



**FOURTH ARAB COMPETITION FORUM  
SESSION I: ENHANCING THE EFFECTIVENESS OF  
COMPETITION AUTHORITIES IN DEVELOPING AND  
LEAST DEVELOPED COUNTRIES**

**Dr Willard Mwemba**  
DIRECTOR & CHIEF EXECUTIVE OFFICER  
COMESA Competition Commission

# Outline of the Presentation

Introduction

Status of competition and  
consumer protection regulation  
in the COMESA Region

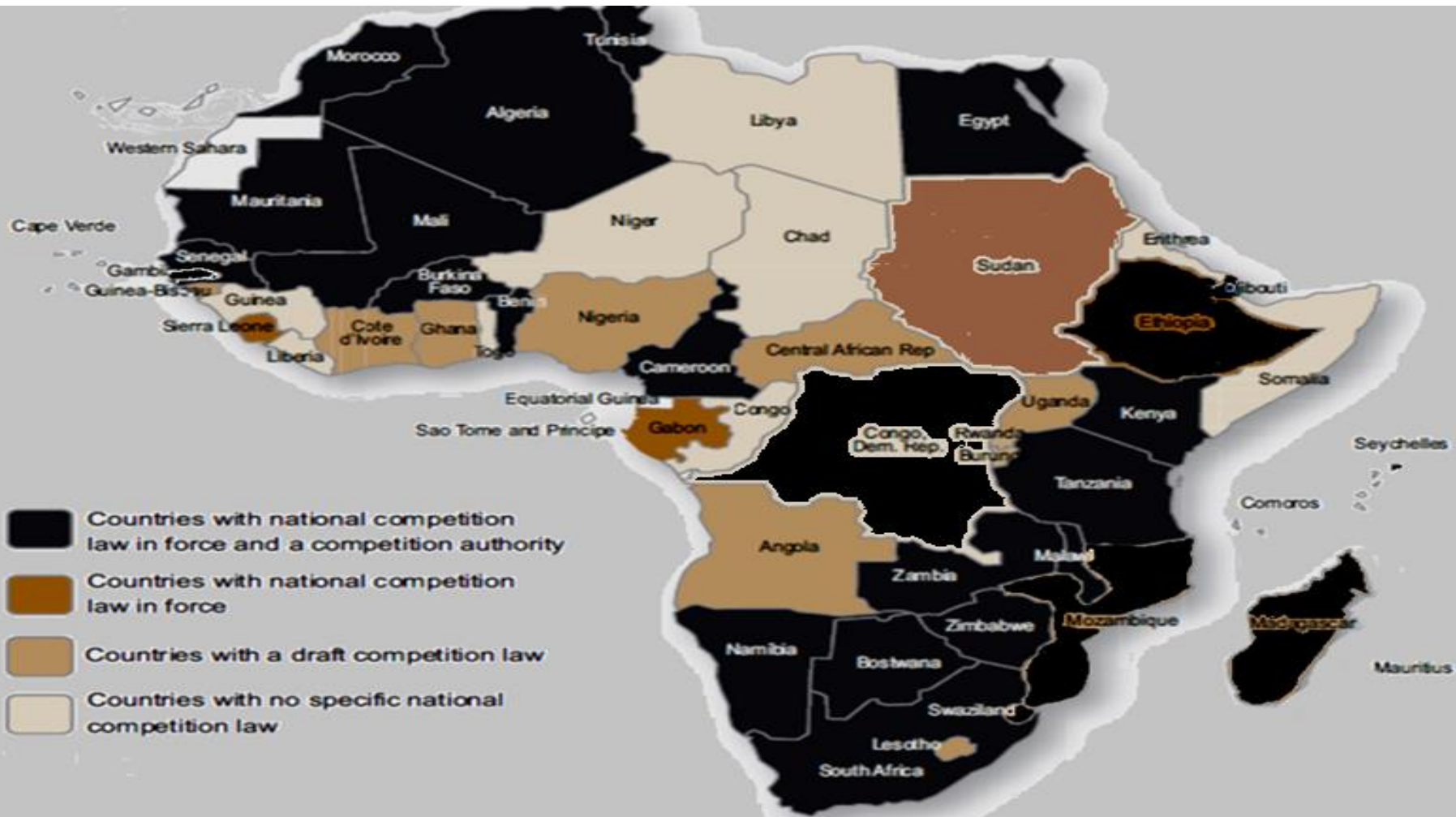
Assistance to COMESA Member  
States

Proposed Recommendations

- The COMESA Region is composed of 21 Member States, population of **USD 615.8 Million** and generates a GDP of about **USD 966.6 Billion**
- In the COMESA Region, **the Treaty on the Establishment of the Common Market for Eastern and Southern Africa** is the foundation upon which competition and consumer protection is regulated.
- The Governments of the 21 Member States through the Treaty agreed to promote competition within the Common Market (Article 55).
- The Treaty sets the basis for the development and enactment of the COMESA Competition Regulations (Article 55 (3)) to regulate competition within the Member States.
- Provides that the Regulations made in pursuance of the Treaty are binding on all Member States in their entirety (Article 10).
- The Treaty establishes the COMESA Court of Justice and COMESA Institutions.
- The Regulations vest the COMESA Competition Commission with the dual mandate of competition and consumer protection regulation.

- Establishes the COMESA Competition Commission in the following manner:
  - ✓ **The Secretariat of the Commission:** Responsible for carrying out investigations and presenting findings to the Committee Responsible for Initial Determination.
  - ✓ **The Committee Responsible for Initial Determinations (CID):** Established under Article 13 (4) of the Regulations by the power vested upon the Chairperson of the Board of Commissioners and is composed of 3 full time commissioners responsible for initial determinations.
