

## **AFRICA – EU COMPETITION WEEK**

Tuesday, 24 September

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### **What's the role of competition in addressing inequality?**

#### **Agency insights**

##### ***1. Introduction***

Distinguished Colleagues, good morning,

I would like to start by thanking the European Commission and Hillary Jennings for the kind invitation to participate in this Conference.

It is a privilege to have the opportunity to share experiences, practices and knowledge with the esteemed participants of the Africa-EU Competition Week. In addition to sharing our own experience in Portugal, I am also looking forward to learning more about competition policies in different jurisdictions.

Competition is becoming increasingly pivotal in the advancement of global economies.

I will explore the topic of the role of competition in addressing inequality from the perspective of competition agencies.

We live in a rapidly evolving world where economic disparities are becoming increasingly evident. The COVID-19 pandemic, recent disruptions in global supply chains and inflation have intensified this reality, exacerbating poverty and inequalities in many countries, especially in emerging economies. If market forces are not regulated, they can intensify social inequalities, which have been a persistent reality in our economies, affecting both developed and developing countries.

I am aware that when we talk about competition, we may not always immediately think of social justice or equality. Competition is often perceived as a matter of economics or markets. However, its significance goes beyond the realm of market dynamics. I believe that competition can be a tool to build fairer, more inclusive and more sustainable societies.

It is often said that “prevention is better than cure”. This is something that competition policies strive to address. If we simply wait for market outcomes without implementing a competition policy, there is a risk that we may end up with an economy that is too concentrated or that is not delivering the best results for consumers. A bit like a cake without yeast. While it may look good at first, it is possible that it may eventually fall apart.

In my intervention today I will address four main topics.

First, the importance of competition, with a particular focus on its macroeconomic implications and the challenges of implementing a competition policy.

Second, I will discuss the role of competition in addressing inequalities, as well as the manner in which competition authorities may contribute.

Third, I will consider some current challenges linked to addressing inequality, namely areas of intervention of competition agencies with greater impact on inequality concerns.

Finally, the role of international cooperation in the development of competition policies.

## *2. The importance of competition - A macroeconomic overview*

I would like to begin by examining the macroeconomic impact of competition policies.

Effective competition policy is crucial for a country's economic and industrial growth. It helps ensure efficient and balanced market functioning, optimal resource allocation, and consumer welfare. Additionally, competition policy is a key factor in a country's attractiveness as a business destination, influencing investment decisions through predictability and confidence in the competitive environment.<sup>1</sup>

The Organization for Economic Co-operation and Development (OECD) has conducted a series of studies demonstrating the positive effects of competition on economic growth, innovation and productivity. Economies with more open and competitive markets are more likely to experience sustainable growth and demonstrate greater resilience to economic crises.

We can see clear examples of this in many parts of the world. Take the example of Asia, for instance, where vigorous competition policies in some jurisdictions have been instrumental in enabling the development of high-tech industries and financial services.

Removing barriers to entry in markets and creating opportunities for competition in local markets can lead to break up monopolies, facilitate the emergence of small and medium-sized businesses, and promote inclusive economic growth.

We know that in Africa certain economic sectors are under concession - including oil exploration, natural gas and other natural resources, as well as transport - which, while not an impediment to the implementation of a competition policy, can nevertheless raise competition issues<sup>2</sup>. Even in such scenarios, competition can be instrumental for the improved quality of goods and services, and a more resilient economy.

Without competition, prices remain artificially high, the quality of services is poor, and innovation is less likely. As we know, the absence of

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<sup>1</sup> RODRIGUES, N. C. (2021, 23 June). Painel 3: Reforço da concorrência no contexto da industrialização, inovação e integração regional e continental [Conference paper]. Conferência Anual do Sector Privado | XVIII CASP – 2023, Mozambique. P. 1 - 2

<sup>2</sup> RODRIGUES, N. C. (2021). A Cooperação Internacional no Âmbito das Políticas de Concorrência dos PALOP. Revista de Concorrência e Regulação (Ano XIII, Número 46-47). P. 18

innovation has a direct impact on the long-term growth of any economy. It is therefore essential that these issues are addressed through the implementation of appropriate competition policies.

