



## BOTSWANA HOSTS ICN AGENCY EFFECTIVENESS WORKSHOP

Competition agencies and international organisations from more than 25 countries descended into Gaborone from March 10th to 11th for the International Competition Network (ICN) Agency Effectiveness Working Group Workshop (AEWG) which was hosted by Botswana's Competition Authority. More than 120 participants attended the two day workshop and discussed among others agency ethics, strategy and planning and enforcement tools and procedures.

The workshop was officially opened by the Minister of Trade and Industry Honourable Vincent Seretse who expressed delight that the ICN, which is an association of competition authorities in the world, found it fit to bring such an important workshop to Botswana. Minister Seretse said the workshop accorded small and developing competition authorities an opportunity to create useful networks and thus assisting these countries to achieve their objectives.

He said the Government of Botswana is equally desirous of ensuring that there is sound corporate governance, trans-



Minister of Trade and Industry Honourable Vincent Seretse Officially opening the ICN Agency Effectiveness Workshop in Gaborone, Botswana on 10th March 2016

parency and accountability in the management and operations of the competition agencies. "For this reason, the Government recently signed a Shareholder Compact with our Competition Authority and Competition Commission to ensure that we have clear lines of engagement, responsibilities and expectations that are pragmatic and auditable.



Professor William Kovacic Delivering the Keynote Address at the ICN Agency Effectiveness Workshop in Gaborone, Botswana on 10th March 2016

I reckon this is part of the agency effectiveness" said Honourable Seretse. Participants were further informed that the Competition Act of 2009 is being reviewed to provide for a more effective enforcement and adjudication process.

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Delegates at the ICN Agency Effectiveness Workshop in Gaborone, Botswana 10th to 11th March 2016

## Botswana Hosts ICN Agency Effectiveness Workshop

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The Keynote address was delivered by Professor William Kovacic, Non-Executive Director, UK Competition and Markets Authority who said competition agencies should measure their level of effectiveness not with their level of activity, but with their contribution to the economic performance of their countries. He said key to assessing effectiveness is evaluation of programmes and

processes which interrogate what worked and what did not, assessment of programme outputs and operations as well as consultation with external experts and peer review. Professor Kovacic implored agencies to make investments in capacity through appropriate agency infrastructure, research and development as well as partnerships with academic research centres. He further called for the autonomy and independence of agencies in making

decisions on competition matters.

The workshop was attended amongst others by competition authority heads, heads of foreign missions in Botswana, media and heads of regulatory bodies in Botswana. Delegates to the AEWG workshop were treated to a tour of Gaborone including a visit to the Three Chiefs Monument as well as a game drive and bush braai at Mokolodi Nature Reserve.

# EX-POST EVALUATION CRUCIAL IN THE ENFORCEMENT DECISIONS OF COMPETITION AGENCIES

The Head of Global Relations at the OECD's Competition Division Ms. Ania Thiemann has said ex-post evaluations can significantly improve the decision-making process of competition agencies if conducted regularly. She was speaking at the ICN Agency Effectiveness Workshop in Gaborone, Botswana.

Ex-post evaluation is an examination of a competition agency's enforcement decision that is performed to determine its impact on the affected market sometime after a decision or intervention of a competition authority.

Thiemann told delegates that the Reference Guide is not a cookbook on how to perform evaluation but discusses the issues to be taken into account, methodologies that can be used, provides references to the relevant theoretical papers and is rich with examples derived from existing studies. The benefits of ex-post evaluation include improving decision-making by learning from past experiences



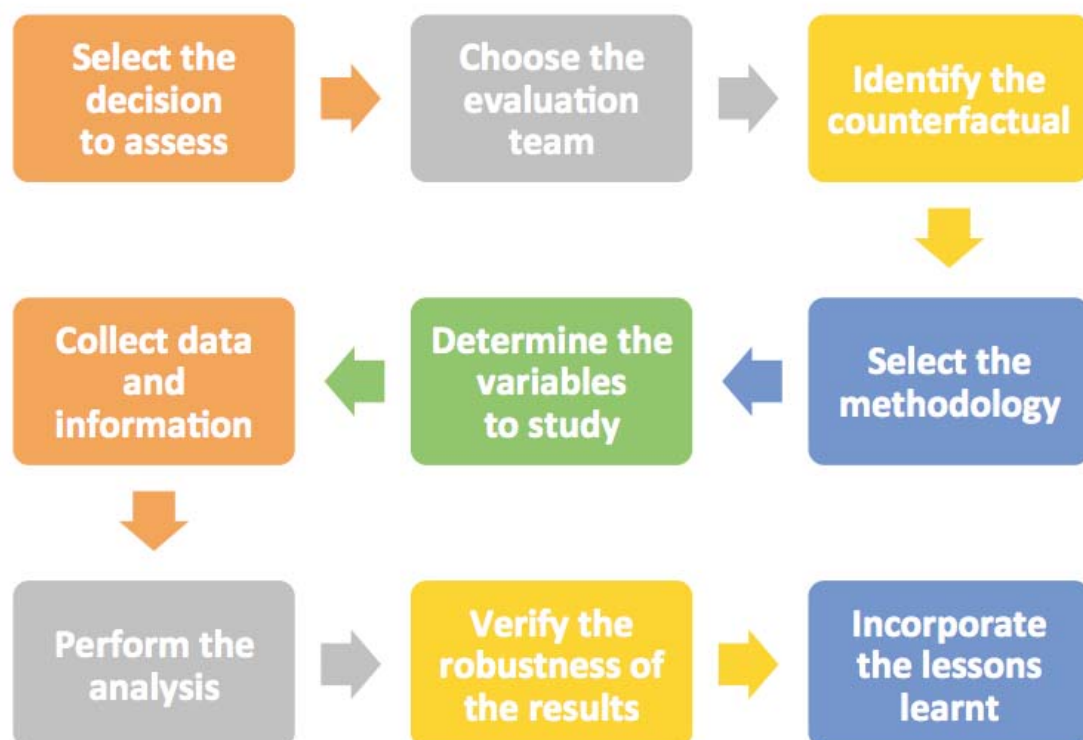
Head of Global Relations at the OECD's Competition Division Ms. Ania Thiemann addressing AEWG delegates in Gaborone

