



Official Remarks on Commemoration of World Competition Day

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Bakaulengwe, ke a dumedita ka Pula!

It is a privilege to have you here with us to commemorate the World Competition Day, which falls on 5th December. While the day has not been officially designated as such, it has been largely observed by most competition authorities and advocates as a day of giving due prominence to the subject of competition. It was on this day in 1980 that the United Nations General Assembly adopted the “United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices”.

These principles and rules were the first formal recognition by the United Nations to bring to the fore the role that equitable principles and rules for control of restrictive business practices have on the development process, especially for less developed countries. Substantially, the principles and rules recognised that trade and investments amongst Member States of the United Nations could be affected by certain restrictive practices such as unreasonable protectionism, anti-competitive mergers, cartels and abuse of market power. These could be by way of acts of the State (through policies or laws) or acts of private business (notably multinationals and dominant firms).

In 2000, the United Nations reviewed the ‘Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices’ and renamed them the ‘UN Set of Principles and Rules on Competition’ (popularly referred to as the UN Set) through the Intergovernmental Group of Experts on Competition Law and Policy under the auspices of the United Nations Conference on Trade and Development (UNCTAD). Arising from the UN Set, UNCTAD has been assisting countries with developing competition policy and requisite legal instruments to implement the recommendations and realise the objectives thereof. Notable objectives of the UN Set are:

1. To ensure that restrictive business practices do not impede or negate the realisation of benefits that should arise from the liberalisation of tariff and non-tariff barriers affecting world trade, particularly those affecting the trade and development of developing countries;
2. To attain greater efficiency in international trade and development, particularly that of developing countries, in accordance with national aims of economic and social development and existing economic structures, such as through:
 - (a) The creation, encouragement and protection of competition;
 - (b) Control of the concentration of capital and/or economic power;
 - (c) Encouragement of innovation;
3. To protect and promote social welfare in general and, in particular, the interests of consumers in both developed and developing countries;

Arising from this, Botswana did adopt the National Competition Policy in 2005, enacted the Competition Act in 2009, and set up two implementing institutions the Competition Commission (i.e., the board and adjudicating organ) in 2010, and the Competition Authority (the investigating organ) in 2011. The fabric of both the National Competition Policy and the Competition Act borrows heavily from the recommendations in the UN Set.

It should thus be noted that the ideals of competition have a multilateral origin and their purpose thus deserves some commemoration as is the case now. As noted earlier, no day is officially recognised by the United Nations as 'World Competition Day'. However, the day of adoption of the UN Set on 5th December is a day worthy of commemoration, i.e., to bring to the fore the ideals of fair competition or equitable business access principles and rules both at national and international level. There is something called 'World Toilet Day' and I am sure 'World Competition Day' is worth advocating for all of us that are involved in competition advocacy and enforcement.

Suffice to add that when we talk about competition, it should not be limited to the Competition Authority alone. Competition affects trade, investment, growth, competitiveness and sustenance of business in society. The subject of competition affect all of us who are involved in business, who are customers or consumers of goods and services.

Government itself and its departments, (including local authorities) are big consumers of goods and services and the prices at which they pay for those goods and services, terms of delivery and quality, must be their concern. Private businesses are equally consumers of intermediate goods and services from other businesses. They may also be affected by excessive prices or unfair practices of their suppliers or dominant customers through prohibitive terms and conditions.

Consumers on the other hand should equally be concerned at the prices they pay for goods and services, the quality and availability. These are matters that are dealt with through the National Competition Policy, going beyond the jurisdiction of the Competition Authority. We must all be concerned when competition policy is not effective and efficient in its application, as much as we are concerned about levels of corruption and fair public procurement processes anywhere.

While competition law and policy would intervene in business to protect and promote the innovation that moves society to greater levels, it is equally important on the other hand to emphasise that business, more so private business, creates wealth for any nation. We should ensure that the policies and laws, both in word and in their application, assist private business to create such wealth, which wealth results in greater tax revenues for the State, higher number of jobs created and the quality thereof, competitive prices and better quality and delivery of goods and services. This is in essence, 'development' so-called.

We must therefore not be so worried when legitimate business in our society is thriving beyond expectation. The prosperity of business is the prosperity of society. Our role should be to ensure that both existing and prospecting business interests have fair access to the business opportunities and growth in society. In this context, our role as a competition authority is not to fight battles for competitors against each other, rather to regulate use of anti-competitive power in the market.

I wish to thank you all for coming to the Open Day as we commemorate the World Competition Day. We have a well-trained and passionate team of staff from the Authority who will be at hand to answer all the questions you may have and provide the relevant assistance you may need.

Thank you and God bless you.

A Modimo o le thuse!