

Unclassified

DAF/COMP/GF/WD(2013)36

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

31-Jan-2013

English - Or. English

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

**Global Forum on Competition**

**COMPETITION AND POVERTY REDUCTION**

**Contribution from Kenya**

-- Session I --

*This contribution is submitted by Kenya under Session I of the Global Forum on Competition to be held on 28 February and 1 March 2013.*

**JT03333874**

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(2013)36  
Unclassified

English - Or. English

## COMPETITION AND POVERTY REDUCTION

-- Kenya\* --

### 1. Introduction

1. In his Foreword Statement to the Kenya Vision 2030, our President states that ‘... since year 2003 to date, income per capita has been rising speedily thereby giving Kenya a chance of escaping from poverty, after a long period of decline in real personal earnings.... **poverty levels have declined from 56% in 2002 to 46% in 2006**<sup>1</sup>.’ Kenya’s population stands at 41 million people and therefore, from these estimates, about 19 million people live below poverty line.

2. The President goes further to indicate that this momentum has to be sustained while also consolidating the gains Kenya has achieved so far towards the realization of the Millennium Development Goals (MDGs) and **elimination of Poverty**.

3. The Vision 2030 is Kenya’s Economic Development Blueprint aimed at making ‘... *Kenya a globally competitive and prosperous, where every person will enjoy high quality of life*’. The Vision is anchored on Economic, Social and Political pillars which are founded on macro-economic stability; continuity in governance reforms; enhanced equity and **wealth creation opportunities for the poor**; infrastructure; energy; Science, technology and innovation (STI); among others.

4. It is imperative to note that the said foundations are all **geared towards eliminating poverty and focusing on pro-poor reforms or initiatives**. For example, stable micro-economic stability works in favor of the poor, who stand to lose the most in periods of high inflation. Also, to facilitate enhanced equity and wealth creation opportunities for the poor, the Government focuses special attention to investments in the ‘... *communities with high incidence of poverty*’.

5. All Annual National Budget Policy Statements (BPS), which in turn outline the focus of Government Agencies, are cascaded from the Vision 2030. Therefore, the Competition Authority of Kenya, when developing/prioritizing its short-term objectives has to be awake to the theme of the current BPS. Consequently, the Authority’s enforcement activities are geared towards achieving the objectives of the *Vision 2030*. As outlined earlier, these are **realization of the Millennium Development Goals (MDGs) and elimination of poverty**.

6. It is important also to share with the Forum that this was the fundamental basis of reviewing our earlier competition law and subsequently enact the current Competition Act<sup>2</sup>. The Act is within international best practice threshold, in terms of the institutional dispensation and its legal coverage.

---

\* Contribution submitted by the Competition Authority of Kenya, February 2013.

<sup>1</sup> His Excellency Mwai Kibaki, President of Kenya, in his Foreword Statement for the *Kenya Vision 2030*.

<sup>2</sup> [www.cak.go.ke](http://www.cak.go.ke)

## 2. Poverty Definition

7. The Kenya government has been measuring and monitoring poverty through Qualitative Poverty Surveys [Welfare Monitoring Survey – WMS] and Qualitative Poverty Assessments [Participatory Poverty Assessment Surveys- PPAs] since 1990. However, according to Mariara and Ndeng'e<sup>3</sup>, poverty is multidimensional and complex in nature and manifests itself in various forms. Therefore, no single definition can exhaustively capture all aspects of poverty.

8. PPAs view poverty '...as hunger, lack of shelter, sickness and unable to access medicare. Poverty can also be defined as being illiterate and living one day at a time. Poverty is losing a child to illness brought about by malnutrition and unclean water'.

9. Subsequent Government policy papers; Poverty Reduction Strategy/Economic Recovery Strategy have similarly recognized poverty as multi-dimensional and they go further to define poverty to include inadequacy of income and deprivation of basic needs and rights, and lack of access to produce assets as well as to social infrastructure and markets.

10. Quantitative approach defines the poor as those who cannot afford basic food and non-food items. ERS adopted the quantitative measures of poverty based on the 1997 WMS data; poverty line at Kshs.1, 239 per person per month and Kshs.2, 648 respectively for rural and urban areas.

11. The qualitative approach, based on various PPAs undertaken, the people define, view and experience poverty in different ways. In the PPA of 2001, people define poverty as their inability to meet their basic needs. **Poverty was associated with features** such as lack of land, unemployment, lack of food, housing, medicare, among others. Nonetheless, in a nutshell, poverty was summarized as the inability to meet/afford certain basic needs.

12. This means that poverty is multifaceted in nature and characteristics of poverty go beyond income measures alone. Therefore, our view is that both quantitative and qualitative approach should be used to capture aspects of poverty.

