



# Economics for Competition and Regulation: Capacity Building Programme

## PROGRAMME

### *Competition Authority of Kenya*

**19 & 20 August 2015**

**Venue: Fairview Hotel, Nairobi, Kenya**

This two-day intensive course is targeted at competition practitioners and those with competition responsibilities in regulatory agencies and companies. Now being offered for the third year running, the course combines the key principles in competition economics and regulation, with their application to real-world cases including recent Kenyan cases. The course will cover:

- the appropriate tests, evidence and assessment for merger analysis
- restrictive vertical practices, agreements and mergers
- coordinated conduct, agreements and collusion
- abuse of dominance and exclusion

The course will have a strong focus on how the principles are applied in practice, taught by means of lectures on theory, practical case studies and using hypothetical case scenarios where participants apply lessons learnt during the sessions. Feedback sessions where the hypothetical cases will be debated from the perspective of different stakeholders will give the participants an opportunity to test their understanding.

The main facilitators for this two-day course include *Professor Simon Roberts* (Director of the Centre for Competition, Regulation and Economic Development, CCRED, at the University of Johannesburg), *Dr Javier Tapia* (Judge at the Competition Tribunal of the Republic of Chile, member of the Centre for Regulation and Competition at Universidad de Chile, Faculty of Law) and *Ms Reena das Nair* (Senior Researcher at CCRED).

The course is organised by the Centre for Competition, Regulation and Economic Development (CCRED) of the University of Johannesburg and a certificate of attendance will be awarded to participants.

Participants on the 2013 and 2014 courses included from CAK, the Communications Commission of Kenya (CCK), Fair Competition Commission of Tanzania, Safaricom, Airtel, East African Breweries, Coulson Harney Advocates, Kaplan & Stratton Advocates, Anjarwalla & Khanna, Iseme Kamau, Muthaura Mugambi, Ayugi and Njonjo Advocates and Strathmore Business School.

## DAY 1: 19 August 2015

**0800 Registration**

**0830 Welcome and introductions**

### Introduction to competition policy and economic regulation

- The natural monopoly problem and market power
- Objectives of competition policy and economic regulation
- What does economics bring to the study, design and enforcement of competition policy and economic regulation?
- Link between competition and regulation

### Market Definition and horizontal mergers

**0900 - 1015 Market definition and horizontal mergers – concepts and application**

- understanding and measuring market power
- geographic and product market definition
- barriers to entry and supply side substitution
- market shares, capacities and which firms are effective competitors
- what is a substantial lessening of competition in the context of mergers?
- examples from cases, including key international cases

**1030 - 1130 Break away session**

- Hypothetical merger case studies based on Kenyan cases in dairy and retail

**1130 - 1230 Key take-home points**

- Groups present their hypothetical cases
- Summary of key concepts

- lunch -

### Vertical mergers and restrictive practices, margin squeeze and refusal to deal

**1330 - 1430 Vertical mergers, vertical arrangements and exclusionary harm to competition**

- understanding the possible anti-competitive effects of vertical mergers
- efficiencies from vertical integration
- identifying anti-competitive exclusion and vertical restrictive practices
- distinguishing the ability and the incentive to exclude
- key competition and regulatory decisions and application of economic principles in regulated industries (particularly network industries) in relation to entry, access and vertical integration

**1430 - 1530 Break away session (including tea)**

- Hypothetical case studies: a vertical merger and possible foreclosure; a margin squeeze

**1530 - 1630 Key take-home points**

- Groups present their hypothetical cases
- Summary of key concepts

**DAY 2: 20 August 2015**

**Coordinated conduct**

**0830 – 1000 What is co-ordinated/collusive conduct and how to identify it?**

- structural features in a market that make it more conducive to coordinated/cartel conduct
- what can competitors discuss and agree upon? what should industry associations beware of?
- practices, such as information exchange and pricing rules, that facilitate coordinated outcomes
- types of information exchange between competitors that are most problematic
- behavioural screening for cartels and examples of the *modus operandi* of cartels
- Kenyan examples from cases and market inquiries

**1030 - 1130 Break away session**

- Groups will consider different scenarios and information on market outcomes and firm conduct, based on actual cases, assessing whether it is likely to constitute collusive conduct.

**1130 - 1230 Key take-home points**

- Groups present their hypothetical cases
- Summary of key concepts

**- lunch -**

**Exclusionary abuse of dominance, exclusive dealing, rebates and predation**

**1330 - 1430 How dominant firms may exclude by foreclosing rivals**

- distinguishing competition on the merits from possible abuse of dominance
- mechanisms and effects: price and non-price
- market conditions: scale economies, imperfect information
- doing the assessment – theories of harm and the necessary data
- Examples from cases, including key international cases




**1430 - 1530 Break away session (including tea)**

- Hypothetical case study based on Kenyan case example in telecoms

**1530 - 1630 Key take-home points**

- Groups present their hypothetical cases
- Summary of key concepts

## Main facilitators

	<p>Professor Simon Roberts is a professor in economics and Director of the Centre for Competition, Regulation and Economic Development (CCRED). He held the position of Chief Economist and Manager of the Policy &amp; Research Division at the Competition Commission from November 2006 to December 2012. During that time he played a leading role in prioritisation by the Commission and in analysis and decisions on major cases across cartels, abuse of dominance and mergers. 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 has advised on competition matters for governments and competition authorities in a number of countries including Kenya, Zambia, Tanzania, Namibia, Botswana, Zimbabwe and Singapore. He has published widely in local and international journals. Simon holds a PhD from University of London, MA from University of East Anglia, and BA (Hons) from Oxford University.</p>
	<p>Dr Javier Tapia is a Judge at the Competition Tribunal of the Republic of Chile. He is also a senior researcher at Regcom, the Centre for Regulation and Competition at Universidad de Chile, Faculty of Law. Javier's previous positions include Chief Legal Counsel of the Chilean Electricity Generators Trade Association, Head of Research and Advocacy Division at the Chilean competition agency; legal adviser and policy analyst at Ofgem, the UK energy regulator; and, legal adviser for the Superintendency of Electricity and Fuels, the Chilean energy regulator. He holds a PhD from University College London (UCL), an MSc in Regulation from the London School of Economics and Political Sciences (LSE), a certificate in Economics from Universidad de Chile, and a law degree from Universidad de Chile. He has published a wide variety of articles and book chapters on both competition law and utilities regulation.</p>
	<p>Reena das Nair is a Senior Researcher at the Centre for Competition, Regulation and Economic Development (CCRED) at the University of Johannesburg. Prior to joining CCRED, Reena was Programme Manager: Industrial Policy at Trade and Industrial Policy Strategies (TIPS), a not-for-profit research organisation undertaking economic research for policy makers. Before TIPS, Reena worked as a Principal Economist in the Policy and Research division at the Competition Commission of South Africa. She has extensive experience in leading investigations and economic analysis in mergers, abuse of dominance and cartel cases. She has also undertaken research in economic regulation, particularly in the energy sector. Reena has a M Com in Economics and BCom (Hons) from the University of the Witwatersrand.</p>