

**ADVOCATING FOR A FUNCTIONAL COMPETITION REGIME
FOR GHANA (COMPAD Project)
NATIONAL ORIENTATION WORKSHOP AND LAUNCH OF COMPETITION BOOKLET**

BRIEF MEETING REPORT

CUTS Accra on 5th November, 2015, organised a National Orientation Workshop to launch an evidence based report entitled '*Competition Regime in Ghana: A Need of the Nation*' at the Coconut Grove Regency Hotel in Accra. The report was developed under the "Advocating for Functional Competition Regime for Ghana" (COMPAD) Project being implemented by CUTS with support from the BUSAC Fund. The workshop was also to create the platform for stakeholder to discuss how a competition policy and law regime would lead to economic prosperity in Ghana. It brought together stakeholders from government agencies and departments, civil society organizations, development partners, research institutions, academia, media, consultancy agencies. The event was chaired by Justice Samuel Kofi Date-Bah, a retired Justice of the Supreme Court of Ghana and the Board Chair of CUTS International Accra.

I. Welcome and Introduction

The Center Coordinator of CUTS Accra, **Mr. Appiah Kusi Adomako** commenced the event by welcoming participants to the meeting and reiterating the Project's goal by stating how important it was in having a competition regime in the nation since this ultimately leads to an increase in consumer and producer welfare and gains.

II. Chairman's Remarks

Justice Samuel Kofi Date-Bah, chairman of the event and also board chair of CUTS International Accra, in his remarks stated that the workshop was to serve as a forum for CUTS Accra to present a report about its research on the need for a functional competition policy and law in Ghana. He said the workshop was also intended to enable the key stakeholders in competition policy in Ghana to interact, develop and implement policy and law on competition. He then went ahead to set the stage the discussions of the COMPAD project findings.

III. Keynote Address

The key note address was delivered by Mr. Kofi Amenyah- Director, Legal Affairs, Ministry of Trade and Industry on behalf of Dr. Ekwow Spio-Garbrah, Minister for Trade and Industry.

In a speech read on his behalf by Mr. Kofi Amenyah- Director, Legal Affairs, Ministry of Trade and Industry, Dr Ekwow Spio-GARbrah, the Minister for Trade and Industry, conceded that competition regime and consumer protection issues reinforced each other. Both, he said, aimed to ensure wider consumer choice in the market for goods

and services, through innovation and efficient resource use by players in the market to promote economic welfare. Further, it endeavours to stimulate effective price competition between suppliers and, deter anti-competitive behaviour. According to him, this helps consumers get real value for money.

Dr Spio-Garbrah maintained that if the law is passed and implemented effectively, empirical evidence and country experience suggest that an effective competition regime can promote private sector development, economic growth and poverty reduction in both developing and least developed countries.

He said the Ministry of Trade and Industry (MOTI) was committed in theory and practice to make sure that Ghana gets functional competition regime at this time. He assured that his ministry would learn from international best practices and make sure that the Ghanaian markets became more dynamic and competitive.

IV. Launching of the book, “Competition Regime in Ghana: A Need of the Nation”

Mr. Kofi Amenyah, who represented the Minister for Trade and Industry, Dr. Ekwow Spio-Garbrah, released the report entitled, **Competition Regime in Ghana: A Need of the Nation** on behalf of the honourable Minister together with Prof. Samuel Kofi Date-Bah, Board Chair of CUTS Accra. This report was developed under the project entitled, “Advocating for Functional Competition Regime for Ghana” (COMPAD Project) being implemented by CUTS with support from BUSAC Fund. The report highlights the benefits of a competition law and policy in achieving Social and Economic Welfare. It further goes on to identify some key sectors in the Ghanaian economy plagued with anti-competitive practices.

V. Presentation on “Competition Regime in Ghana: Need for the Nation”

Presented by Appiah Kusi Adomako & Abubakari Zakari – , CUTS Accra

On the topic of “Competition Regime in Ghana: Need for the Nation,” Mr. Adomako clarified that competition regime is composed of competition policy (which aims to remove policy distortions which affect competition in markets) and competition law (which curbs anti-competitive practices such as anti-competitive M&A). He emphasized the importance of competition regime which brings benefits to both consumers and producers. In order to have a functional competition regime in Ghana, Mr. Adomako suggested taking the following essential steps: 1) implementation of competition policy; 2) adoption of competition law; 3) legal inventorisation through identification of laws with provisions affecting competition in markets; 4) establishment of national Competition Authority.

