

Unclassified

DAF/COMP/GF/WD(2012)7

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

07-Feb-2012

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Cancels & replaces the same document of 15 December 2011

Global Forum on Competition

COMPETITION AND COMMODITY PRICE VOLATILITY

Contribution from Mauritius

-- Session I --

This contribution is submitted by Mauritius under Session I of the Global Forum on Competition to be held on 16 and 17 February 2012.

JT03315515

Complete document available on OLIS in its original format

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

DAF/COMP/GF/WD(2012)7
Unclassified

English - Or. English

COMPETITION AND COMMODITY PRICE VOLATILITY

-- Mauritius --

1. Introduction

1. Like most market economies, Mauritius has experienced significant commodity price increases in recent times. Prices of some commodities have risen as much or more than 30% within a year. These price increases have raised pressures on the Competition Commission (CCM) to take actions or to better explain the actions it has taken. As this report shows, the CCM has devoted significant attention and resources to commodity markets. This attention is a reflection of the importance of commodities to the economy of Mauritius, which must import many of the commodities for domestic use rather than producing them domestically.

2. In the early months of 2011, price inflation of basic food commodities was regularly in the news. The primary products which have attracted attention are basic foodstuffs, such as rice, cooking oil, chicken, petrol and cement. Mauritius has a significant part of its population living on low income and increases in the prices of such basic commodities have substantial impacts on pocketbooks. A peaceful public rally to express dissatisfaction with price levels occurred in April 2011 and attracted substantial crowds.

3. The public debate about commodity pricing involved the competition authority. For example, the government instituted a Ministerial Committee on the Pricing of Essential Commodities which the CCM was attended.¹ The CCM was repeatedly called upon to justify a supposed lack of responsiveness in the face of rising food prices. Many of the demands for action came from a misunderstanding about what is encompassed in the Competition Act (2007). The CCM explained, in multiple forums, that it was not a price regulator but rather a body that can act only when it has made a finding that a breach of the Competition Act has been committed. The CCM further explained that mere similarity of prices does not constitute proof of a breach of the law. The CCM stated regularly that if world prices rise, Mauritian prices would also be expected to rise and that such price rises are not a competition law violation.

4. The CCM encouraged the government to respond by helping to improve consumer information and promote careful consumption. Comparisons of price for rice, for example, show that basmati rice can differ in price substantially from the cheapest to the most expensive brands. Rice was not alone in experiencing significant variations between prices for relatively similar products. The government instituted a Price Observatory that would regularly take prices of key consumption items from more than 20 stores and publicly release the store-by-store comparison in prices. The government has thus sought to increase price sensitivity of consumers. The government also provided temporary income supports, reduced tax on gasoline and continued its program of selling "ration rice", a basic grade of rice that is substantially cheaper than basmati rice.

1 The first meeting was held on 24 March 2011.

2. Processed block cheese

5. Food products have constituted a basic element of the CCM's law enforcement agenda since its earliest days. The first competition law case of the CCM concerned contracts between the supplier of the main brand of block processed cheese and supermarkets. Among other effects, the contracts were found to create barriers to entry for other brands of block processed cheese. The case arose from a complaint.

6. On 09 September 2010, the Competition Commission of Mauritius (CCM) concluded its abuse of monopoly situation case (INV 001) related to the market of block processed cheddar cheese in Mauritius. IBL Consumer Goods (now IBL BrandActiv), the exclusive domestic distributor, was found to have infringed Section 46 of the Competition Act. As a remedy, IBL Consumer Goods was directed to, inter alia, cease the practice of offering retroactive rebates on Kraft branded block processed cheddar cheese in exchange of premium shelf space for its Kraft branded processed cheddar cheese as well as other Kraft-branded products, including chocolates, biscuits and powdered juice.

7. On 18 November 2011 the CCM published an ex post evaluation on this case. The scope of this evaluation was restricted to the primary market of block processed cheddar cheese (250g). Block processed cheddar cheese represents more than 90% of the total cheese market in Mauritius.

