

Competition Policy and Law

Presented at the

**Insurance Conference
Avani Hotel, Livingstone
19th July, 2019**

By

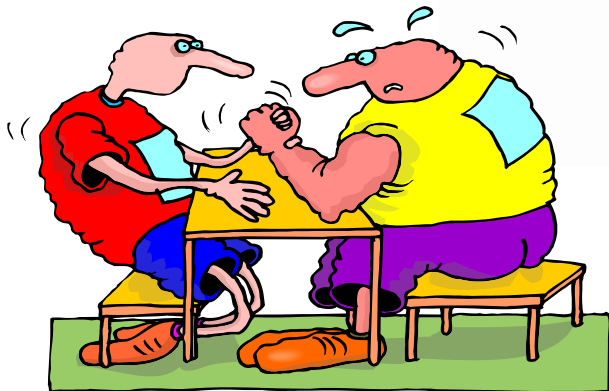
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We are going to have discussions on:

- Competition Policy and Law
- Purpose of Competition Law
- The main elements of Competition Law
- Competition Law in Zambia
- The Role of the Commission
- The Need for Competition Law
- Competition Law and Trade Associations

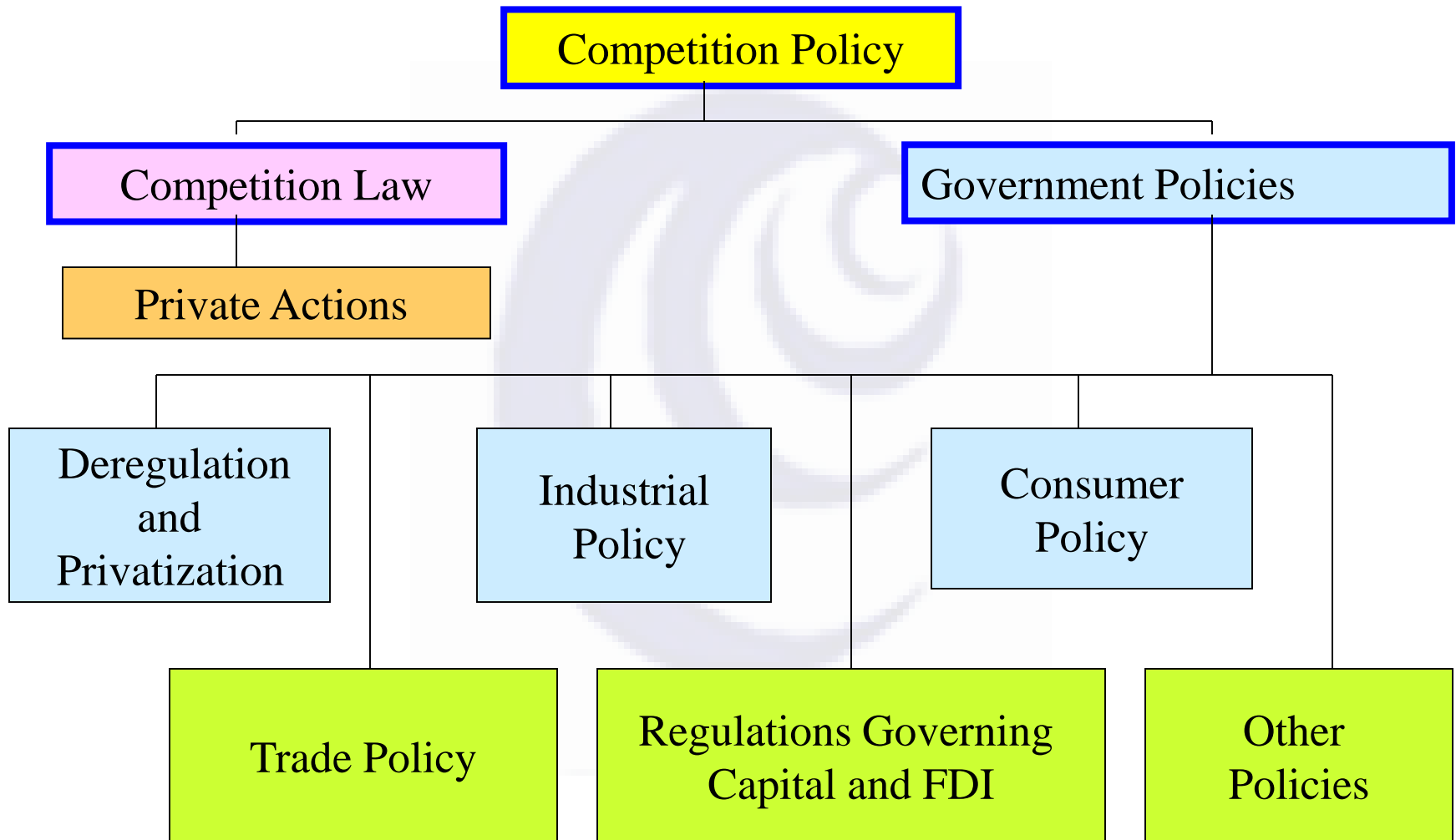
Introduction to Competition Policy and Law

- Competition policy => **government measures** directly affecting both **Firm Behavior** and **Industrial structure**.
- A competition policy should include both:
 - (i) **Economic policies** adopted by Government, that enhance competition in local and national markets, and
 - (ii) **Competition law** designed to promote and maintain market competition by regulating anti-competitive conduct.



