

BRIEF ON 3RD AHCAD MEETING EVENTS

HOSTED BY COMPETITION COMMISSION (MAURITIUS)

07 MARCH 2024, MAURITIUS

The Competition Commission (Mauritius), as incoming chair of the African Heads of Competition Authorities Dialogue on Digital Market (AHCAD), had the pleasure of hosting the 3rd AHCAD meeting on 07 March 2024.

The present document summarizes the key discussions emerging from the Meeting as well as the main decisions and outcomes thereof.

INTERVENTION BY US FEDERAL TRADE COMMISSION



Key take-aways

- **Mr Jon Nathan**, US FTC, gave an overview of digital competition work at US FTC and mentioned that a programme is underway for cooperation in African jurisdictions (USAID programme on Competition in Africa Digital sector programme)
- In 2023, the Merger Guidelines were revised to reflect modern realities with a whole section on platforms, zero price markets, network effects, horizontal & vertical mergers.
- Overview of antitrust cases at US FTC in digital sector:
 - Conduct cases in Fall 2023: Suit filed against Amazon tactics to prevent competition from other online marketplaces (differentiated from EC cases against Amazon competition among sellers within marketplace)
 - Conduct case filed under Trump Admin (2020) against Meta's acquisition of WhatsApp and Insta (ongoing)
 - Two cases against Google (dominance in online ad space & in search engines)
- US FTC has created a dedicated Office of Technology (analysts, computer scientists, academia, from private IT sector), which is running two studies:
 - Use of cloud services to inform potential action into AC conduct by cloud service providers)
 - Study in AI – Microsoft investment in ChatGPT as well as Google and Amazon respective investments (close to merger transaction)

- Collaboration avenues:
 - Expressed willingness to provide both general and substantive training, conduct Workshops with Office of Technology analysts,
 - Design programmes to fit our needs.

INTERVENTION BY COMPETITION COMMISSION OF SOUTH AFRICA



Key take-aways

- **Intervention by Mr James Hodge**, CCSA, presented the G7 Compendium tool to help strengthen collaboration and network building. It focuses on market inquiries/research studies/enforcement cases in the digital media sector.
- The Compendium facilitates the sharing of knowledge and experiences among countries facing similar challenges, facilitating a coordinated approach to investigations. The compendium also highlights work on digital compliance beyond competition law, involving consumer authorities and others. It offers country-specific chapters and a summary of key challenges and trends observed globally. It also provides insights on the steps to strengthen institutional capacity in digital markets, including the establishment of special units and proposed changes to laws and regulations at the national level. It was noted that many countries are implementing regulations, such as Germany adjusting thresholds and the USFTC issuing guidelines for digital markets.
- Compendium is annually updated providing insights on market developments, including enforcement actions, institutional capacity building, new laws, and regulations.
- Highlight of steps to strengthen institutional capacity in digital markets were discussed, including the establishment of special units and proposed changes to laws and regulations at the national level. It was noted that many countries are implementing regulations, such as Germany adjusting thresholds and the US FTC issuing guidelines for digital markets.
- Considering ACF members' limited resources, it is imperative to leverage the insights from ACF members to expedite investigations and to avoid duplication of efforts and to maximize resources, by building upon existing knowledge rather than starting from scratch.
- The ACF version of the compendium could highlight the continent's unique perspective on digital markets. This initiative aims to enhance understanding of the digital landscape in Africa and drive towards common outcomes efficiently.

ROUNDTABLE EXPERIENCE SHARING BY AHCAD MEMBERS



Key take-aways

- A roundtable discussion of AHCAD members' enforcement/research studies into digital segment followed, as summarised below:

- The Competition Authorities from **Seychelles, Eswatini and Botswana** have not yet conducted any enforcement in this area. They highlighted the need to build preparedness on the part of AHCAD members to tackle enforcement challenges in this new area. The AHCAD forum provides an opportunity to achieve this by learning from other members and building upon experiences from other jurisdictions through proper capacity building initiatives.
- The interventions from the Competition Authorities of South Africa, Egypt, Nigeria, Morocco, Tanzania, Angola, Namibia, COMESA & WAEMU are summarised in the **Annex 1** to this document.

INTERVENTION BY AFCFTA & MR W. KARIYUKI



Key take-aways

- **Intervention by Ms Emily NDoria**, AfCFTA Secretariat, who gave an expose of the AfCFTA Protocol on Digital Trade
 - Objectives of enhancing competition within the AfCFTA for improved market efficiency, inclusive growth, and the transformation of the African economies
 - Art. 11 deals with abuse of economic dependence and any other anticompetitive practices and requires the Council to develop a Regulation designating undertakings as gatekeepers or core platforms
 - Art 19 provides the Committee on Competition Policy shall develop and recommend Regulations for the effective implementation of the Protocol for the consideration of the Council of Ministers.
 - Need to maintain a balanced approach in which the interests of African businesses and the objectives of the AfCFTA Agreement, to facilitate intra-African Trade are at the core of the discussions
- **Intervention by Mr Wang'ombe Kariyuki (Kenya),**
- Noted the diversity of approaches across Africa concerning the complexity of cases tackled and the capacity available.
- Highlighted the need to understand the priorities for Africa and the AHCAD network: Do we strive for convergence of approaches or to establish a regulatory framework supporting the objectives of Article 11 of the African Continental Free Trade Area?
- Development of the Compendium is a right step: Its ability to highlight challenges faced, whether regulatory, skill-related, or budgetary.
- Stressed the importance of rethinking capacity building beyond physical attendance, highlighting the value of webinars as cost-effective training platforms.
- Note of caution against merely mirroring foreign jurisdiction approaches and suggested focusing on more immediate needs (Africa-centric), such as understanding how the digital

economy impacts SMEs. He urged participants not to rush into discussing advanced topics like AI.

- Suggested course of action: To expend resources on initiatives aligned with specific digital objectives, such as financial inclusion or regional trade integration.
- **Concluding remarks by Mr Deshmuk Kowlessur, AHCAD Chair,**
- Importance of building small successes and focusing on practical initiatives, particularly expanding the compendium beyond South Africa's cases to involve other countries at a continental level.
- Compendium to serve as a useful tool for meetings, providing a summary of issues and indicating the progress made in terms of landscaping and the development of theories of harm or actual cases. Members can start with a version specific to the African jurisdiction and that while it may not initially contain actual cases or remedies, it can outline the current position of Member States and summarize strategies being developed, such as capacity building, market studies, or enforcement efforts.
 - **A call for action**, with plans (i) to establish a working group to continue developing the Compendium, (ii) to conduct capacity-building webinars on digital markets, (iii) to delegate resources for the working group to ensure progress within one year and (iv) to develop proposals and action plans for future initiatives.

HIGHLIGHT OF MAIN OUTCOMES & DECISIONS TAKEN

- **AHCAD will pursue the work and objectives agreed during the 2nd AHCAD meeting held in Cairo (2023), in line with the Joint Statement issued by AHCAD members in furtherance of the Cairo meeting.**
- **In sum, the objectives agreed in the 2023 Joint Statement (hereto enclosed as Annex 2 for reference) are to: set up an annual work plan to tackle matters of common interest; set up a working group to enhance capacity building in digital markets enforcement among African competition authorities through cooperation and use of their own resources; and compile a shareable compendium of cases, studies and enforcement experiences in digital markets in Africa among members.**
- **AHCAD will deepen its engagement with US FTC to develop a capacity building programme tailored to the needs of AHCAD members**
 - **To promote virtual training (through webinars) as cost-effective means of building capacity of ACF/AHCAD members**
- **To set up a working group within AHCAD to develop the Compendium**