CPI's Africa Column Presents:

Competition policy in Africa: five proposals READY for action

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African countries have much to gain by encouraging open and competitive markets – as highlighted by a recent publication developed by the World Bank Group (WBG) in partnership with the African Competition Forum (ACF). The prevalence of monopolies, duopolies, and oligopolies is relatively high in African economies, even after considering market size.[2] On average, African countries score 26 percent lower than other countries globally in terms of the existence and enforcement of competition law.[3] Meanwhile, retail prices of key consumer goods are, on average, at least 24 percent higher in African cities than in other economies around the world, even after controlling for transport costs and income levels, suggesting the lack of competition as a potential factor.

However, there has been important progress towards creating more effective competition institutions across Africa. The number of jurisdictions with competition laws has almost tripled in 15 years – but, as the new report shows, there is still work to be done in effectively implementing those laws in practice. African competition authorities continue to face operational constraints and governments continue to erect policy barriers to competition, trade and foreign investment in key sectors.

So what is the path forward for competition policy in Africa? How can competition policy contribute to development outcomes? Below we put the spotlight on five ways that policy makers can continue raising the relevance of competition policy in the region and encourage vigorous competition in key markets in the region, as illustrated by the report's findings.

1) **Recognize the importance of competition policy as a key part of the broader national development dialogue on growth, export competitiveness and poverty reduction**

Competition policy can be an effective tool for transforming product markets, boosting productivity, innovation, economic diversification, export competitiveness, and inclusive growth. For instance, the report finds that reducing regulatory restrictiveness in professional services across nine African countries would boost growth, and export competitiveness, in downstream industries that use professional services intensively by between 0.16–0.42 percentage points of GDP growth. Competition policy can also be an important complement to other policies, such as innovation and industrial policies, where competition helps employ subsidies efficiently and ensures that firms and their managers face the right incentives to innovate.

Boosting competition also helps the poorest population groups access a wider variety of competitively priced goods. Indeed, a lack of competition in basic consumer goods, such as food and pharmaceuticals, harms the poorest most through its effect on prices. Anticartel enforcement complements other poverty reduction measures - particularly since a large share of cash grants to the young and old is spent on food products. Without strong competition enforcement, there is a risk that some of the impact of cash transfers could leak to firms in the form of higher profits. And the benefits could be huge. Tackling anticompetitive behavior in these sectors or improving regulations that shield these markets from competition could lift over 490,000 people out of poverty in Kenya, South Africa, and Zambia alone, and would save households in these countries over $700 million a year, with poor households gaining disproportionately more than rich ones. By recognizing the role that effective competition policy enforcement can play in driving economic outcomes or complementing other government policies, policy makers can harness this under-acknowledged – but potentially cost-effective – tool to achieve national development objectives.

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[2] WEF, 2015 and BTI, 2016
[3] BTI, 2016

2) **Embrace a holistic view of competition policy and strengthen the complementarity between sector regulation and competition enforcement**

Distortive government policies, regulations, and actions can make markets more prone to anticompetitive outcomes. It is important to remember that an effective competition policy not only includes economy-wide enforcement of antitrust rules, but also the entire suite of sectoral regulations and government interventions that actively encourage competition or minimize the distortive effects of government policies on competition. Even countries without a competition law or competition authority can make significant strides towards boosting competition in key markets. Understanding how rules imposed by the government shape incentives of firms and consumers becomes a key component of good policy making.

In regulated sectors, such as telecoms, energy and transport, the roles of competition authorities and sectoral regulators should be complementary. However, when national regulatory authorities hold competition enforcement powers alongside competition authorities, a lack of coordination may generate risks in terms of jurisdictional conflicts between authorities, double jeopardy for regulated firms, and forum shopping. The report illustrates the presence of these issues in Africa, where at least fifteen countries have sector regulators with a competition law mandate. Collaboration between competition authorities and sector regulators is key to enhancing the effectiveness and efficiency of their actions to the benefit of consumers. Having a common understanding of the market and competition instruments, and recognizing the value that each authority brings to the table, are essential for collaboration. Memoranda of Understanding between authorities and regulators, and drawing up joint action plans, can help encourage greater collaboration.