Following Mr. Adomako's presentation on the theoretical importance of a functional competition regime, Abubakari Zakari, presented findings of COMPAD project to provide evidence-based advocacy for the need of competition in Ghana. He noted that many firms in sectors such as banking, cement, telecommunications sectors, make abnormal profits at the expense of high prices and limited quantities provided to consumers. Firms have mixed reaction to competitive pressure. Some firms are positive to competitive pressure, as they see increased investment in innovation and reduction in costs of production. On the other hand, some show their concerns over competition due to price undercutting and manipulation of supply.

Mr. Zakari pointed out that prices and quantities are not competitive in the markets from consumers' perspective, and therefore consumers expect that competition regime would enhance their welfare. In this regards, Mr. Zakari recommended that all stakeholders should engage in consultations to ensure effective enforcement of the Competitive Act and that the government must have a consultation with industry players regularly to exchange views on evolution and implementation of the competition law.

VI. Discussion Section

Justice Samuel Date-Bah, in response to the presentation, stated that the enforcement of the competition policies should be independent of politics and bias. He illustrated that the enforcement of antitrust itself is political and provides political value for ordinary consumers to protect their interests and to create fair systems.

Francis Garbrah of the National Chairman of the National Union of Aquaculture Associations (NUAA), raised his concern over competition in Ghana. Despite the benefit of competition which reduces costs of production for producers, he argued that certain sectors in the economy should be protected from competition to ensure the survival and growth of indigenous industries. He gave an example of the economic survival of Ghanaian fish farmers threatened by the competition from Chinese fish farmers. He, therefore, asserted that some indigenous sectors need to be exempted from competition. In response, **Mr. Rijit Sengupta**, CUTS International, explained that in competition laws, there are two provisions which provide possibilities for the authority to be sensitive to the need of special interest group, including exemption provision and public interest provision.

Mr. Sengupta highlighted that policies in different sectors may restrict and restrain on how private sector can develop and participate in markets. He stated that this goes beyond the jurisdiction of competition commission or authority to act upon those policies, as the role of commission or authority is limited to advise governments such as Ministry of Trade on anti-competitive provisions that distort the market rather than correct the anti-competitive policies. Mr. Sengupta emphasized the objective of the research which aims to propagate and sensitize various segments of state and non-state

actors in a bid to call for cooperation among these actors, with mutual understanding that tasks of promoting fair market and the cause of promoting fair market to improve producer and consumer welfares cannot be left to National Competition Authority only.

Mr. Nana Osei Bonsu, CEO of Private Enterprise Federation, echoed the importance of a competition policy and said that Ghana is in urgent need of an autonomous authority to monitor the market. He urged CUTS to not only limit its advocacy agenda to the policy makers but also reach out to small and medium enterprises to educate them on the importance and benefits of a competition regime in Ghana.

Mr. Ambrose Yennah from AIDEC Consult Ltd added his voice to the discussion by pointing out that the mandates of the proposed competition agency should seek to identify the essential policies needed in the economy to protect small businesses from being crowded out of the economy by large multinationals all in the name of competition.

VII. Presentation on “Introduction to the Functional Competition Regime”

Presented by Rijit Sengupta- CUTS

In his presentation, Mr. Rijit Sengupta introduced stakeholders to a guidebook entitled ‘*Framework for Competition reforms: A Practitioner’s Guidebook*’, which had been developed by CUTS. According to Mr Sengupta, the book is to help facilitate greater interest and understanding in competition policy and law issues. The guidebook is geared towards both policymakers and key stakeholders in other sectors, in order to ensure that competition policy and law get the attention that it deserves. He explained that although many developing countries have adopted competition laws in the last decade, implementation had remained relatively weak, and the reason most often is the lack of a conceptual framework and implementation methodology that would help make the complex and abstract concept of competition more tangible to both citizens and policy makers. Mr. Sengupta also shared a brief presentation on the ‘Competition in Reforms in Key Markets for Enhancing Social and Economic Welfare in Developing Countries’ (CREW) Project with participants. The CREW Project is being implemented by CUTS in four countries (Ghana, India, Philippines, Zambia), with funding support from the DFID (United Kingdom) and BMZ (Germany), and facilitated by GIZ (Germany).

VIII. Discussion Session

Mr. Tony Dogbe, Executive Director of Participatory Development Associates (PDA), in response to Mr. Sengupta’s presentation, said there was the need for Ghanaian consumers and producers of goods and services, especially those in the informal sector, to demand from the government, a fair competition regime and get a good return on their taxes. He tasked CUTS to give full attention to the welfare of Ghanaian consumers and ensure that Ghana’s institution of governance work for consumers.

Dr. Edward Brown Director of Policy Advisory Services of the African Centre for Economic Transformation (ACET), also commenting on the presentation asserted that since there was not legal benchmark for the proposed Bus Rapid Transit (BRT) system in the private sector, it would not be the best policy for a developing country like Ghana. Rather, he argued, the standards of the public transport sector should be raised, especially at the intra-city level, to give consumers better value for their money.

