

Benefits of Competition for Businesses (The Common Market – COMESA)

GEORGE K. LIPIMILE

DIRECTOR & CHIEF EXECUTIVE OFFICER

What is COMESA?

- **The Common Market for Eastern and Southern Africa.**
- **Vision: promote regional economic integration through trade and investment.**
- **With its 21 member states,**
- **Population of 560 Million,**
- **GDP of USD 1 trillion,**
- **Potential Intra-COMESA trade of approx. USD 82.4 billion**
- **COMESA forms a major market place for both internal and external trading.**
- **Its area is impressive on the map of the African Continent covering a geographical area of 11.8 Million (sq. km).**

COMESA Membership

- **COMESA** was established pursuant to the COMESA Treaty signed & ratified in 1994 with the aim of advancing the process of economic integration, to achieve sustainable growth and development for the Member States.

- ***Current Membership (21 countries):***

Burundi, Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

Tunisia and Somalia joined COMESA at the 20th Summit in July 2018.



Competition Provisions under the COMESA Treaty

Article 55 (1) of the COMESA Treaty:

- “... To this end, the Member States agree to prohibit any agreement between undertakings or concerted practice which has its objective or effect the prevention, restriction or distortion of competition within the Common Market”**
- **Article 55 (3) : “The Council shall make Regulations to regulate competition within the Member States”.**
 - **The Regulations were ratified by the Council of Ministers on 17th December, 2004 .**

The Treaty and The Single Market Imperative

- Unlike national competition laws, the COMESA Competition Regulations fulfil an additional function, that is the overriding goal of achieving the single market imperative.
- **Single Market Imperative** - This is the principal objective of the Common Market which entails the creation of a common or single integrated market where Goods, Services, People and Capital circulate freely, easily and unobstructed by national restrictions.
 - Internal barriers to trade within the Common Market should be dismantled and goods, services, persons and capital should have complete freedom of movement
 - Firms should be able to outgrow their national markets and operate on a more efficient, transnational scale throughout the Common Market

Purpose of Competition Law

- The purpose of competition law is to protect and promote the competitive process, so as to **promote economic efficiency**, thereby generating:
 - a. **lower prices**
 - b. **better products**
 - c. **Increased choice**thus **enhancing the welfare** of the general community
- To achieve this goal, competition law must be enforced effectively at both national and regional level.
- **Competition law is not concerned with protecting particular competitors in the market but the promotion of the competitive process.**

Why Competitive Markets

- Competitive markets provide a **strong incentive for achieving economic efficiency.**
- Competitive markets ensure that:
 - ✓ **Goods that the consumers want are produced using the most efficient production methods;**
 - ✓ **Goods are marketed and distributed to the consumers who wish to purchase them in the most efficient means possible; and**
 - ✓ **Using the most appropriate and superior technology.**
- Competition bolsters the productivity and international competitiveness of the business sector

Benefits of the COMESA Competition Regime

- A notable benefit of the regional competition law regime is that it introduces a “one stop shop” for cross border transactions, **easing the cost of doing business** in the Common Market as such transactions no longer need to be notified in two or more jurisdictions.
- Rule 5 of the Regulations : Decisions rendered by the Commission and the Board of Commissioners **shall be binding** on undertakings, governments of Member States, and state Courts; **Hence enhancing certainty in business transactions**
- **Rule based System of Governance** : Creation of a business environment of certainty and predictability in market economies.

Benefits of a Regional Competition Law

- The necessity for a regional competition law is seen given the need to address cross-border competition matters as evidenced from the following realities:
 - National laws inadequate to deal with new issues brought about by international trade;
 - Markets extend beyond national boundaries;
 - Similar conduct being investigated in two or more jurisdictions resulting in conflicting decisions hence, uncertainty in markets.;
 - Evidence for anti-competitive conduct may be located in other jurisdictions;
 - Remedies to anti-competitive conduct may have impact in other jurisdictions;
 - Lack of extra-territorial jurisdiction by national competition laws; and
 - Challenges for business to be in compliance with varying multiple national competition laws.