  - ✓ **The Board of Commissioners:** Among the functions vested on the Board by Article 15 of the Regulations is to hear appeals and reviews from decisions of the Commission and hear appeals from the CID.
- **Mandate:** The Commission is vested by the Regulations with the mandate to regulate both competition and consumer protection within the Common Market.
- **Scope:** The Regulations apply to all economic activities whether conducted by private or public persons within, or having an effect within, the Common Market.

## The State of Competition Law Enforcement in Africa





Status of competition and consumer regulation in the COMESA Region



## COMESA Member States:

- ✓ Burundi
- ✓ Comoros
- ✓ Djibouti
- ✓ DRC
- ✓ Egypt
- ✓ Eswatini
- × *Eritrea*
- ✓ Ethiopia
- ✓ Kenya
- × *Libya*

- ✓ Madagascar
- ✓ Malawi
- ✓ Mauritius
- ✓ Seychelles
- ✓ Sudan
- ✓ Rwanda
- × *Somalia*
- ✓ Tunisia
- × *Uganda*
- ✓ Zambia
- ✓ Zimbabwe

× ***Member States without competition laws***

- **17 of the 21** Member States of the COMESA Region have put in place competition laws and institutions.
- **7 of the 21** Member States of the COMESA Region (Comoros, Djibouti, Egypt, Libya, Somalia, Sudan and Tunisia) are from the Arab Region.
- In some of the Member States, the competition institutions have a dual mandate of competition and consumer protection regulation while in others this mandate is vested in two different institutions.
- Some of the competition institutions in the COMESA Region are independent while others are part of a government ministry.
- Some COMESA Member States have experienced fundamental independent and structural changes to their competition institutions. Example; through disbandment or merging with another ministry.
- Some COMESA Member States are currently reviewing their laws to enable the operationalization of their competition institutions (DRC, Burundi) while others are in the process of enacting laws (Uganda). Some of the competition institutions are new (Rwanda) while others have been restructured (Ethiopia).