Adding her voice to the discussion, **Madam Evelyn Bediakoh- Adu** from the National Communications Authority (NCA), entreated policymakers at the workshop to engage the private sector and civil society whenever new laws were being considered. She also emphasised on the need to have Legislative Instruments (LIs) for existing laws to make them functional and beneficial to the Ghanaian populace.

IX. Presentation on 'Exploring Pro-Competitive Reforms in some Key Markets in Ghana'

*The Telecommunication Sector: Presented by **Mr. Kofi Datsa**- Director, Regulatory Administration Division- National Communications Authority and **Ms. Solee Park**, CUTS Accra*

Speaking on the Telecommunication Sector, Mr. Datsa- Director, Regulatory Administration Division of the National Communications Authority, said the Telecommunication industry in Ghana started without a competition policy and law, thus making difficult to charter a defined course. For example, he said, the then Ghana Telecom, being the only telecommunications provider in the country at that time, was acting both as a retailer and a wholesaler. This created the right atmosphere for the company to be involved in price discrimination. He highlighted the need for sectorial regulators like NCA to work closely with the competition agency to ensure efficiency and fairness in the market place. He concluded that a functional separation enhances fair competition and that only comes about with a functional competition policy.

Ms. Park discussed the importance of an effective regulatory framework through the presentation "Will the Deregulation of the Petroleum Sector Result in Greater Benefits?" She suggested that 1) asymmetrical direction of the automatic petroleum product pricing formula, 2) government subsidies, and 3) illegal export of petroleum products to low-subsidy neighboring countries have attributed the government's price deregulation policy which came into effect on June 16, 2015, allowing oil marketing companies to determine petroleum prices rather than NPA. Ms. Park highlighted lower prices of petroleum products for consumers, as one of the anticipated benefits. However, she emphasized that such anticipated benefit cannot be achieved without an effective regulatory regime which satisfies the following components: 1) monitor and supervise competition; 2) prevent and take actions on anti-competitive practices; 3) safeguard quality; 4) keep prices under control.

X. Discussion Session

Mr. Adomako, wondered why the National Communications Authority (NCA) has not yet adopted the service style of British Telecommunications (BT) in the UK. To answer Mr. Adomako's question, Mr. Datsa explained that adopting the service style of BT Communications was impossible due to the liberalisation of the Ghanaian telecommunications market. He said most telecommunications companies in Ghana own the use and own the fibres, while the NCA has opened up the fixed line services and is issuing licences, thus making it more difficult.

Mr. Sengupta also wanted to know from the NCA, the measures being put in place by the Authority to educate consumers on their expectations from the telecommunications companies, and to ensure that they are getting value for money. **Madam Mavis Obeng**, Assistant Manager for Consumer Affairs at the NCA, revealed that the Authority frequently organises consumer fora to encourage consumers seek redress with their service providers. She said the Authority has also got a Facebook page where it frequently interacts with consumers.

Dr Brown wanted to find out the extent to which the NCA was benchmarking the telecommunication companies and if prices were according to their value. Mr. Datsa replied that the NCA have the equipment to monitor the telecommunication companies and their services. He also said the International Communications Association (ICA) has an international benchmark and that is what is being used locally.

XI. Closing and Way Forward

Mr. Kofi Amenyah, of the MOTI in his closing remarks revealed that the work on developing a competition policy for Ghana started as far back as 1999 and hoped that with the help of CUTS and other development partners, there would be a functional competition regime by end of 2016.

XII. Media Reportage

The event was covered by the media. Links to media stories.

- <http://www.ghana.gov.gh/index.php/media-center/news/2122-cuts-busac-moti-promote-national-competition-regime-in-ghana>
- <http://www.ghananewsagency.org/social/workshop-cabinet-to-approve-competition-policy-next-year--96877>
- <http://www.modernghana.com/news/655258/1/ghana-to-have-a-fully-functional-competition-regim.html>
- <http://business.peacefmonline.com/pages/news/201511/260231.php>

- <http://www.ghanatrade.gov.gh/Trade-News/ghana-to-have-a-fully-functional-competition-regime-in-2016.html>
- <http://spynewsafrika.com/local-firm-selected-to-draft-competition-policy-for-ghana/>
- <https://drive.google.com/a/cuts.org/file/d/0B3JjiWai4tTILTAAtRVhsUGt1M1U/view?usp=sharing>
- <https://drive.google.com/a/cuts.org/file/d/0B3JjiWai4tTIWFREYjRXUIBsdk0/view?usp=sharing>
- <https://drive.google.com/a/cuts.org/file/d/0B3JjiWai4tTIWFhhcTF1UTRjc0k/view?usp=sharing>

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