

8th ANNUAL COMPETITION AND ECONOMIC REGULATION (ACER) WEEK

2 – 4 October 2023, Ravenala Attitude Hotel, Balaclava, Mauritius

Professional Training Programme (PTP) 1

Competition Economics for Practitioners in Africa

DRAFT COURSE OUTLINE

The Competition Commission of Mauritius and the University of Johannesburg’s Centre for Competition, Regulation and Economic Development (CCRED) are honoured to host the 8th Annual Competition and Economic Regulation (ACER) week in person at the Ravenala Attitude Hotel, Balaclava, Mauritius.

Addressing core areas in competition economics, this Professional Training Programme (PTP) is targeted at competition practitioners. The PTP covers topics in mergers, cartels and abuse of dominance cases, focusing on theoretical principles and their application in practice in cases. Uniquely this year, part of this PTP is dedicated to lessons in undertaking impact assessments, a topical issue for competition authorities in Africa. Competition enforcement from a regional perspective is also emphasised in each of these topics in light of the AfCFTA.

The course will be delivered through a series of lectures and case examples from the continent and internationally. As part of facilitated breakout groups, hypothetical exercises will be undertaken to enhance learning and apply concepts.

Lead facilitators include **Mr John Davies** (UK Competition Appeal Tribunal Member); **Prof Simon Roberts** (Professor at the University of Johannesburg (UJ), Global Practitioner, University of Strathclyde and Lead Researcher at CCRED); **Dr Thando Vilakazi** (Executive Director of CCRED, Senior Lecturer at UJ, and part-time member at the Competition Tribunal of South Africa), and **Prof Reena das Nair** (Associate Professor at UJ, Programme Coordinator on the MCom Competition and Economic Regulation degree at UJ and Senior Researcher at CCRED).

Programme



DAY 1, Monday 2 nd October 2023	
08h30-10h00	Introduction, market definition and market power <ul style="list-style-type: none"> • Introduction to the course and to the session • Defining markets in competition cases • Tests used to define markets, and challenges with these tests • Evaluation of market power • Understanding barriers to entry
10h00-11h00	Exercise 1: Short exercise and feedback on market definition
Tea break	
11h10-12h30	Merger control <ul style="list-style-type: none"> • Overview of merger challenge rates • Types of mergers • Analytical framework to assess anti-competitive effects (theories of harm) <ul style="list-style-type: none"> ○ Horizontal unilateral effects (including removal of potential competition and killer acquisitions) ○ Horizontal co-ordinated effects ○ Dynamic effects, potential competition and killer acquisitions ○ Vertical unilateral effects • Types of evidence needed <ul style="list-style-type: none"> ○ Concept of closeness of competition in unilateral effects cases – qualitative evidence ○ Upward Pricing Pressure ○ Survey evidence • Countervailing factors and efficiency justifications • Non-competition (public interest) considerations in mergers
Lunch	
13h30-14h50	Merger control cont. <ul style="list-style-type: none"> • Key international merger developments <ul style="list-style-type: none"> ○ Sense in US of insufficient enforcement in past ○ More focus on innovation, dynamic, killer acquisitions ○ Move towards precautionary principle in digital markets? ○ More authorities involved in global mergers; implications of different standards of review and different processes.
Tea break	
15h00-16h00	Exercise 2: Merger analysis
16h00-16h30	Exercise 2: Presentation and discussion
CLOSE OF DAY 1	

DAY 2, Tuesday 3rd October 2023	
08h30-10h30	Collusion <ul style="list-style-type: none"> • Structural and behavioural screening for cartels; collusive markers • Factors in tacit coordination: focal points, benchmarks, second best rules and conventions • Information exchange and appropriate standards • Regional cartels and effective enforcement • Algorithms and big data: implications for coordination
10h30-11h00	Exercise 3: Collusion
Tea break	
11h10-12h30	Exercise 3: Collusion (cont.) Exercise 3: Presentation and discussion
Lunch	
13h30-14h50	Impact assessments <ul style="list-style-type: none"> • Importance of undertaking impact assessments: • Embedding IA in a process: illustrating the importance of a 'cycle' of Impact Assessment (building in IA from the start, identifying the key questions and counterfactual, data collection, evaluation, learnings and implementation) • Impact assessment methods <ul style="list-style-type: none"> ○ Qualitative ○ Comparator-based (e.g., difference-in-difference; cross section; time series etc.) ○ Financial performance-based ○ Market structure-based etc. • Selecting the appropriate method and determining the counterfactual • Estimating harm • Pros and cons of different methods
Tea break	
15h00-16h00	Exercise 4: Impact assessments
16h00-16h30	Exercise 4: Presentation and discussion
CLOSE OF DAY 2	