- The COMESA Competition Commission is vested with various functions under the Regulations:
  - ✓ regularly review regional competition policy,
  - ✓ help Member States promote national competition laws and institutions with the objective of the harmonisation of those national laws with the regional Regulations to achieve uniformity of interpretation and application of competition law and policy within the Common Market;
  - ✓ cooperate with competition authorities; provide support to Member States in promoting and protecting consumer welfare among others.
- The Commission provides various assistance to Member States:
  - ✓ Strengthening of their policy and legislation
  - ✓ Staff expertise and enhancing competition culture
  - ✓ Provision of resources
  - ✓ Networks

## ☐ Strengthening of policy and legislation

- ✓ The Commission assists with review of laws of the Member States to harmonize their law with the regional law. (ongoing projects; **Djibouti**, Ethiopia, Malawi and Mauritius)
- ✓ The Commission has assisted Member States to domesticate the COMESA Treaty and the COMESA Competition Regulations (Previous projects; Uganda (Uganda COMESA (Implementation) Act, 2017), Eswatini (Common Market for Eastern and Southern Africa (COMESA) Regulations 2017 vis Legal Notice No 90 of 2017)
- ✓ 14 Memorandum of Understandings have been signed including with countries in the Arab Region (**Egypt, Sudan**):
- ✓ With competition institutions that have a dual mandate of competition and consumer protection regulation (Kenya, Zambia)
- ✓ With institutions with only a competition mandate (Egypt, Mauritius)
- ✓ Legal fraternity (Law Association of Zambia)
- ✓ Consumer protection institutions (Mauritius, Zimbabwe)

- ✓ The MOUs have led to technical assistance and capacity building programs, and strengthening of the laws (Kenya; development of harmonized merger thresholds through enactment of Merger Threshold Guidelines as part of the Competition (General) Rules 2029 via Legal Notice No 176)
  
- **Staff expertise and enhancing competition culture**
- ✓ The Commission carries out technical assistance and capacity building in Member States in many forms.
- ✓ Awareness trainings of staff and various stakeholders are carried from time to time.
- ❖ First COMESA Competition Commission regional workshop for legal practitioners in 2022

- ✓ The second regional judges workshop in 2022
- ✓ Training of Zimbabwe workshop
- ✓ Training of the Board of the Competition and Consumer Protection of Zambia
- ✓ Training of the parliament of Uganda
- ✓ The MOUs have led to technical assistance and capacity building programs
- ✓ Staff exchanges; staff from young competition institutions could be placed in the more developed competition institutions in the COMESA Region as a form of training.
- ✓ Staff from more developed competition institutions could be attached to the young competition institutions as a form of training.



## Challenges in cross border enforcement in the COMESA Region



### ☐ Resources

- ✓ Merger filing fees are shared with Member States in accordance with the Rules on Revenue Sharing of Merger Filing Fees.

### ☐ Networks

- ✓ The COMESA Competition Commission Mergers Network
- ✓ The COMESA Competition Restrictive Business Practices Network
- ✓ The COMESA regional Consumer Protection Committee where consumer protection agencies come together to share their experiences and knowledge
- ✓ The newly established COMESA Competition Commission Research Forum will enable joint market inquiries and studies with COMESA Member States.

### □ Recommendation one:

- The newly established Arab Network is a good platform for encouraging the formation of competition authorities in the 8 Arab countries which are yet to establish competition institutions. As the network advocates for the establishment of such institutions, it may also consider pushing for establishment of independent institutions in the Arab countries which currently have institutions that are not structurally independent.

### □ Recommendation two:

- The Arab network could be instrumental in combined effort (sharing experiences, expertise) in review of the laws to enact provisions which empower the competition institutions with greater enforcement powers. This could also be an opportunity for harmonization of the laws for enhanced collaboration across the borders of the Arab countries.



Thank You

Dr. Willard Mwemba.

Director and Chief Executive Officer  
COMESA Competition Commission.

Lilongwe, Malawi.

Tel: +265 01 772466

Email: [compcom@comesa.int](mailto:compcom@comesa.int)