



INFRASTRUCTURE REDUCES CONSTRAINTS ON COMPETITION AND THE COST OF DOING BUSINESS

Economist, Sennyne Obuseng, says investment in infrastructure plays a critical role in ensuring effective competition and the effectiveness of competition. Speaking at the National Competition Conference in Selebi-Phikwe on 22nd March, Mr. Obuseng said not only does infrastructure reduce the cost of doing business, but it also helps address some of the constraints on competition such as information asymmetry. “For instance, rail and road networks remove the advantage large and existing firms may have and facilitate the entry of new firms. Investment in quality ICT infrastructure facilitates access to information and markets”.

Mr. Obuseng, who is the Managing Consultant at PR Executive Consulting, said beyond the developed world, nations that are winning the development race today such as China, India and Rwanda, have one thing in common; they all are aggressive market reformers. “Their experiences offer instructive lessons as to what nations ought to do in order to foster effective competition and unleash the power of efficient markets as a force for innovation, productive growth,



Economist Mr. Sennyne Obuseng addressing the National Competition Conference on 22nd March 2018

efficiency, competitiveness, employment and poverty eradication”. He said these include efficient regulation, investment in infrastructure; advocacy, information, education and communication.

Mr. Obuseng cited the first vulnerability of competition as poor regulation, i.e. bad policies, bad laws and weak institutions. “Virtually all failed states and failing economies such as Venezuela, Zimbabwe, etc, fail in large measure because regulation stops them from harnessing the power of efficient and fair

markets. “Nick Godfrey makes the point that in developing countries, markets are often dominated by large firms with close ties to government. The second source of vulnerability for competition is anti-competitive firm behaviour. Whether this assumes the form of harmful horizontal and vertical expansion strategies, or collusion, it needs to be identified timeously and sanctioned stiffly enough to achieve deterrence” he said.

Mr. Obuseng further said ensuring
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Some of the participants at the National Competition Conference in Selebi-Phikwe on 22nd March 2018

effective competition requires national competence on competition. Therefore, effective advocacy, information, education and communication is a useful way of ensuring that all stakeholders play their part in supporting effective competition. Addressing the conference theme, he said the persistence of unemployment and business closures suggest inadequate economic growth at best, and at worst, a generally deteriorating economic and business environment. Obuseng said the persistence of unemployment suggests

that the economy is underperforming in the critical areas of competitiveness, productivity, Innovation, Investment and positive structural transformation. He noted that Botswana currently endures a double whammy of a crisis of jobs and unusually high rates of business closures. Mr. Obuseng explained that competition is not conditioned by joblessness and business closures.

He said while in a competitive duopoly or oligopoly the closure of one firm may profoundly alter market conditions, this only happens in exceptional

circumstances, and the tendency is for large firms to survive adversity because they generally are resilient institutions. "Take as an example, the banking industry in Botswana. The closure of any one of the big three banks; FNBB, Barclays or Standard Chartered, will cause serious ripples in the economy, but it is unlikely to render the banking industry less competitive. The remaining banks are likely to continue competing vigorously, with concomitant benefits for society", he said.

Mr. Obuseng further said competition makes markets more efficient and fairer, which is critical for private sector development, investment, and growth.

"Sometimes we look at industry behemoths such as Choppies and FNBB, see only their dominant positions in their respective industries and forget that they competed their way to their lofty perches. Both got where they are by outcompeting established rivals. In the process, they generated considerable value for the economy in terms of investment, innovation, productivity and economic growth".

FAIR COMPETITION PROMOTES CONSUMER WELFARE

The Chief Executive of the Selebi-Phikwe Economic Diversification Unit, (SPEDU) Dr. Mokubung Mokubung, says when there is robust competition, businesses are more than eager to identify consumer needs and develop new products and services to meet those needs. Giving a keynote address at the National Competition Conference on March 22nd, he said during his tenure at the Competition Authority, he witnessed on a daily basis the positive effect of competition.

"I have had the privilege of working for the Competition Authority in the Department of Competition and Research Analysis and witnessed first-hand how competition can lead to consumer welfare and business expansion. In 2012, the Authority was made aware that there were two sugar products (Selati and Pure Sugar) that were denied entry into shop-shelves by two big wholesale groups. The result of this barrier to enter the market was that consumers had a limited choice on the sugar brands that were available on the shelves".