### *Implementation of competition policies*

Equally important is to note that there is no “one-size-fits-all” model for competition policy. Each jurisdiction must be considered on its own merits, taking into account the specific characteristics of the local economy. In the case of developing countries, competition policy must align with the unique objectives of these countries, which may differ from those pursued in developed countries.<sup>3</sup> This happens because there has been a notable shift in the forms of direct economic intervention by the state. Previously, economic activities were supported by the involvement of public companies. However, with the advent of privatization processes, there has been a gradual transition towards indirect intervention.<sup>4</sup>

Nevertheless, it is imperative that governments acknowledge the importance of reinforcing the effectiveness of competition authorities as a strategic priority. Over time, bolstering these agencies will prove beneficial not only to local economies but also to the population at large, fostering equal opportunities and addressing income disparity.

Promoting a competitive environment requires a robust institutional and legal framework that contributes to the predictability and confidence of economic agents.

It is true that, in theory, a state can design a competition policy without approving a competition legislation in parallel.

The fact is that this branch of the law is a fundamental part of competition policy, as it guarantees the enforceability of ex-post control

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<sup>3</sup> RODRIGUES, N. C. (2021, 23 June). Painel 3: Reforço da concorrência no contexto da industrialização, inovação e integração regional e continental [Conference paper]. Conferência Anual do Sector Privado | XVIII CASP – 2023, Mozambique. P. 3 – 4

RODRIGUES, N. C. (2021). A Cooperação Internacional no Âmbito das Políticas de Concorrência dos PALOP. Revista de Concorrência e Regulação (Ano XIII, Número 46-47). P. 17

<sup>4</sup> RODRIGUES, N. C. (2021). A Cooperação Internacional no Âmbito das Políticas de Concorrência dos PALOP. Revista de Concorrência e Regulação (Ano XIII, Número 46-47). P. 17

of competitive conditions (with the exception, of course, of the pre-merger control regime).

Looking at African countries, the definition of a competition policy and appropriate legislation represented a significant step towards the dissemination of competition and its inherent advantages.

National competition authorities are essential for the establishment of competition policies.

In fact, these authorities not only ensure that competition law is respected (enforcement), but also encourage the implementation of appropriate public competition policies (advocacy) that enable, among other things, for the dismantling of monopolies and the liberalisation of the economy.

The legal and institutional framework in each country must therefore be solid and stable, allowing competition authorities to act effectively and fairly, providing predictability for firms and increasing confidence for potential investors. The independence of competition agencies, in particular from a technical viewpoint, is essential to achieve this purpose.

### *Challenges in building an effective competition policy*

In this context, it is important to consider the challenges facing a young national competition authority.

I have in mind, for example, issues relating to obtaining adequate financial and human resources.

In the first case - financial resources - legally structured systems must be established which guarantee the budgetary independence of competition authorities - that is the ability to draw up their own budgets - and financial autonomy - i.e. the definition of a stable framework of own revenues, whether they derive from the state budget, from other regulators or from the collection of fees.

In the second case - human resources - mitigating the natural difficulties that arise in recruiting qualified staff may involve setting up internal

remuneration systems and attractive career plans, as well as, of course, training courses provided by universities and other competition authorities.

The strength of the institutional framework also depends on the contribution of the judiciary, as a guarantee of the rule of law. In this regard, it is important to ensure that magistrates are trained in competition law. From another perspective, it is important to guarantee the creation of a solid and constant case law, which may involve the creation of specialised courts.

Finally, we must not underestimate the role of civil society in the successful implementation of competition policies and in the work of national competition authorities.

It is essential to involve society - in particular, small and medium-sized enterprises, which have an enormous weight in the economies of African countries.