13. The two approaches have been used in Kenya to generate information on the gravity and characteristics of poverty. Generally, from both approaches the poor in Kenya tend to be clustered in social categories, namely; the landless; people with disabilities; pastoralists in Arid and Semi-arid lands (ASAL); unskilled and semi-skilled laborers; AIDs orphans; Street children; subsistence farmers; urban slum dwellers, and; the unemployed youth.

14. However, there remains a question as to the acceptable and comparable poverty measures. For example:

1. Is the quantitative approach of Kshs.1, 239 per month per person meager income in nomadic/pastoral communities, who consume non-marketable products that are not typically captured by the food basket (raw milk, wild fruits, berries, animal blood etc.)? It implies that this overstates poverty among the nomads/pastoralists.
2. In Qualitative approach, our view is that wealth ranking exposes a relative type of poverty and does not allow objective comparison. This can be illustrated by the fact that the poor in some certain areas might be viewed to be rich in some other areas. Based on land and animals the poor in Maasai Community are rich in Kisii and conversely the rich in Kisii are poor in Maasai<sup>4</sup>.

<sup>3</sup> Presentation at the PADI Workshop Serena-Beach Hotel, 2004

<sup>4</sup> Maasai are a pastoralist indigenous community who thrive on cattle keeping while Kisii are agriculture based ethnic group who thrive on small scale intensive farming.

15. Therefore, the one million dollar question is what should policy makers take into account when initiating pro-poor initiatives or how does the Competition Agency profile the poor and how do we appreciate poverty?

16. We are of the view that since the PPA's are concerned with people's perception of poverty, two main issues are of concern for policy; the causes of poverty and coping strategies adopted by the poor. From this, the Authority focuses, within its mandate on how to minimize or eliminate causes and effects of poverty.

17. Perceived causes of poverty are low agricultural productivity and poor marketing; insecurity; unemployment and low wages; bad governance; landlessness; poor physical infrastructure, High cost of basic social services; bad weather.

18. Based on the aforementioned, the Authority has been focusing on ensuring the poor access the basics at affordable prices. This is through enforcement activities targeting sectors which have high impact to their food basket. In addition, initiating competition advocacy aimed at laws which affect competition negatively, especially in sectors which have greatest impact to the poor.

### 3. Authority's pro-poor enforcement initiatives

19. The Authority and also the Kenyan Government have articulated in their various policy guidelines the importance of promoting and enhancing competition as a means of eliminating poverty<sup>5</sup>. Pursuant to these statements, various activities, aimed at preventing anticompetitive business practices and government regulations that end up increasing the prices for goods with great importance in the consumption basket of poor families have been undertaken.

20. Two examples in key sectors; agribusiness and transportation will help us illustrate this affirmation:

#### 3.1 Food: Maize sector

21. In the maize sector, removal of self-regulations within millers association allowed for greater competition, resulting in lower prices of maize flour, an essential good for poor families.

22. Maize [corn] is the most important and **widely consumed cereal in Kenya, especially for poor families**. In Nairobi, maize and derivative products represent 9% of the consumption basket of low income households compared to 2% in the case of high income of high income households. Furthermore, maize is a staple food crop that provides one third of the revenues from crop sales to poor households. [Source: KNBS, KIHBS 2005/2006].

23. The Kenyan government opened up the maize milling sector, from state-owned enterprises, subsequently having many large scale millers [43]. However, the cost of maize flour was still high [Kshs. 70 per kg] and there existed high price margins [approx. 42%.]

24. This is mainly due to concentration of milling business to one 'family' and the maize millers association 'recommending' minimum prices to be charged by their members. The Authority intervened and demanded review of the association's internal regulations.

---

<sup>5</sup> The Authority's Budget Outlook Paper, 2012/2013 and the Economic Recovery Strategy and Vision 2030.

25. This intervention facilitated the elimination of all mechanisms for price coordination. After the elimination of recommended prices, prices were reduced. This has facilitated price competition leading to reduction in prices [by about 15%]. This is quite a benefit to the poor consumers.

### 3.2 *Transport: The Matatu sector*

26. In the case of local transportation, **an important service for poor individuals**, elimination of restrictions to competition provided benefits for poor consumers. Government policies that allowed for greater entry have been complemented by the action of the Competition Authority to order cease of price fixing within Matatus' Associations.

27. Matatus are a small-scale means of transport which is Kenya's main transport sector. They **play a significant role in the movement of poor people** and also their goods and services in Kenya. They also facilitate, among others, their access to health care facilities; transport their children to school and access to markets of their farms produce.

28. They serve the low and the low middle-income population which account about 53% of the population. As of June 2012, transport accounted 8.66% of Consumer Price Index [CPI] weight, 3<sup>rd</sup> after food and non-alcoholic beverages and energy.