Dr. Mokubung said the Authority



The CEO of SPEDU Dr. Mokubung Mokubung giving a keynote address at the National Competition Conference on 22nd March 2018 in Selebi-Phikwe

investigated and found this allegation to be true. "The determination of the Authority was that the two sugar products should be listed and sold by the two giant wholesalers. The two sugar products were eventually listed by the concerned wholesalers and were sold to consumers. Immediately upon entry into

the market, there was a five percent price reduction on the price of sugar", he said.

He further told participants that production of the two sugar products went up by at least 30%, and employment at Selati and Pure Sugar factories increased. "The obvious impact of this intervention was that consumers now had choice on the range of sugar products available to them at localities serviced by these two giant wholesalers, which choice or access they did not have prior to the intervention of the Competition Authority".

Dr. Mokubung also cited the South African bread cartel case as contribution of competition to consumer welfare. "One of the cases that has been widely reported across the competition world is the bread and wheat milling price-fixing case in South Africa. The country's Competition Commission found out that major dominant firms in the production of bread and maize meal had colluded to fix prices through regular meetings and contacts between 1994 and 2007". After an investigation, the Commission found out that four bakeries agreed to fix the

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selling price of bread and also engaged in a milling cartel to fix prices and allocate customers.

“At the time when the South African wheat milling sector adopted improved efficiencies in wheat production, some inefficient big millers closed down and employment decreased, however there were a number of smaller millers who came into the scene and created employment opportunities”.

He further told participants that as a result, bread, which is a staple food to many South Africans, is now available throughout the country and has 100% representation in all stores selling groceries. He said this clearly shows the major impact that a combination of pro-competitive policy and enforcement of competition law can achieve in making markets more efficient and robust to serve consumers and national economies even better.

Turning to SPEDU, Dr. Mokubung said its principal mandate is to implement

economic programmes that seek to regenerate the economy of Selebi-Phikwe and the surrounding regions.

“In our endeavour to implement programmes and projects that seek to bring back employment and economic vitality into our region, we are always mindful that we do not undermine competition. There is of course the temptation to lure investors and promise them protection from competition. There are of course strong voices calling for a deliberate protectionist approach,

perhaps informed by the dire situation that we find ourselves in particularly bearing in mind the closure of the BCL copper-nickel mine”, he said.

Dr. Mokubung said SPEDU seeks to ensure that the appropriate principles of horizontal and vertical integration among businesses are adopted, as well as avoidance of abuse of dominance in the market place by any dominant entity, and this is to be done in collaboration with the Competition Authority.



The conference was broadcast live on Gabz FM radio station

ROBUST COMPETITION KEY DRIVER FOR ECONOMIC GROWTH



The then acting Minister of Investment, Trade and Industry, Hon. Biggie Butale answering questions after officially opening the National Competition Conference in Selebi-Phikwe on 22nd March 2018

Robust competition is the key driver for product innovation, industrial growth, competitive prices, quality goods and services, consumer welfare and general expansion of markets. The then acting Minister of Investment, Trade and Industry, Hon. Biggie Butale said this when officially opening the National Competition Conference in Selebi-Phikwe on 22nd March 2018. Mr. Butale said although government creates massive opportunities for economic

growth, at times the anticipated growth in employment, productivity and other efficiencies are not realised because of anti-competitive conducts.

These include bid-rigging or collusive tendering, market allocation, price-fixing and predatory pricing that are prevalent in the market. “I am informed that since its establishment in 2011, bid-rigging cases account for almost 40% of the restrictive business cases that the Authority has handled. Empirical evidence has shown that bid-rigging can increase the cost of goods and services by up to 20%”, he said.

The Assistant Minister said he is also aware that in some instances markets are not fully functional and efficient because of the legislative environment that restricts competition.

“In this regard, we are fully supportive of the Authority in its endeavour to do a comprehensive study of the laws that harm and restrict competition”. Turning to economic challenges, Hon. Butale implored the private sector to help government to address the monumental challenges confronting the nation. “Our

view as Government is that our principal role is not to create jobs, but to provide a functional micro and macro-economic environment for the private sector to take the lead in growing the economy”. He noted that the conference came to the town of Selebi Phikwe when its economy is still reeling from the effects of the closure of the BCL Mine due to the poor performance of international copper prices.

“It is without doubt that the BCL Mine was the lifeline of this town, ever since the closure of the mine every effort has been made to ensure the town is revitalised to claim its former glory”.