The opportunities and benefits of competition must be explained to the business community and citizens in general.

There are often misconceptions about competition.

In some countries, fixed prices are still seen as an economic benefit. In the past, there have also been cartels in some countries that have remained entrenched and have benefited from the tolerance of different structures in society. In addition, local culture may be an obstacle to successful leniency programmes, as whistleblowing may be perceived by companies as morally dubious.

It is in this cultural context that competition policy will be developed and may consider pursuing objectives as diverse as efficiency, consumer welfare, economic development, environmental protection, SMEs, minority social groups or national industry / national champions. In the case of developing countries, it is also often the case that competition policy pursues the goal of reducing poverty and inequality.

### *3. The role of competition in addressing inequalities*

It seems reasonable to suggest that inequality represents one of the most pressing issues of our time. Inequality may be experienced by consumers on a daily basis, which is reflected in access to essential services such as electricity or the internet, and even in the price of household groceries.

In a growing number of countries, the gap between the richest and the poorest is widening at an alarming rate. The OECD has identified a growing concentration of wealth and power in a few economic actors as a trend with implications for both individuals and the overall health of society. Conversely, the proportion of the population living in poverty or extreme poverty<sup>5</sup> is a matter of concern.

This is where competition policy can play a role in effectively changing this situation. Allow me to explain why.

Before we discuss the specifics, it is important to remember the concept of competition. Competition is like salt in food: when it is present in the right amount, it enhances the overall quality and taste. Conversely, when it is absent, the result is a flavourless, bland product, much like a market that lacks competition.

### *The link between competition and inequality*

The potential for competition to reduce social and economic inequalities is frequently overlooked.

To illustrate this point, we will examine a few examples. Consider a hypothetical scenario in which a single entity controls the sale of potatoes in a given market. In the absence of competition, prices increase, quality declines, and consumers ultimately bear a greater financial burden for a lesser product. In the presence of multiple competitors, the price is driven down, the quality is driven up, and the result is a superior product for the consumer. This may appear to be a straightforward concept.

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<sup>5</sup> OECD (2023, 28 September). Session I: Competition and Poverty: the role of Competition Authorities [Conference paper]. Latin American and Caribbean Competition Forum, Quito. Ecuador. P. 4

Now transpose that to larger sectors, such as energy, telecommunications, and transportation. If a single dominant company exists, vulnerable consumers will be those who are more disadvantaged.

However, inequality is not merely reflected in the price of products or services; it also affects the manner in which opportunities are distributed. In a market that is dominated by a limited number of companies, small entrepreneurs – who often bring innovation and new ideas – may be driven out of the market by abuses. This can be illustrated by the example of a football match in which only a few players are able to score, while others are merely chasing the ball with no chance of success.

Summarizing, in many markets, especially in developing countries, dominant companies may not only control prices, but also limit the diversity of products and services, directly harming consumers, especially the most vulnerable. The presence of healthy and effective competition has the potential to enhance consumer access to goods and services, particularly for those on low incomes. This, in turn, can stimulate economic growth and job creation, thereby creating more avenues for individuals to earn a livelihood and improve their financial standing.<sup>6 | 7</sup>

In fact, in Portugal there is this saying: “Anyone who shares and doesn't get the best part, is either a fool or has no art.” And it is exactly this logic that we try to combat in competition enforcement - to ensure that no one always gets the best part through illicit behaviour and that everyone has a fair chance.

Healthy competition makes it easier for new players to enter the markets. New companies mean more innovation, better services and products, and a more affordable price for consumers. It also prevents large corporations from abusing their market power to exclude smaller

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<sup>6</sup> OECD (2023, 28 September). *Session I: Competition and Poverty: the role of Competition Authorities* [Conference paper]. Latin American and Caribbean Competition Forum, Quito. Ecuador. P. 7

<sup>7</sup> “The consequences of anti-competitive practices are often more severe for the poorest consumers. One explanation for this is that most of their income is spent on essential products, which often have low elasticity, meaning that the demand is less sensitive to price rises (e.g. food and beverage).” – OECD (2023, 28 September). *Session I: Competition and Poverty: the role of Competition Authorities* [Conference paper]. Latin American and Caribbean Competition Forum, Quito. Ecuador. P. 11



competitors, ensuring a diverse and more inclusive economic ecosystem.