8. The evaluation finds that after the CCM issued a direction to stop these agreements, new entry occurred within a year, and prices for block processed cheese began to fall. The HHI fell from 8,200 to a point in the range of 4,000 and 5,000. The annual average price increase for block processed cheese during the pre-CCM intervention period, i.e. from September 2007 to August 2010 was 16.5%. During this time, the report found that the wholesale costs of cheddar cheese in Australia were relatively stable, in terms of Mauritian currency value. In addition, following the entry of two new brands in February and April 2011 respectively, the average price of the two incumbents fell by 4.5%. Moreover, the average lowest price among all processed block cheeses declined by 12.7% compared to the 2010 average price. Consumer benefits from this intervention have been estimated as lying between Rs 130m and Rs 600m.²

3. Cement

9. The CCM launched a market study, at its own initiative, into the cement market in July 2010 to understand the conditions of competition and recommend action by the Government, if necessary. In 2011, a number of actions occurred: the CCM published the final version of its market study, the Government announced plans to liberalise the cement market, the CCM held a hearing on a plan to liberalise the market, the Government liberalised the market and the CCM issued a recommendation to the government.

10. Mauritius is a cement importing country, with estimated annual demand at 650,000 tonnes or roughly 500 kg per capita. This is a highly concentrated market with only Lafarge (Mauritius) Ltd and Holcim Cement (Mauritius) Ltd in the distribution of Ordinary Portland Cement Grade 42.5N at the wholesale level. Before liberalisation, the market was subject to State intervention through three interlinked mechanisms: (i) price controls on bagged cement; (ii) imports of cement by the State Trading Corporation (STC); and (iii) import control. Regulations provided that the State determines the total quantity of cement to be imported into the country, of which 50% was ordered by the STC via open tender. The STC did not take delivery but instead required the two incumbent firms to purchase the ordered cement.

² See ex post evaluation study Evaluation of CCM Case: *IBL Consumer Goods Sales Contracts with Retail Stores* (18 November 2011) available at <http://www.gov.mu/portal/sites/ccm/pdf/INV001-EvaluationReport-Non-Confidential.pdf>.

11. The CCM assessed the impact of the regulatory framework on the conditions of competition in the cement market and, to a limited extent, other barriers to entry. The CCM found that competition in the market was constrained by State interventions, mainly by deterring new entry, preventing expansion of existing companies and restricting cement to only one variety.

12. The options for reforms included (i) complete liberalisation (i.e. price deregulation and imports liberalisation) which can bring considerable benefits in terms of different varieties of cement on the market, new entry and expansion and encourage innovation; (ii) price liberalisation with import quotas; and (iii) import liberalisation with price controls.

13. Liberalisation of prices without removing import controls was deemed unlikely to result in benefits for consumers, as importers would have little incentive to compete for one another's customers if they were constrained in their ability to source cement. Liberalisation of imports without removing price controls was more feasible, but the price controls might have deterred new entry, and an alternative approach to assessing world market prices would then need to be found.

14. The major issue for the CCM and thereafter for recommendation to the Government was on the sequencing of the liberalisation. On one hand, liberalisation prior to entry would increase the risk of price increases in a highly concentrated market. On the other hand, price controls would discourage entry of firms that is expected to make the market more competitive.

15. The Government chose to liberalise the market completely, via price deregulation and import liberalisation.

16. The CCM held a hearing in June 2011. After the hearing, the CCM issued a recommendation to the Government that, during the liberalisation, significant attention should be given to ensuring that new importers can physically bring in cement by ensuring appropriate access to port facilities, prompt issuance of import permits and ensuring that certification of imported cement does not become a barrier to new entrants. The market was liberalised on 1 July 2011. While a number of entrants have announced plans to enter, no entrant has yet brought cement into the market as creating the infrastructure for doing so takes time. The historical operators have raised prices by 7%. The CCM has been encouraging the Port Authority and others to ensure conditions are favourable towards new entry and that potential new entrants are consulted as new contracts for cement-importing ships are implemented. If new entry does not occur, the government has retained the ability to purchase cement. After the price increase mentioned, the STC held a tender to determine whether it could obtain cement at a lower price.

4. Other sectors

17. The CCM has also issued advice to a Ministry concerning another agri-food product. The Ministry proposed creating an import monopoly and the CCM recommended that alternative means existed to ensure the policy objectives sought by the Ministry could be achieved. The Ministry is currently seeking alternatives.

5. Conclusion

18. The CCM is empowered to conduct market studies and to investigate and give directions concerning abuse of monopoly, collusion and merger situations. The CCM views all of the tools in its legal armoury as legitimate when considering commodities. Commodities have been and will remain an essential point of focus for the CCM.