Hon. Butale said his Ministry is doing all in its power to ensure that the doing-business-in-Botswana environment is conducive to support the private sector. The one day conference brought together over 100 participants from the business sector, academia, regulators and other strategic partners of the Competition Authority, and the broader civil society including trade unions.

INFLUENCING FUTURE ENTREPRENEURS - CA ADDRESSES MARU-A-PULA STUDENTS



The former Director of Mergers and Monopolies Ms. Magdeline Gabaaraane, addressing Maru-a-Pula students on 15th March 2018

The former Director of Mergers and Monopolies, Ms. Magdeline Gabaaraane, has informed Maru-a-Pula Secondary School students that the Competition Policy and Competition Act were aimed at enhancing the competitiveness and productive capacity of Botswana's economy while improving the quality and quantity of the factors of production. Addressing Economics and Business students at the school on March 15th 2018, she said the Competition Authority enforces the Act which prohibits certain agreements, practices and conducts that are aimed at preventing or lessening

CA staff with Maru-a-Pula students and teachers

ing competition in the market. She said the Act also established the Competition Commission which performs the adjudicative function. Ms. Gabaaraane informed the students that the main elements of the Competition Act are vertical and horizontal agreements, abuse of dominance and mergers. She cited resale price maintenance as one of the prohibited anti-competitive vertical agreements.

Horizontal agreements include price-fixing, bid-rigging/collusive tendering and market/customer allocation often carried out by cartels. Abuse of dominance can take the form of excessive pricing, predatory pricing, exclusive dealing and

fore closure.

Ms. Gabaaraane also explained the merger review process to the students. She said under the Competition Act, a merger occurs when one or more enterprises directly or indirectly acquires or establishes direct or indirect control over the whole or part of the business of another enterprise".

Acquisition of control over the whole or a part of another enterprise would entail a business buying or leasing shares, or an interest or assets from another business, or when two or more businesses combine or amalgamate.

BOTSWANA APPRECIATES ICN WORK PRODUCTS



The Director of Investigations and Research Analysis, Mr. Calistus Sengwatse speaking about Botswana's experiences with ICN Work Products at the ICN Conference in New Delhi, India

The Competition Authority has expressed appreciation for the International Competition Network (ICN) Work Products for helping younger agencies overcome their challenges. The Director of Investigations and Research Analysis, Mr. Calistus Sengwatse spoke, about Botswana's experiences with the work products at the 17th ICN Conference

that was hosted by the Competition Commission of India in New Delhi from 21st to 23rd March 2018. "Young agencies like the Competition Authority of Botswana consider themselves to be fortunate because they came into existence at a time when there was plenty of information to learn from, that had been deposited by those who came

before them". he said

Mr. Sengwatse singled out the work products on Mergers as some of those that rescued the Authority during its first months of existence in 2011, noting that through the guidance of the ICN guidelines, the Authority was emboldened to reject a merger in the security industry as it was determined to result in substantial lessening of competition in that market. The Authority later developed its own guidelines in 2012, which were also benchmarked from the ICN products. "Today we can proudly share that from humble beginnings, we have built capacity in merger analysis having assessed a total of 240 merger applications in six years", Sengwatse said. He also mentioned the ICN Anti-Cartel Enforcement Manual as another product that the Authority benefitted from.

The Authority developed its Investigation Manual on the basis of the bench-
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marked best practices from the ICN Manual, and it has been instrumental in the investigation of cartel cases. In particular, the manual has been very helpful in assisting the Authority to conduct successful dawn raids. In 2012, when the Authority was just one year old, an investigation in the motor vehicle panel beating industry was undertaken whereby 23 companies were investigated and found to be involved in cover quoting. He informed the delegates that as a result of effective dawn raids learned from the ICN recommended best practices, good evidence was collected. Mr. Sengwatse noted that although the dawn raid was a success, the case was withdrawn due to some technicalities not related to the raid. He emphasised that although the particular case could not be pursued further due to the technicalities, it had a positive impact in that an undercover operation that was conducted after sometime revealed that the dawn raid had actually corrected the conduct, as the industry ceased the practice.