Take technology start-ups, for example. Many of these companies begin operations with minimal resources, often led by young professionals or entrepreneurs. In the absence of competition enforcement, new ideas may be stifled by dominant companies. However, in an open and competitive market, these start-ups can flourish, introducing new solutions, products and, of course, even more jobs.

#### ***4. The role of competition authorities: priorities to address inequality***

Now, allow me to address the role of competition authorities and how we may prioritise our action to address inequality.

As UNCTAD documents report, *“Competition in the market has a direct relationship to poverty reduction (...) By focusing on anticompetitive conduct that increases costs to disadvantaged individuals, competition agencies may directly improve the lives of their countries’ poorest citizens”*<sup>8</sup>.

#### ***Essential products and services***

Let's begin with the example of cartels, when companies combine prices or divide markets, which directly harms consumers. When we manage to break up a cartel, it's almost like we're giving money back to the consumer, because companies can no longer set unfairly high prices.

In a study carried out by the OECD, it has been highlighted that *“certain markets of essential goods have specific characteristics that facilitate collusion and/or abuse of dominance (e.g. low price elasticity, lack of buyer power, product homogeneity, high barriers to entry, barriers to imports, high concentration and few firms, specific industry associations,*

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<sup>8</sup> [https://unctad.org/system/files/information-document/ccpb\\_IGECOMP2024\\_PROG\\_RT\\_Competition\\_Poverty\\_Reduction\\_en\\_5.pdf](https://unctad.org/system/files/information-document/ccpb_IGECOMP2024_PROG_RT_Competition_Poverty_Reduction_en_5.pdf)

*and regular and frequent transactions), which are conditions associated to a higher occurrence of cartels (World Bank; OECD, 2017). [...].”<sup>9</sup>*

We are aware that most vulnerable consumers tend to spend their income in more basic needs. Therefore, the priorities set for competition policies, in particular enforcement, should also be directed towards sectors that are most effective in reducing poverty and increasing shared prosperity”<sup>10</sup>.

In Portugal, we have been working hard to ensure that essential sectors are competitive. This is clear in our Annual Priorities.

A good example I can share with you is a recent case in the health sector. We discovered that a business association and five of the main laboratory groups operating in Portugal were involved in a cartel that operated in the Portuguese market for the provision of blood tests and COVID-19 tests between at least 2016 and 2022. Thanks to our investigation, we were able to end this cartel and fines amounting to more than 48 million euros have been imposed.

Therefore, the fight against cartels and practices related to price fixing, such as RPM (retail price maintenance), may have a direct impact on household budgets.

The **agrifood sector** is a good example. UNCTAD, for instance, has been vocal in raising awareness about the increasing concentration in the agrifood sector, namely through mergers and acquisitions. This has an impact not only on global food value chains, but also at national or even local level, in sectors such as grains, agrochemicals, animal pharmaceuticals, seeds, farm equipment and synthetic fertilizers.

Just last July, many of us participated in UNCTAD meetings where it was highlighted how competition law and policy can tackle unfair and monopolistic practices in these markets, advocating for a **“pro-poor” competition policies and legislation**<sup>11</sup>.

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<sup>9</sup> OECD (2023, 28 September). *Session I: Competition and Poverty: the role of Competition Authorities* [Conference paper]. Latin American and Caribbean Competition Forum, Quito. Ecuador. P. 11

<sup>10</sup> World Bank (2017), *A step ahead: Competition Policy for shared prosperity and inclusive growth*, p. 16

<sup>11</sup> <https://unctad.org/news/fairer-and-more-competitive-food-markets-are-key-ending-global-hunger>

Therefore, prioritizing enforcement action in markets related to essential products and services will contribute to benefit poor people and address inequality.

