



**Remarks by the Dr. Willard Mwemba, Director and Chief Executive Officer for
the COMESA Competition Commission
at the First Regional Workshop for Legal Practitioners, held on 25th to 26th
April 2022
in Livingstone, Zambia.**

**Guest of Honour, Mr. Abyudi Shonga, SC, Law Association of Zambia
President**

**Mr. Chilufya Sampa, The Executive Director of the Competition and Consumer
Protection Commission of Zambia**

**Mr. Sydney Chisenga, The Managing Partner of Corpus Legal Practitioners,
Distinguished Speakers,**

Distinguished Practitioners,

Ladies and Gentlemen,

All Protocols observed

Let me take this opportunity to welcome you all to this inaugural COMESA Regional Workshop for Legal Practitioners which the COMESA Competition Commission has organised in collaboration with Corpus Legal Practitioners under the theme, ***“Emerging Trends in Competition and Consumer Protection Law Enforcement in the wake of Regional and Continental Integration”***. Let me specifically welcome, and thank, the Guest of Honour, Mr, Abyudi Shonga, SC, the President of the Law Association of Zambia for taking time off your busy schedule to grace this occasion. We are most grateful for your attendance.

Allow me to also welcome the legal practitioners present at this workshop. I am amazed by the overwhelming response from the legal fraternity to our call for participation in this workshop. The Commission recognises the importance of the

legal fraternity in the enforcement of the COMESA Competition Regulations including national competition laws, hence the organisation of this dedicated session for you. I should also take the opportunity to thank Corpus Legal Practitioners for partnering with the Commission. Your efforts have greatly assisted in mobilising the Practitioners to this workshop.

Distinguished Practitioners, Ladies and Gentlemen

Competition Law or Anti-Trust Law, as the Americans would call it, can be traced to 1890 with the enactment of the Sherman Antitrust Act by the United States Congress as a law prohibiting monopolistic business practices in the United States of America. Since then, competition laws have been enacted across various jurisdictions at both national and regional level. To date, there exists rich jurisprudence, vast expertise and practices to support and guide the interpretation and enforcement of competition laws. At this juncture, if you will allow, let me recognise and welcome our distinguished speakers who shall be sharing their experiences in the field of competition law enforcement.

As you may know, the COMESA Competition Commission commenced operations in 2013 under the able and wise leadership of my predecessor, Dr. George Lipimile, who is among the speakers at this event. Since then, the Commission has developed relevant rules, procedures and practice to guide stakeholders on interpretation and application of the COMESA Competition Regulations and the COMESA Competition Rules. However, it is worth noting that rules, procedures and practices are living documents which should be revisited as the environment within which we operate changes. Thus, the discussions on Competition Law Protocols for the African Continental Free Trade Area and the Tripartite Free Trade Area should not be ignored by us Competition Authorities and yourselves as Practitioners since they stand to affect our efforts. In addition, the prominence of the digital economy and a question on the relevance of competition laws in regulating mergers or conduct in the digital space is another feature that ought to be discussed.

Distinguished Practitioners, Ladies and Gentlemen

This workshop will therefore, inter alia, seek to:

- a. discuss emerging trends in competition and consumer protection law and policy at national, regional and continental level;
- b. enhance understanding among the Practitioners on the Commission's legal framework and the ongoing amendments to the Regulations;
- c. enhance understanding among lawyers on the application of the Commission's merger regulations, enforcement of restrictive businesses practices and consumer protection.
- d. equip lawyers with the knowledge which will enable them to identify competition and consumer protection issues affecting their client's transactions.
- e. enable lawyers to appreciate the interaction between the national and regional competition and consumer protection law framework with respect to cross border enforcement; and
- f. enable lawyers, understand the role of economics in competition and consumer protection law enforcement.

Distinguished Practitioners, Ladies and Gentlemen

Among the functions of the Commission is to cooperate with Member States national competition authorities in the enforcement of the COMESA Competition Regulations and the COMESA Competition Rules particularly in the investigation of competition cases. Through cooperation, the Commission seeks to ensure effective investigation of cases and that Decisions of the Commission are fact based. Further to the cooperation framework being provided for under the Regulations, the Commission has signed Cooperation Framework Agreements with National Competition Authorities which spell out areas of common interest.

These Cooperation Agreements assist in the smooth engagement of Member States by the Commission by facilitating the exchange of information relating to investigation of competition cases and engagements in harmonisation of national competition laws with the Regulations. Ultimately, the Cooperation Agreements seek to ensure the effective enforcement of the Regulations in the Common Market. I should mention here that Cooperation Agreements do not compromise on the need to treat information from the parties as confidential and respecting the parties rights to confidentiality

Distinguished Practitioners, Ladies and Gentlemen

As competition authorities, we ought to be responsive to the changing environment within which we operate. In the past few years, countries the world over have been affected by the COVID-19 pandemic which has forced businesses to change the way they operate. The Commission's enforcement of the Regulations has not been spared from these effects. At the peak of the Pandemic, it became obvious that parties were facing challenges in timely responding to various legal obligations under the Regulations. For instance, under Part 3 of the Regulations dealing with mergers and acquisitions, the Commission was met with numerous requests from parties to extend the timelines for submitting merger filings occasioned by delays in collating information.

As a temporary measure and within the confines of the Law, the Commission responded by putting in place *Interim Measures in Merger Review during the COVID-19 pandemic* which included allowing parties to make electronic merger filing and extending the timelines for submission of hard copy filings beyond the 7 days provided for under the COMESA Merger Assessment Guidelines. Through the measures, the Commission further guided that parties to notifiable mergers would not be liable to sanctions for failure to notify a

merger within 30 days of Decision to Merge as required under Article 24(1) of the Regulations **as long as they initially engage the Commission before the expiry of these 30 days**. The Commission would then consider the initial engagement as the beginning of the notification process and expect the parties to complete notification within a reasonable period beyond the 30 days. Let me emphasize here that this does not relieve the parties from the obligation to comply with Article 24(1) of Regulations and sanctions still apply for failure to notify a merger within 30 days.

Distinguished Practitioners, Ladies and Gentlemen

Transparency and predictability are an essential element in the enforcement of any legal instrument such as the COMESA Competition Regulations. The Commission's approach has always been to ensure that relevant updated Rules, Guidelines and practices are in place to inform stakeholders on how the law is applied. It is on this basis that the Commission has embarked on an ambitious project to review the Regulations and Rules with the aim of ensuring they are aligned to international best practices and that emerging issues are captured by the Law. I am aware that the Commission has already engaged most of the Practitioners on this process and we value your informative contributions to the review process.

With these few remarks, I would like to thank you for your attention and I look forward to our further interaction in the course of these two days