“The panel beaters were now quoting independently, and the average quote had dropped by 10% from the initial average prices that were taken before the raid. To the Competition Authority, this was a huge success as consumer welfare was enhanced due to a 10% reduction in the prices that were also going to enhance the value of their insurance cover”, he said. The case also enhanced the visibility of the organisation because there was a lot of media coverage. Delegates were also informed that the Competition Authority also relies on the ICN Training Modules or Curriculum Project. Mr. Sengwatse said for the past seven years of its

existence, the CA has been operating on a very tight budget averaging 3.5 million US dollars annually, a situation that has resulted in reduced training costs.

“Staff periodically convene in the training room to watch videos of various cases. New employees are especially familiarised with Module One that covers Competition Law and its concepts. As a result of the use of the training modules, the CA has seen an improvement in the quality of its investigation and merger assessments through the application of more robust theories”, Sengwatse explained.

Furthermore, in March 2016, the CA hosted the ICN Agency Effectiveness Working Group Workshop as a cost effective way of building capacity. “We realised that it was more beneficial to host such a workshop as more officers benefitted, unlike when we could have sent only few officers to attend it if it was hosted by another country”, he said. The workshop also helped the CA in creating awareness as the Minister of Trade and senior officials from various parastatals and government departments participated in the workshop, which also attracted a lot of media coverage.

At the end of his work products presentation, Mr. Sengwatse informed delegates that Botswana is part of the Southern Africa regional block named SADC (Southern African Development Community) that comprises 15 countries that have adopted a cooperation framework to address cross border competition issues of interest. He said in order to implement the framework, the ICN organisational structures, particularly the working groups have been replicated,

thereby forming the; Merger, Cartel, and Research and Advocacy working groups. Membership of the groups comprises heads of those functions in the region’s competition agencies.

The SADC working groups have adopted cooperation frameworks specific to their areas of work and are doing very well in terms of facilitating cooperation in the region, Sengwatse said. They are in contact quite often through teleconferences, workshops, emails and exchange of staff to discuss approaches and methodologies of tackling cases of common interests. The impact of the working groups has been observed.

“The Research and Advocacy Working Group has so far conducted cross country research in a number of sectors such as cement, fertiliser, poultry, sugar, construction, pharmaceuticals and liquefied petroleum gas. The findings were used as a basis for launching advocacy and enforcement programmes that resulted in the improvement of economies in the selected countries, such as reduced mark-ups, high levels of investment and competition,” Sengwatse said.

Botswana’s representation at the ICN Conference also comprised the Vice Chairperson of the Competition Commission, Ms. Thembisile Phuthego, Competition Commissioner Ms. Seipati Olweny; the Manager for Policy Coordination and International Liaison, Ms. Bonyana Ndubiwa, the Manager for Mergers and Monopolies Ms. Nomathemba Dladla and the Communications and Advocacy Officer, Ms. Kelebogile Ngwenya.

CA BIDS FAREWELL TO TAPIWA MASIE AND SEBILO KEBOTSAMANG



L to R: Ms. Sebilo Kebotsamang, Ms. Tebelelo Pule and Ms. Tapiwa Masie at a farewell party at the CA on 25th April 2018

On 25th April 2018, the Competition Authority hosted a farewell party for the Acting Director of Legal and Enforcement; Ms. Tapiwa Masie, and the Human Resource Officer,

Ms. Sebilo Kebotsamang. They left the employ of the Competition Authority on 30th April 2018 after more than six years of service. Various colleagues who spoke thanked Ms. Masie and Ms. Kebotsamang for their excellent service to the CA noting that they leave a void that will be very difficult to fill.

They were described as hardworking professionals and great team players. The CEO Ms. Tebelelo Pule, implored them to continue being great brand ambassadors for the CA. She said while it is disappointing to see them go, she takes comfort that they will continue to serve



Some of the CA staff bidding Sebilo and Tapiwa farewell

diligently in the economy of Botswana.

Ms. Masie has joined the Special Economic Zones Authority while Ms. Kebotsamang has joined the Botswana Energy Regulatory Authority.

Profile: Sebilo Kebotsamang

The Human Resource Officer, Ms. Sebilo Winnie Kebotsamang, left the employ of the Competition Authority on 30th April 2018 after more than six years of service. The Botswana Competition Bulletin set down with her for a farewell interview:



Former HR Officer Ms. Sebilo Kebotsamang

BCB: Who is Sebilo Winnie Kebotsamang?