### *Public procurement*

Another area where competition enforcement may impact inequality concerns is **public procurement**.

By fighting collusion in public procurement, public resources that are saved can be redirected to finance public programs aiming to reduce poverty. Also, dismantling bid-rigging conspiracies may contribute to maximize the level and quality of public services, namely health and education, who may proportionally benefit more the most vulnerable segments of the population<sup>12</sup>.

### *Sustainability*

Another key issue that arises in discussions about the importance of competition is **sustainability**.

In recent decades, there has been a growing demand for sustainable business practices, which is an understandable development. The climate crisis represents one of the most significant challenges Humanity has ever faced, and companies are under pressure to adapt and adopt more sustainable practices.

However, sustainable practices can often appear to be at odds with the drive for short-term profitability in highly competitive markets. This is because companies often prioritize immediate gains over practices that can benefit the environment and society in the medium and long-term.

When competition is present, companies are compelled to innovate and differentiate themselves. In an era where environmental and social awareness is becoming a competitive differentiator, companies are striving to adopt more sustainable practices. This is not a fleeting trend. Companies that invest in sustainability may reap long-term benefits,

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<sup>12</sup> OECD (2023).

whether through energy savings, optimizing production processes or attracting environmentally conscious consumers.

An illustrative case study can be found in some industries, where the competitive incentive to reduce carbon emissions has prompted companies to adopt cleaner technologies and pursue greater energy efficiency. The outcome of this approach is as follows: a more competitive and, at the same time, more sustainable market.

Conversely, in other markets, including in developing countries, where business concentration is prevalent and environmental regulation is frequently incipient, dominant companies may lack the motivation to invest in sustainability. This is an area in which green competition can act as a catalyst for change. When a greater number of companies compete for consumers who are environmentally conscious, they are compelled to adopt more responsible practices, which have a beneficial impact on both the planet and the economy.

However, for sustainability to be a priority in developing markets, it is important that competition authorities remain vigilant by using their advocacy and enforcement tools.

Competition authorities may advocate for regulation that is less restrictive to competition.

Another important aspect to consider is greenwashing by companies. The risk that sustainability claims for agreements between competitors may be a smokescreen for cartels, as has happened in previous cases.

### *Labor markets*

Another area where competition policy may have a more direct link in addressing inequality is **labour markets**. This is an area where important developments are taking place, and I would like to take this opportunity to share some thoughts on the importance of competition in labour markets.

It may seem uncommon to associate the concept of competition with labour markets. However, it is essential to guarantee the good

functioning of labour markets, namely by investigating wage-fixing and no-poach agreements.

The AdC and other Competition Agencies worldwide are seeking to contribute to the promotion of an open and competitive labour market, in which employers adopt an independent and competitive conduct, and citizens, especially those who have recently entered the labour market, are not deprived of opportunities.

Empirical studies have pointed to a downward trend in the proportion of the labour factor in the GDP and an increase in the degree of concentration in some industries. The strengthening of employers' bargaining power vis-à-vis workers has been pointed out as one of the possible explanations for this trend.

As the OECD has stated in a report, *“given that the savings from lower wages may not necessarily be passed-on to consumers, workers can face a double negative effect [from market power among employers]: by suffering from both lower wages and higher prices (or lower quality) – for instance when a hospital hires workers from a local market and provides health care for in the same local market (Posner and Sunstein, 2022[10]).”*<sup>13</sup>

However, countries with more robust competition policies tend to have more dynamic labour markets, with more employers competing for workers. This may lead to better labour conditions and fairer employment opportunities.

In order to ensure that this kind of economic dynamism also benefits the most vulnerable populations, it is necessary to continue to strengthen competition policies at a global level.