DAY 3, Wednesday 4th October 2023	
08h30-10h30	Principles in abuse of dominance: exclusionary abuses <ul style="list-style-type: none"> • Introduction to abuse of dominance • Predation, margin squeeze, exclusive dealing, rebates • Network effects, digital markets and two-sided markets • Essential facilities • Regional effects of exclusionary conduct
10h30-11h00	Exercise 5: Exclusionary abuse of dominance
Tea break	
11h10-12h30	Exercise 5: Exclusionary abuse of dominance (cont.) Exercise 5: Presentation and discussion
Lunch	
13h30-14h50	Exploitative abuses of dominance <ul style="list-style-type: none"> • Abuse of buyer power – lessons from South Africa and Kenya

	<ul style="list-style-type: none"> • Price discrimination: <ul style="list-style-type: none"> ○ Types and effects of price discrimination ○ Standards and benchmarks for assessment of price discrimination • Excessive pricing: <ul style="list-style-type: none"> ○ Different approaches ○ Economic criteria for assessing excessive pricing ○ Measures of excessive prices: price-cost tests; profitability; use of comparators ○ Case precedent and a revival of recent cases in Europe ○ Price gouging
Tea break	
15h00-16h00	Exercise 6: Exploitative abuses
16h00-16h20	Exercise 6: Presentation and discussion
CLOSE OF DAY 3, HANDING OUT OF CERTIFICATES	

Programme facilitators

	<p>Mr John Davies is a Tribunal Member at the UK Competition Appeal Tribunal. Prior to this, he was an Executive Vice President with Compass Lexecon, based in Paris and London. His previous roles included Director of Economic Analysis and Chief Economist at the UK Competition Commission (CC) from 2003 – 2008, leading the CC’s team of economists and responsible for economic analysis on all the CC’s cases, including around 50 mergers. In 2008, John founded the Competition Commission of Mauritius where, as Chief Executive, he established the organization and led it through its first years of enforcing the new competition law. In 2011, John moved to head the OECD’s competition division. He led the team in organizing regular ‘roundtable’ meetings of competition agency heads from around the world and advised governments at ministerial level on competition policy. Since joining Compass Lexecon, John has advised clients on mergers and abuse of dominance cases in the EU and UK, follow-on litigation for cartel damages and on matters relating to intellectual property rights and technical standards. He has provided expert testimony on behalf of both defendants and claimants in cartel follow-on damages cases in the UK. He has also advised clients throughout market inquiries conducted by the CMA, notably in the tech sector in the CMA’s investigations of online advertising and music streaming.</p>
	<p>Prof Simon Roberts is a professor at the University of Johannesburg, Lead Researcher at CCRED and Global Practitioner, University of Strathclyde. He held the position of Executive Director of CCRED from 2013 to 2018, and Chief Economist and Manager of the Policy & Research Division at the Competition Commission of South Africa from November 2006 to December 2012. Prior to joining the Competition Commission, he was Associate Professor of Economics at the University of the Witwatersrand, where he established and directed the Corporate Strategy and Industrial Development research programme examining firm decision-making and economic outcomes. In addition, Simon has consulted extensively on competition matters over the past 15 years and has been an expert witness in a number of major cases. Simon holds a Ph.D from University of London (Birkbeck College), MA from University of East Anglia, and BA (Hons) from Oxford University.</p>



Dr Thando Vilakazi is Executive Director of the Centre for Competition, Regulation and Economic Development at the University of Johannesburg, specialising in academic research, teaching and advice on competition policy and industrial development. He currently also serves as a part-time member of the Competition Tribunal of South Africa. Thando previously worked as an economist at the Competition Commission of South Africa, and has led research and provided teaching and advisory services across various economic sectors for competition authorities, regulators, government departments, international universities and NGOs, and private enterprises in South Africa and various African countries. His research interests include barriers to entry and economic participation, regional integration, competition policy and inclusive growth, and industrial development. He holds a Ph.D (Economics) from the University of Johannesburg, and a Masters (Applied Economics) from the University of Cape Town.



Associate Prof Reena das Nair is a Senior Researcher at CCRED and Programme Coordinator and Associate Professor in the Master of Commerce in Competition and Economic Regulation programme at the University of Johannesburg. Reena has worked for specialist economic consultancy Acacia Economics offering expertise in competition and regulatory economics. Prior to joining CCRED, Reena was Programme Manager: Industrial Policy at Trade and Industrial Policy Strategies (TIPS), a not-for-profit research organisation undertaking research for policy makers. Before TIPS, she worked as Principal Economist at the Competition Commission of South Africa. Her areas of research interest include competition dynamics in the grocery retail sector; food value chains, with a focus on barriers to entry for small and medium-sized enterprises. Reena also provides training for regulators and competition law and economics professionals in Southern and East Africa. Reena holds a Ph.D (Economics) from the University of Johannesburg and a MCom (Economics) from the University of the Witwatersrand.