Sebilo: Sebilo is a jewel born and bred in Gaborone. I am a mother of two beautiful children, a girl and a boy aged 13 and 11 respectively. I am a seasoned and Certified Human Resource Practitioner holding a degree in Industrial and Organisational Psychology awarded by the University of South Africa. Having served in various institutions and sectors, I have 16 years of reputable professional work experience. I started my professional journey as a social worker, which I practiced for five years, with a diploma obtained from the University of Botswana.

BCB: Why did you apply for a position at the CA?

Sebilo: I applied for the position of HR Officer in 2011, in response to a vacancy advert. I was mainly attracted and eager to be part of the establishment of a new institution, mandated to implement and enforce a new law in the country. I was particularly interested in being part of the team that was setting up the HR Unit, something that has greatly shaped and built my body of knowledge in people management.

BCB: What were your duties and responsibilities at the CA?

Sebilo: As an HR generalist, I provided business support to departments, and my roles were mainly talent acquisition and management, training and development, organisational development, payroll administration and employee benefits administration, health and wellness and records management amongst other staff support services.

BCB: What did you do before joining the CA?

Sebilo: I joined the Authority directly from PEEPA where I was a Human Resource Practitioner. Before then I had worked at Bokamoso Private Hospital and Gaborone City Council.

BCB: What were your experiences at the Authority?

Sebilo: Since I joined the Authority six years ago, it has been nothing but the best organisation to work for. It is a place of good governance, a ground for professional development and growth as well as a home. The Competition Authority has an amazing workforce comprising a mix of professionals from all backgrounds. The young and vibrant culture has turned it in to a home for many, thanks to the best human capital policies and support interventions that management had put in place. The CA values and recognises talent and also prioritises the welfare of its employees.

BCB: What is the best thing that has happened to you at the CA?

Sebilo: Personally I have grown into a more adaptable and resilient professional who is able to deal with complex and diverse characters and still maintain ethics and integrity. I have been afforded more opportunities for professional growth, and have been given developmental exposure even at governance level. I managed to scoop a couple of performance awards; Best Team Player in two successive years, and Most Innovative Employee of the Year. I have had a very progressive journey thus far.

BCB: What did you find most challenging about the CA?

Sebilo: The organisation is not revenue generating, it is solely dependent on Government subvention for funding. Depending on budget priorities, a lot of

HR activities and initiatives that required funding suffered. It was frustrating to put initiatives meant for staff retention and motivation in place, which could not be implemented due to budgetary constraints.

BCB: It is now official you leave the employ of the CA at the end of April 2018. Why are you leaving?

Sebilo: Greener pastures, I am joining a new parastatal for a senior position. Just like any other person, I want to grow and progress up the corporate ladder, this was an opportunity that I have been waiting for. It came and I grabbed it!!

BCB: It is very difficult to say goodbye. What would tear you up thinking about the CA?

Sebilo: My team was just an epitome of triumph. I had the best team that was solid, supportive and loving, a relationship that we built over time. Even though we went through challenges with personality differences to get where we are, it was worth the while. The thought of starting afresh to build what I am leaving at the CA hits me to the core. But it's a journey that I am willing to take and conquer.

BCB: People don't get to decide what their legacy is. If you were given a chance to influence thoughts about you at the Authority, how would you want to be remembered?

Sebilo: In life you take every day as it comes, in everything you do give it your best shot. Treat other people the way you would want to be treated, for respect permeates every aspect of your life. Present yourself with high accord.

BCB: You seem to be a woman on the move. Where do you see yourself five years from now?

Sebilo: I still owe it to my country, I will continue to serve the nation of Botswana, building my legacy.

BCB: As a parting shot, would you want to impart any words of wisdom influenced by your life experiences?

Sebilo: This is your life journey, stay focused and be positive, for you will eventually reach your destination. Own your path; relax, for you are worthy, capable and beautiful. Create your dream, celebrate yourself and rule your queendom!

Editors Note: Ms. Tapiwa Masie's profile can be accessed at: <http://www.competitionauthority.co.bw/botswana-competition-bulletin-issue-1-volume-5>

PICTORIAL



Communications and Advocacy Officer Ms. Kelebogile Ngwenya with some delegates at the ICN Annual Conference which was held in New Delhi, India 21st to 23rd March 2018



Representatives of competition agencies during the ICN/World Bank Advocacy Contest Award Ceremony



The Competition Authority and the Companies and Intellectual Property (CIPA) held a joint exhibition at the Rail Park Mall on 28th March 2018 to raise awareness about their mandates



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