as well as increasing accountability and advocating the role of CAs. Thiemann said The OECD advocates the systematic ex-post evaluation of policy interventions as a means to improve their quality, help to determine if a policy intervention reached its objectives or not, and provides useful lessons for the better design of future interventions.

She gave an example of the evaluation that was conducted in the United States following concern that increased market concentration resulting from petroleum mergers that occurred in the late 1990s was responsible for increased gasoline prices. The Bureau of Economics conducted six studies of eight consummated mergers in the petroleum industry.

However, the studies did not find evidence of a significant increase in retail price following the studied mergers and concluded that causes other than mergers were responsible for large increases in gasoline prices.

## How to perform an Ex-Post Evaluation



Source: Ania Thiemann - OECD



# The Fast Track Settlement Approach Effective in Cartel Cases

The Deputy Commissioner at the Competition Commission of South Africa Hardin Ratshisusu says the Fast Track Settlement approach is an effective method of resolving cartel cases. Addressing delegates to the Agency Effectiveness Workshop, he said all investigations in the construction sector have been concluded due to the Fast Track Settlement Process.

Ratshisusu said the approach exposed an entrenched practice of collusion in the construction sector. In 2009 Compcom initiated investigations in the construction sector and found out that bid-rigging was widespread.

In 2011 under Phase 1, it launched a Fast Track Settlement Process inviting construction firms to voluntarily disclose rigged projects. The objectives of the process was to incentivise firms to admit their collusive conduct, encourage truthful and comprehensive disclosure, strengthen evidence against firms not settling, minimise legal costs for prosecution, speedy resolution of cases and to set the construction industry on a new trajectory, Ratshisusu said.

A total of 21 firms responded and disclosed more than 300 projects,



Mr. Hardin Ratshisusu addressing delegates to the Agency Effectiveness Workshop on 10th March 2016

160 prescribed and 140 non-prescribed. Out of those, 15 firms concluded settlement agreements with Compcom and the projects included major infrastructure development in South Africa such as the 2010 FIFA Soccer World Cup stadia and national roads.

Phase 2 focused on firms that did not participate in the initial phase. The outcome of the investigations was seven firms settling seven projects: 11 firms (19 projects) were referred to the Competition Tribunal for prosecution, and 14 firms (20

projects) were not prosecuted. The value of tenders rigged was around USD 3.7 billion with public sector projects worth USD 2.2 billion and the private sector projects worth USD 1.5 billion. Construction firms collectively paid over USD 127 Million in fines. Ratshisusu said the focus is now on prosecuting firms that did not settle.

**NB: Access all AEWG speeches and presentations at [http://www.competitionauthority.co.bw/document-library?title=&field\\_document\\_type\\_tid=24](http://www.competitionauthority.co.bw/document-library?title=&field_document_type_tid=24)**



Ms. Kristina Geiger and Mr. Graeme Jarvie of the Swedish Competition Authority addressing CA Staff in Gaborone on 9th March 2016

## SWEDISH COMPETITION AUTHORITY SHARES EXPERIENCES WITH BOTSWANA'S COMPETITION AUTHORITY

The Swedish Competition Authority represented by Ms. Kristina Geiger who is the Deputy Director General and Mr. Graeme Jarvie, the Senior Advisor, visited the offices of the Competition Authority of Botswana in Gaborone on 9th March 2016 to share experiences and build relations between the two agencies.

The Swedish officials shared their experiences on a wide range of issues including case management, budgeting, knowledge management, communication, project management, the organisational structure, reporting lines as well as the independence of their competition agency. Among other things, they said they have a

case prioritisation policy in which they determine whether to proceed with a case or not. Advocacy is coordinated by the Communications Department in liaison with the Director General.