Reducing Barriers to Entry

Entry of new players and removal of import restrictions have led to better market outcomes for businesses and consumers in Africa

- In Zambia, the entry of Dangote Cement in 2015 led to an immediate decline in average retail cement prices from **USD 12.19 in 2014** to **USD 6.96** in the second half of 2015
- Dangote has further plans to takeover cement manufacturing giant PPC which has operations in South Africa, Zimbabwe, Rwanda, Burundi, and DRC; expected to lead to further reduction of cement prices in the region

***“ Cement prices start falling after
Dangote Cement enters the market ”***

Lusaka Times, 29 June 2015

“ Cement prices fall ”

Times of Zambia, 9 July 2015

Reducing Barriers to Entry

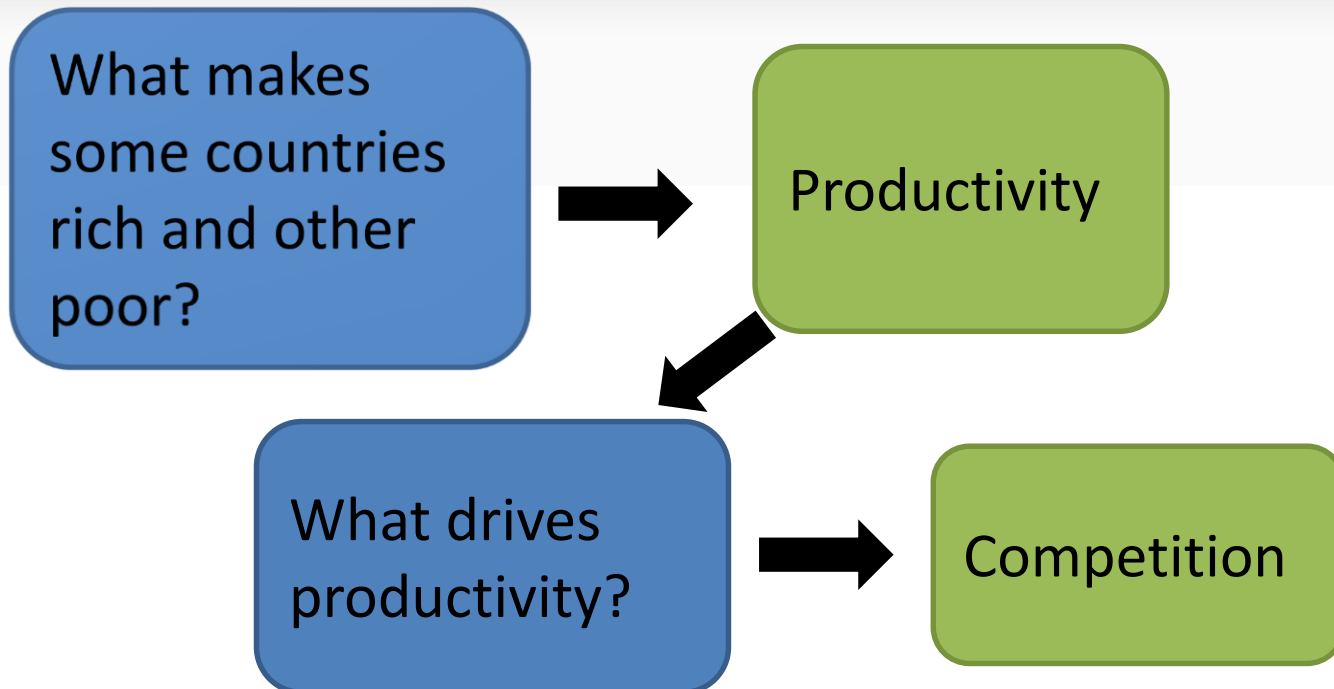


In Kenya, milk prices in 2017 fell by **USD 0.10** per half-litre packet following the Government's intervention allowing importation of duty-free milk powder to increase supply.

Competition Drives Productivity

World Bank Development Report 2005:

- Studied 13 countries for 12 years;
- Examined labour, capital formation, corporate governance, education, competition, etc.



Competition Drives Productivity

- “The sugar industries in Kenya... have a **high degree of government ownership and intervention**, have broadly similar problems relating to productivity and performance... the **use of obsolete technology and inefficient farming methods** results in poor cane yields and sugar outputs, and the government regularly bails out loss making state owned sugar mills.
- **By contrast, Zambia, which has 3 privately owned sugar producers, produces the highest amounts of sugar per hectare and is a very profitable, internationally competitive industry.”**

(Ellis & Singh, 2010: Assessing the Economic Impact of Competition)

- In July 2017, sugar prices in Kenya dropped considerably following increased imports as a result of government policy. **A 2kg packet of sugar was reported to being sold at 1.1 dollars, down from 2 dollars in May following the importation of the commodity from COMESA region.**

Models of Competitive Markets

Characteristics:

- × Numerous buyers and sellers
- × Ease of entry
- × Readily accessible information on market conditions
- × Innovation, quality, variety

Potential anticompetitive harm:

- Marginal cost pricing (production efficiency)
- Societal resources are well-allocated (allocative efficiency)
- New products and processes on the market (dynamic efficiency)

Models of Imperfection Competition

Characteristics:

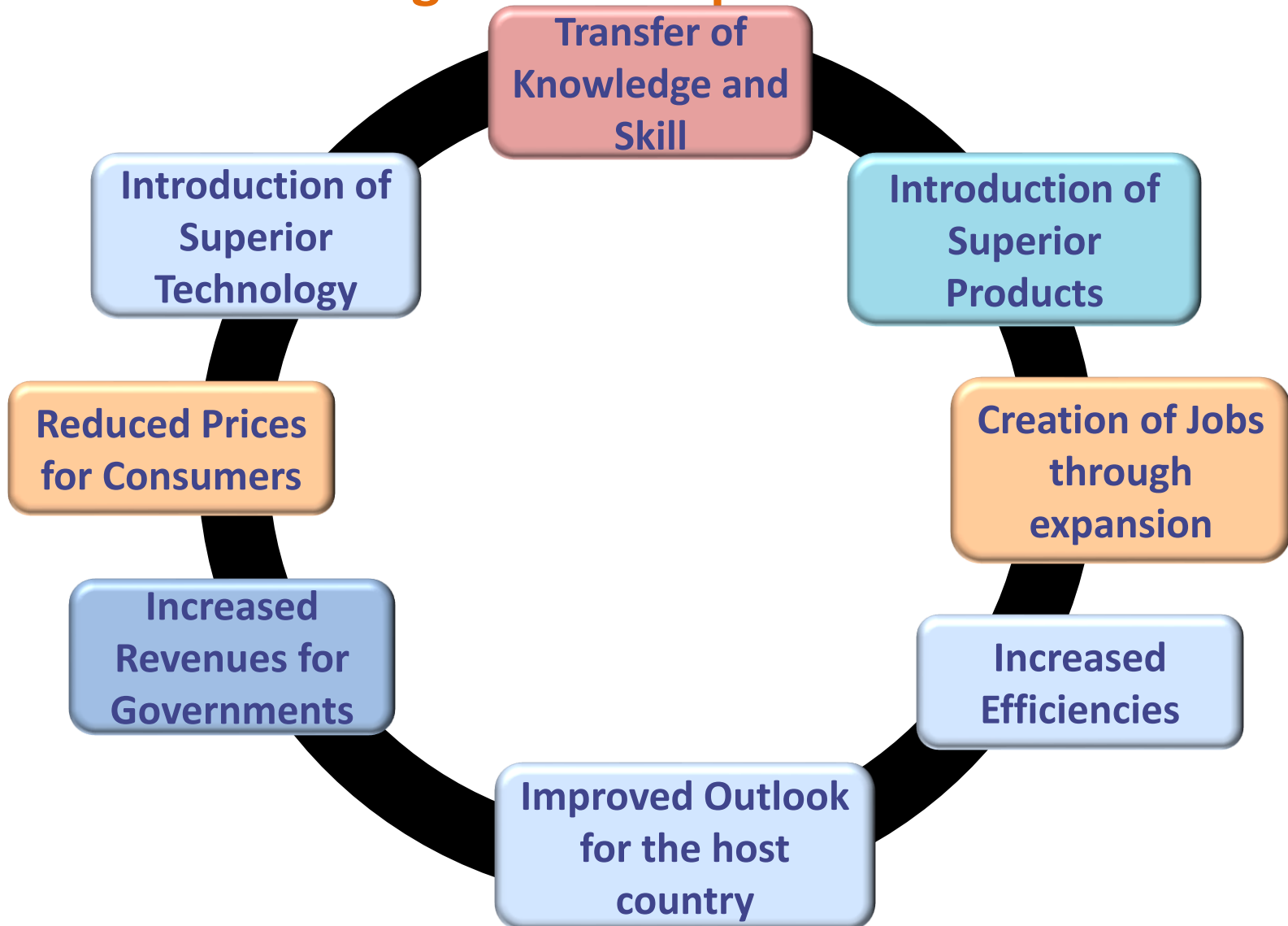
- × Small number of buyers or sellers
- × Higher seller concentration
- × High barriers to entry, mobility and exit
- × Limited access to information
- × Impediments to innovation, productivity, efficiency

Potential anticompetitive harm:

- Higher prices
- Reduced Choice
- Lower product quality
- Reduced incentives for innovation
- No wealth transfer
- Encouragement of family cartels

CONCLUSION

The Benefits of Rigorous Competition Law Enforcement



CONCLUSION

- **Protectionism: a danger to Competition**

THANK YOU

Any comments to:-

George K. Lipimile
Director & Chief Executive Officer
COMESA Competition Commission
Lilongwe, Malawi
glipimile@comesa.int