## ***5. The role of international co-operation in developing countries' competition policies***

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<sup>13</sup> OECD (2023, 28 September). *Session I: Competition and Poverty: the role of Competition Authorities* [Conference paper]. Latin American and Caribbean Competition Forum, Quito, Ecuador. P. 9

Finally, allow me to turn to the importance of international cooperation in this context.

International collaboration is essential to enable countries to establish robust competition policies, grounded in best practices and tailored to their economic and social circumstances.

International cooperation is often the chance to learn from other agencies mistakes and, therefore, a way of accelerating the learning curve of Competition Authorities. This will enable more recent Competition Authorities to hit the ground running and become more effective enforcers and advocates from the start.

### **The Challenge of Implementation**

Developing countries face unique challenges associated with a nascent competition authority, including a need for greater financial and human resources to effectively monitor and regulate markets.

It is in this context that the value of international collaboration becomes evident. Let's face it: implementing competition policies in emerging markets is a complex task. In many of these countries, the markets are still dominated by state monopolies or private companies with significant influence. Additionally, the lack of infrastructure, the informal economy and the low purchasing power of the population create barriers for new market entrants.

It is in this context that international cooperation can play a pivotal role. The exchange of knowledge and experiences between countries is of great importance, as it allows competition authorities to benefit from international best practices.

The creation of links with peers may take place at regional level - within the framework of regional economic blocs in which the State is a member - but also in the global context.

### **Examples of International Co-operation**

Developing economies have much to gain from the support and engagement with international organizations such as UNCTAD, the OECD and the European Union, as well as informal cooperation such as the International Cooperation Network - ICN. The importance of these organisations and networks is well known to all.

### *Lusophone Competition Network*

Another tangible example of this collaboration is the establishment of the **Lusophone Competition Network**, which gathers competition agencies and other institutions of Portuguese-speaking countries, in Africa, America, Asia and Europe.

Created in 2004, the Lusophone Competition Network promotes technical cooperation between its members, with a view to establishing and consolidating the foundations of competition systems along the lines of international best practice.

The Lusophone Competition Network holds annual meetings, in which we have seen an increasing number of participating jurisdictions with functioning competition authorities. Many of those agencies and institutions are present here today.

Co-operation with Portuguese-speaking jurisdictions is precisely one of the AdC's priorities, both within the Network and bilaterally with each of the counterparts in Portuguese-speaking African countries.

We have made important progress, particularly by organising bilateral meetings and projects - an operational aspect of great importance.

In the context of this Africa-EU initiative, I would like to recall a recent cooperation project with the Competition Regulatory Authority (ARC) of Angola regarding capacity building in investigating anticompetitive practices, which had the important support of the European Union.

Other initiatives and bilateral memoranda of understanding will follow with other lusophone countries.

These are just some examples that demonstrate the value of international collaboration in strengthening competition policies

worldwide. It is clear proof that no country is alone on this journey and that by working together we can overcome many of the challenges our countries face.

## *6. Conclusion - Competition as a Pillar of a Fair Society*

Ladies and gentlemen, I believe we have now reached a point where we can draw some conclusions.

Competition, as I mentioned at the beginning, is the salt of the economy. When it's missing, we feel its absence. And when it's well regulated, it benefits us all - consumers, workers, entrepreneurs.

There is an interplay between competition and inequality, as competition may serve as a powerful driver of innovation, productivity, and economic growth. It incentivizes efficiency, encourages creativity, and propels technological advancement, benefiting society as a whole.

It is essential to collaborate, disseminate knowledge and implement effective policies, prioritizing sectors where this intervention may impact the most vulnerable populations.

Competition policy has the potential to foster fairer markets and promote inclusive and sustainable economic growth. However, to achieve this, it is vital that competition agencies are equipped with the necessary resources and support to enhance their action.

In the context, it is important to recall the importance of international cooperation.

I hope this conference will be an opportunity to strengthen the bonds of co-operation among us and to learn from each other.

Thank you very much for your attention.

I am available for questions.