3) **Assess markets through a regional or sub-national lens, as well as a national one**

In some sectors in Africa, the same large firms operate across many countries and some firms may locate themselves in specific areas that allow them to supply markets across borders. In the cases of fertilizer, cement and telecoms, the report finds a high degree of multi-market contact across countries among large firms. These factors hold potential efficiencies – such as where it leads to economies of scale – but it also makes it vital to view competition dynamics through a regional lens as well as a national one. In other cases, factors such as high transport costs (as in the case of cement) or sub-national regulatory barriers (as in the case of road freight) mean that products or services cannot be traded across an entire country, and that analysis and action therefore need to be focused on the sub-national level.

In the future, it is likely we will see an increasing number of countries facing multi-jurisdictional cartels and cross-border mergers with effects on intra-regional trade in Africa. An example of this was seen with the market-allocation agreement among cement producers, which allowed the division of the markets of South Africa, Namibia and Botswana between them. But trade is not just affected by anticompetitive firm behavior. In many cases, trade is restricted when governments impose non-tariff barriers, including product standards or testing regimes that are more restrictive than necessary, which prevent the entry of new, lower-cost products. As pointed out by the report, this is the case with fertilizer and cement markets in both East and West Africa. Understanding regional dynamics can help strengthen the enforcement capacity of competition authorities and can help governments understand the impact of their regulatory interventions.

4) **Develop platforms for cooperation and knowledge creation that allow for real market changes on the ground**

Initiatives that bring together various agencies with competition mandates from across the region can support reforms strengthening competition enforcement. The regional patterns brought out by the report suggest that monitoring regional market structures and sharing information on patterns of collusive behavior can help authorities screen for sectors that have a greater risk of being cartelized. This can help authorities better prioritize their resources. Meanwhile, mechanisms to support coordination between national and regional competition bodies can also help to deter harmful business practices and to more accurately identify anticompetitive cross-border mergers.

Regional initiatives can also help advocate for reforms of sectoral policies and regulations that unnecessarily limit competition in member economies. For example, groups of competition authorities for countries with economic linkages could jointly study competition issues in a sub-region, benefit from peer-to-peer learning and design implementable strategies to address competition problems. The ACF and its members – with support from development partners including the WBG – have now started making significant strides in this direction.

5) Yield greater awareness of competition issues and foster demand for a strong competition policy

Promoting engagement on competition issues from the consumers and firms that are affected by them can raise the chances of success and sustainability of competition reform efforts. Bridging knowledge gaps with key stakeholders through engagement with the private sector, consumers and consumer associations can raise the likelihood that infringements of the competition law and market restrictions that affect competition are brought to the attention of competition authorities and, more broadly, raises citizen demand for an effective stance on competition policy from the government.

Tools to achieve this type of engagement could include dialogue platforms and outreach initiatives with the private sector, public institutions, civil society and academia; developing skills within and partnerships with academic institutions and think tanks to expand research on competition issues and on the quantification of the expected economic impact of reforms; greater media engagement and stronger communications strategies from competition authorities to help disseminate research on the benefits of competition reforms and enforcement. The report also suggests that citizen engagement is more successful when structured around tangible market problems that consumers and firms observe in their own countries and markets.

A proposed agenda for action on competition policy in Africa

Competition reforms are notoriously difficult to implement, particularly where there is a lack of resources to build evidence or advocate for them, where they are in conflict with vested interests that stand to lose out from these reforms in the short term, where they are hindered by discretionary decision-making, or where there is a lack of voice on the side of those who could gain from the direct effects of more competition.

This article has proposed five areas for action which could help overcome these hurdles. Together they can help build a common understanding, among stakeholders and across the region, of how to embed principles for competition in sectoral and economic policies in order to advance the prosperity of African nations.