

**REMARKS BY THE DIRECTOR AND CHIEF EXECUTIVE
OFFICER OF THE COMESA COMPETITION COMMISSION, DR.
WILLARD MWEMBA AT THE NATIONAL SENSITIZATION
WORKSHOP FOR THE BUSINESS COMMUNITY IN ZAMBIA,
21ST – 22ND APRIL 2022,
RADISSON BLUE HOTEL, LUSAKA, ZAMBIA**

The Vice President of the Republic of Zambia, Your Honour Mrs. W.K. Mutale-Nalumango

The Minister of Commerce, Trade and Industry, Honourable Mr. Chipoka Mulenga, MP

The Secretary General of COMESA, Your Excellency Mrs. Chileshe Mpundu Kapwepwe

The Permanent Secretary of the Ministry of Commerce, Trade and Industry, Mrs. Chawe P.M. Chuulu

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

The Chief Executive Officer of the Zambia Chamber of Commerce and Industry

The President of the Zambia Chamber of Mines

Private Sector Representatives,

Distinguished Senior Government Officials,

Distinguished Participants,

Ladies and Gentlemen,

All Protocols observed

I am Honoured to welcome you, Your Honour, to this National Sensitization Workshop for the Business Community in Zambia which, the COMESA Competition Commission has organized to create awareness among the Business Community in Zambia on the implications of competition and

consumer protection laws in everyday operation of businesses. Your Honour, this workshop is taking place amidst the COVID-19 Pandemic which has disrupted global supply chains and heavily impacted business operations in Zambia and across the Common Market for Eastern and Southern Africa. Fortunately, Your Honour, there is a glimmer of hope as the Pandemic seems to be slowing down with several countries opening their borders to international travel, a key driver to business. The slow down of the Pandemic is also an opportunity for the businesses to recover, hence, the discussions in this workshop will further reflect on the **“Role of Competition and Consumer Protection Laws in Post COVID-19 Business Recovery”**, the theme of the Workshop.

Your Honour, distinguished delegates, ladies and gentlemen,

Allow me to reflect on the importance and relevance of competition and consumer protection law and policy to the economic governance of national, regional and global markets. Competition law and policy is the best available tool to ensure trade liberalisation enhances the welfare of consumers particularly the citizens and firms of COMESA Member States such as in Zambia. The need for effective competition and consumer protection law and policy is necessary to support COMESA regional integration efforts that seek to liberalise trade and enhance the welfare of citizens and firms operating in the Common Market. This need continues to be heightened by the fact that majority of countries in the Common Market, if not all countries have fully embraced the notion of trade liberalisation, deregulation and private sector driven policies to promote economic growth and reduce poverty. However, it should be born in mind that globalisation of markets comes with the risks of increased anti-competitive trade practices including anti-competitive mergers and consumer rights violations by unscrupulous businesses seeking to take advantage of the enforcement gap to exploit consumers and restrict other businesses from thriving in the Common Market. These risks, which affect consumers and businesses alike, have been more prevalent than ever during the COVID-19 pandemic.

Your Honour, Distinguished Delegates, Ladies and Gentlemen,

It is on this premise that the role of competition law in business operations ought to be appreciated by all stakeholders such as the business fraternity. Businesses need to be aware of their obligations under the COMESA Competition Regulations which have provided a regional framework for regulation of competition and consumer protection matters in the Common

Market. The Regulations seek to promote and encourage competition within the Common Market by preventing restrictive business practices and other restrictions that deter the efficient operation of markets. Ultimately the Regulations seeks to ensure consumers are protected from offensive conduct by businesses thereby enhancing consumer welfare.

Your Honour, Distinguished Delegates, Ladies and Gentlemen,

Effective competition law and policy ensures that companies operate efficiently and that markets offer a level playing field for all actors. Competition forces economic operators to adjust to changes and innovate to stay competitive in the market. Competition further leads to lower prices and higher quality products for consumers. It leads to greater dynamism in industry, and, most importantly it leads to increased employment creation and hence poverty reduction. With globalisation, markets have become broader than national such that any anti-competitive business conduct by businesses outside of Zambia, mergers and acquisitions taking place globally and consumer violations outside Zambia can easily manifest their effects in Zambia.

An active regional competition law and policy is therefore needed to check against conduct by businesses which may have cross-border effect of restraining trade between Member States in the Common Market. This is one of the crucial functions of a competition policy in regional integration systems. Ultimately competition law enforcement is meant to contribute towards supporting the full attainment of the COMESA market integration agenda as envisaged under the COMESA Treaty.

Therefore, it is worth bearing in mind that competition is not an end in itself, or something useful only for our domestic economy. It is a tool to help us react and cope with the changes we face at the international level. Changes such as globalisation, trade liberation, technological innovation, the emergence of the digital economy, and global pandemics such as COVID-19. These changes are a challenge to business, but they also present an opportunity for innovation and growth. Opportunities maybe be seen on the need to adapt domestic and regional rules to the global environment.

Your Honour, Distinguished Delegates, Ladies and Gentlemen,

As policy makers and enforcers of competition law we continue to face three challenges under this new trade environment:

- Firstly, we have to find ways to overcome the jurisdictional barriers inherent in the territorial nature of competition enforcement jurisdiction. When we are asked to apply our national competition rules today, we increasingly observe that consumers whom we are mandated to protect are being adversely affected by anticompetitive behaviour taking place outside our jurisdiction. Often, we have to overcome a number of legal and practical obstacles to discover the necessary evidence and to impose sanctions on global cartels which are detrimental to the efficient conduct of local business and harm our local consumers.
- Secondly, in considering competition policy and the international market place, a key challenge stems from the recognition that our laws are national but markets extend beyond national boundaries. This makes us to ask questions like: If markets are broader than national boundaries, are our national laws and their enforcement sufficient to deal with the market problems of the century? Further, is it possible to rely upon each country's national law, yet at the same time, work toward the development of a more seamless international or regional trading order that facilitates the working of regional or global markets?
- Thirdly, developing countries and countries in transition are restructuring their economies in an effort to integrate them fully to the world economy and be able to exploit new opportunities to compete. In order to claim their share in the benefits of globalisation, more developing countries have adopted economic reform packages, which have liberalised the entire sectors, privatised state owned enterprises and introduced competition laws and policies. These enterprises are naturally looking to COMESA and the established national competition authorities for support and technical assistance.

These challenges have become a reality. The COMESA market has not been spared from the effect of globe phenomena affect businesses such as the COVID-19 pandemic. Increased advocacy and awareness of competition law enforcement has become essential to promoting an effective enforcement of competition policy.

I believe all of us are increasingly aware of these challenges and are convinced that we need to provide a pragmatic and effective response of international governance to the integration of the regional markets.

Your Honour, Distinguished Delegates, Ladies and Gentlemen,

To address these challenges and the constraints, the COMESA Member States recognised the need for the enactment of a regional law on competition.

The common market legal system has precedence over national law and a Member State may not unilaterally nullify a provision of the Regulations by its own subsequent domestic legislative measure.

Thank you very much for your attention.