M Holdings Ltd	CDC Group Plc	Ongoing
	65% interest in Burbidge Capital Ltd	I&M Holdings Ltd	Approved
	SABMiller	AB InBev	Approved
	75% Airflo	Panalpina	Approved
	40% Two Rivers Mall project	Old Mutual	Approved
Malawi	Malawi Savings Bank (MSB)	FDH Bank	Approved with conditions
Namibia	Ellerines Furnishers and Ellerines Retail	Lewis Stores	Approved with conditions
South Africa	75% of Docufile	Iron Mountain	Approved
	Akacia Healthcare	Axcendis health	Approved
	3Q Mahuma	PPC Cement	Approved with conditions
	65% of Mareterram	Sea Harvest	Ongoing
	MMI Group Limited in respect of its long-term insurance policy book	FirstRand Life Assurance Limited	Ongoing
	Business and Assets of International Ferro Metals (SA) Proprietary Limited and Sky Chrome Mining	Samancor Chrome Limited	Ongoing
	Food Lovers Holdings	Actis 4 PCC with respect to the cell berry	Approved
	Autovest Limited	KAP Automotive Proprietary Limited	Approved
	Cirano 300 Investments Proprietary Limited in respect of a 75% Undivided Share In Erf 221, Rosebank, known as The Galleria	Redefine Properties Limited, The Pivotal Fund Limited, Abshelf Proprietary Limited	Approved

Quarterly competition case update - Mergers and acquisitions cont.			
Country	**Target**	**Acquirer**	**Status**
South Africa cont.	Lusitania Food Products Proprietary Limited	Bongicel Proprietary Limited	Approved
	Opiconsivia Investments 265 (Pty) Ltd	Alstom Transport Holdings SA (Pty) Ltd	Approved
	Midrand Varsity Lodge Proprietary Limited	Respublica Student Living Proprietary Limited	Approved
	Wilner Continental Edible Oils and Fats (Pty) Ltd	Equatorial Trading Limited and Wilmar Resources	Approved
	Sidi Parani Proprietary Limited	ETG Inputs Holdco Limited	Approved
	SA Retail Properties (Proprietary) Limited, Known as Pinecrest Centre	Vukile Property Fund Limited	Approved
	Clidet No.947 Proprietary Limited, Sugar Creek Trading 289 Proprietary Limited, The Trustees for the time being of The Sawhf Sa Rental 3 Trust	Indluplace Properties Limited	Approved
	Mining Oil and Gas Services Proprietary Limited	The Government Employees Pension Fund, duly represented herein by the Public Investment Corporation SOC	Approved
	Optimum Coal Mine (Pty) Ltd (in business rescue and 6 other target firms)	Tegeta Exploration and Resources (Pty) Ltd	Approved with conditions
Zambia	Zambian Towers Limited	IHS Zambia Limited	Ongoing
Zimbabwe	SABMiller	AB InBev	Ongoing

Quarterly competition case update - Main enforcement cases	
Country	**Case summary**
Egypt	The Egyptian Competition Authority is investigating whether the decision by beIN Sports to unilaterally raise its subscription prices constitutes and abuse of dominance.
Kenya	Coca-Cola's Crown Beverages, primarily involved in the bottling of mineral water, was found to have abused its market power through the use of exclusive distribution arrangements which restricted distributors from stocking and selling beverages from other manufacturers.
	The CAK prohibited beer distributors from setting selling prices for beer and removed restrictions placed on distributors in terms of the products from different producers they may stock.
South Africa	Margarine producer Sime Darby Hudson Knight was fined R35 million for collusion on the supply of certain packs of edible fats and oils.
	Life Health Care hospital group and the Vincent Palotti hospital in Cape Town have been fined R10 million for collusion in setting prices.
	The Competition Tribunal issued a R3.5 million penalty against Ton Scrap for price fixing of certain ferrous scrap metals.
	A case against Chinese technology firm ZTE SA and its local partner, ZTE Mzanzi, relating to collusion through allocation of customers was referred to the Tribunal.

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

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⇒ Details of the project and current and forthcoming working papers on regional integration and industrial development can be accessed here. The most recent papers from the United Nations University World Institute for Development Economics Research (UNUWIDER) project are now available:

- The development of the animal feed to poultry value chain across Mozambique, South Africa, Zambia and Zimbabwe.
- The expansion of regional supermarket chains changing models of purchasing, and its implications for supplier capabilities in Botswana, Mozambique, South Africa, Zambia and Zimbabwe.

⇒ Papers by various authors from the ACER Week conference hosted in Livingstone, Zambia in March 2016 are available here.

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