29. Since 1973, the sector has experienced rapid expansion after a Presidential decree, to operate and compete with the public bus transport companies in medium and long-distance passenger transport. The sector has been expanding (standing at 40,000 matatus currently) due to the Government's reduction in licensing and also the availability of financing. However, it has been indicated that currently elimination of 'cartels on routes' has been the key factor in facilitating new entrants to the sector (<http://ssm.com/=2129063>).

30. These cartels, disguised as trade and welfare associations, were fixing fares and also charging 'route entry charges'. This ensures there are a few numbers in each route so as to facilitate collusion. **Another unfortunate angle is that they were deterring entry of small scale [poor] entrepreneurs hence exacerbating poverty levels further.** Lack of competition caused by collusion and few players, was leading to high fares being occasioned the poor.

31. The Associations were also recommending commuter fares to be charged by 'their members' especially when the price of fuel went up. For example when a litre of petrol went up by only Kshs.3 the Associations would recommend an increment of Kshs.20 per commuter (within Nairobi City) and about Kshs.100 per passenger for long-distances. **These prices would greatly affect the low income families whose expenditure in matatu fares is 7% compared to only 0.2% for high income households** [Source: KNBS, KIHBS 2005/06].

32. The Authority investigated the matter and issued a 'cease and desist order' to the Associations. The Association withdrew the practices and commuter fares have stabilized generally. Without the Authority's intervention, the cartelization would have continued affecting the poor.

33. In summary it is true competition regulation has an impact on poverty alleviation. In both cases we observe that allowing for private sector participation and reducing regulatory barriers to entry is not enough to increase rivalry among market players and guide benefits to the poor. Specific enforcement initiatives are needed to guide business behavior and discourage anticompetitive practices that harm consumers, particularly the poor.

### 3.3 *Competitive markets versus “pro-poor” government controls/interventions*

34. The Authority’s view is that one of the most relevant tools to promote market competition is the use of advocacy; so that government bodies take competition into account when issuing regulations and making decisions aimed at supporting competition and also geared towards deriving “pro-poor’ gains.

35. Our view is buttressed by the fact that various government interventions in the market place suppress competition, though they may be aimed at supporting it. Thus we posit that the mandate of the Competition Agency should extend beyond merely enforcing the competition law. It must also participate more broadly in the formulation of its country’s economic policies, to ensure they do not adversely affect competitive market structure, business conduct, and economic performance and therefore harming the poor.

36. The competition Authority must assume the role of a competition advocate. This means to be proactive and bring about government policies that lower barriers to entry, promote open market with the private sector participation, and minimize unnecessary government intervention in the marketplace.

37. For instance, in Kenya, the application of price controls for certain food and fuel products were timely preempted through advocacy by the Authority. In 2010, during the commodity price volatility, the Kenyan Legislature wanted to introduce price controls in ‘some essential commodities’. The initial Bill included wheat flour, rice, cooking fat and oil, sugar, diesel and petrol. The Agency was of the view that this would set the wrong precedent and reverse the gains of reduced government intervention in open markets.

38. As a number of country case experiences have shown, adverse effects of price controls are considerable. These include inefficient allocation of government resources, fiscal losses, shortages and smuggling, reduction of product quality, low productivity of firms with controlled prices, encouragement for cartels formation, facilitation of market control by certain favored individuals, governance issues related to corruption, among others. This will at the end hurt the poor since they exacerbate the causes of poverty, encapsulated in Para 17 above.

39. Furthermore, the measure was regressive in the sense that high and middle income households would benefit in a greater extent, instead of poor households. Considering the goods included initially in the Bill, goods with controlled prices represented around 15% of the consumption basket of the poor households, and 44% and 35% for middle and upper income households.

40. Establishing price controls for some goods could also have precipitated a snowball effect in other sectors of the economy. Through an identified national champion, in a powerful Ministry, the Agency advised against the assenting of this Bill.

41. Sector regulations can also prevent competition to flourish. For instance, in the case of Pyrethrum, the law created a statutory monopoly for a state-owned body and prohibited private sector participation in certain activities along the value chain.

42. Pyrethrum is an industrial crop used for the preparation of pesticides and it currently grown by small scale poor farmers. Its demand in the international market is increasing. However, Kenya lost its predominant position in the market (80% during the 80s) to possess now less than 5% of market share despite Kenya’s natural advantage for producing this crop.

43. The lethargy and governance problems of the state monopoly and the inability of allowing private investment have caused the erosion of the industry. The Authority are supported the opening of the sector to competition. It is expected now that private investment in the industry will allow sustainable

management of planting material, contract farming, and greater efficiency in husbandry and processing. Furthermore, positive effects are expected in production, exports and investment to the benefit of the poor farmer [entrepreneur].

44. In summary, Competition Advocacy is a strong support for ensuring government bodies do not interfere with developing market competition. It requires identification of partners and closely collaborating with key partners within the government as well with the key beneficiaries of reform (creating demand for reform in the private sector, with consumers). But it also needs exercising contextual intelligence and application of 'smart power'.