- *Competition is not an end in itself but a process that advances goals of economic well being, ultimately for consumers*

Components of Competition Policy



Purpose of Competition Law

- Promotes and maintain competition by ensuring that markets function fairly and efficiently.
- Prohibits business practices that would prevent free and fair competition from taking place.
- Educates and inform business persons of their rights and responsibilities under the law.

Competitive markets are essential to economic growth and improvement in consumer welfare

The main elements of Competition law

- Prohibits agreements/practices that restrict competition between business - cartels



- Prohibits abusive behavior by a dominant firm, - predatory pricing, excessive pricing, refusal to supply

- Reviews mergers and acquisitions and joint ventures of large corporations:

- Prohibit potentially anti-competitive mergers
- Prescribe remedies to protect competition



Competition Law in Zambia

- Competition law and policy in Zambia was necessitated by government reforms to liberalize the economy in the 1990s.
- The Competition and Fair Trading Act, 1994 was enacted in June 1994.
- However, on 14th August 2010, the Competition and Consumer Protection Act, No. 24 of 2010 ('the Act') was enacted by parliament to repeal and replace the *Competition and Fair Trading Act, 1994*.
- The Commission has dual mandate i.e. safeguard and promote **competition** and to **protect consumers** against unfair trade practices.

The Role of the Commission

- Conducting investigations
- Review market operations and conduct market studies
- Taking action against infringements of the law
- Investigating and approving mergers
- Advising the government on the effect of relevant policy and legislative initiatives on competition law and policy
- Competition advocacy and public education

The Need for Competition Law

Benefits to Producers

- A **safeguard against practices** that could drive companies out of business.
- **Lower entry barriers** to promote entrepreneurship and growth of SMEs.
- **Efficient allocation and utilization of resources** ensures more output and employment.
- **Control of international unfair competition** and restrictive business practices, such as international cartels

The Need for Competition Law...cont'd

Benefits to consumers

- A **fair deal** in the market place with:
 - ❖ The best possible **choice of quality**
 - ❖ The **lowest possible prices**, and
 - ❖ **Adequate supplies** of commodities.

Competition Law and Trade Associations

- Consumer welfare can be pursued collectively by market players through trade and professional associations.
- Activities of trade associations have been subject to close scrutiny by competition jurisdictions across the world.
- Trade Associations are likely to infringe competition law as they offer opportunities for repeated contacts between direct competitors and involve cooperation amongst competitors in the same trade.

People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices (Adam Smith, The Wealth of Nations, 1776).

Competition Law and Trade Associations...cont'd

- Casual discussions of prices, quantities, customers, territories, market shares, terms of sales and advertising restrictions and future business strategies can lead to agreements or informal understanding.
- This could easily spill over into illegal coordination (cartelisation).
- In some instances, the operations of an association may involve some sort of regulatory function, and the association may contribute to the creation of barriers to entry or restrict the ability of competitors to compete in a given market e.g. through exclusive or closed discriminative industry standards.

Competition Law and Trade Associations...cont'd

Cases study

- In the ***Copperbelt Bakeries Association v Commission***, the Commission imposed a fine on six (6) bakeries on the Copperbelt Province for price fixing . Each bakery was fined 5% of annual turnover. The Commission found that the six bakeries whilst being competitors in the market for the wholesale sale of baked bread had through the Copperbelt Bakers Association agreed to raise the wholesale price of bread and the prices at which to sell bread to their customers. The bakeries have since settled with the Commission for a combined sum of K2,295,000 in fines.

Tools to reign Cartels

- **Stick**

- Fines for enterprises - The Act provides for the imposition of *administrative fines not exceeding 10% of annual turnover.*

- Prosecution for individuals - Individuals are liable upon conviction by the courts to pay a **fine** or to **imprisonment** for a period of five years or both.

- **Carrot**

- Leniency – Amnesty from financial penalty and prosecution

- Settlement – Application for fine reduction

Conclusion

- Competition enforcement leads to consumer welfare directly and indirectly
- Stakeholders need to recognise their role in promoting competition
- Policymakers/Government need to prioritise competition reforms
- CCPC aims to remain independent and create a public buy in so that a culture of competition can be nurtured.



Thank you for your attention!
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