The Swedish agency has a broad based approach to social media with which they use to communicate key messages as well as an interactive website in which stakeholders access a variety of services such as a self-assessment questionnaire. Regarding reporting and independence, the Director General accounts through the annual report and the government cannot overrule the decisions of the Authority, the Swedish officials said. The Swedish Authority receives its

finances from the relevant ministry and Parliament decides on grants to the Authority. Meanwhile UNCTAD's Economic Affairs Officer Ms, Elizabeth Gachuri briefed CA staff about the upcoming launch of revised UN Guidelines on Consumer Protection.

She said UNCTAD programmes are demand driven and countries including Botswana must be forthcoming with their needs and wants in order to benefit. Ms. Gachuri commended the Competition Authority of Botswana about the work it has done so far. "I have seen the institution grow. Few countries have done dawn raids but Botswana has done it with a small population and economy" Gachuri observed.

# Acquisition Of Ellerine Furnishers Gets Conditional Approval

**T**he Competition Authority has conditionally authorised the proposed acquisition of the businesses of Ellerine Furnishers (Botswana) (Pty) Ltd and Ellerine Retail (Botswana) by Lewis Stores Botswana (Pty) Ltd. Announcing its decision on 3rd February, the Authority said although competition concerns will arise with respect to the retailing of household furniture and appliances market, they are less likely to result in substantial lessening of competition, as the market under consideration is contested. Furthermore the Authority determined that there is a significant issue of public interest identified in relation to the provisions of section 59 (2), in that the transaction provides an opportunity to preserve 230 jobs, currently faced with an imminent retrenchment.

The Authority approved the merger with the conditions that there shall be no redundancies without the consent of employees of the merging parties, as a result of the proposed transaction. However, this does not prevent Lewis Botswana, in the ordinary course, from retrenching employees as a result of changes to its (Lewis Botswana's) operational requirements, including store closures when such stores are not economically viable.

All employees employed in the Beares and Ellerines stores that are assigned at the implementation date will transfer to Lewis Botswana on terms and conditions that are on the whole not less favourable to the employees than those on which they were employed by the Beares and Ellerines businesses of Ellerine Botswana.

Lewis Botswana shall harmonise the employment terms and conditions of employees employed in the Beares and Ellerines stores with the employment terms and conditions of Lewis Botswana. Lewis Botswana will throughout the review and harmonisation process engage in appropriate consultations with staff and the relevant trade union representatives. Lewis Botswana will also ensure that the harmonisation process is undertaken in accordance with relevant labour laws in Botswana. Furthermore, Lewis Botswana shall invite persons from the retrenched workforce (49 affected employees) whenever making new appointments on any created positions or any other positions that may become available, for a period of 12 months from the date of approval of the transaction.

As part of the merger conditions, Lewis Botswana shall within six months of the date of implementation of the transaction, provide the Authority with an immediate and long term plan of how they shall harmonise the business models of the Beares Stores and Ellerines Stores, as well the employment terms of the transferred employees.

Within the 12 months period from the date of the merger approval Lewis Botswana will also be required to provide the Authority with written reports detailing all vacant positions filled and the recruitment procedure followed (in reemploying the affected employees) as well as the rationale and sufficient proof of its transparency and fairness.

# MONITORING COMPETITION IS IT WORTH IT?



By **Mothusi Lotshwao**

As developing countries continue to adopt and practise competition law, are there any benefits they stand to gain from such a move? Can monitoring competition rehabilitate their rather underdeveloped markets? Can competition attract the foreign direct investment they have long craved and spur them to growth after all? Can competition be the answer to the rampant corruption which threatens to bring their economies down? This piece attempts to shed some light on how developing countries can make use of competition law to attain inclusive growth and encourage active and gainful participation of individuals in the economy and minimise corruption.

The primary objective of any competition law and policy is to encourage fair and competitive markets through carrying out market investigations and advocacy to uproot anti-competitive practices in the economy. Besides this, there are far more benefits to be achieved from competition law enforcement. One such benefit is inclusive growth. Inclusive growth is one objective which has remained elusive to many developing countries. Growth that is inclusive encourages active par-

ticipation of individuals in meaningfully participating in the economic growth of their country. Competition law does this by removing artificial barriers to entry which encourages participation of more firms in the economy. This then results in employment creation and efficient allocation of resources where maximum benefits are extracted from the few available resources while consumers purchase high quality goods at low cost.

Markets in developing countries are characterised by imperfect information, poor distribution channels and weak inter sectoral linkages. The importance of perfect information cannot be over-emphasised in making prudent business decisions in this era. Though not completely possible to achieve such a scenario in the real world, competition agencies can assist in providing information about latest trends and issues in the economy, prices and other valuable information through print and business websites. Through merger controls, competition agencies have the capacity to improve distribution channels through prohibiting exclusive dealing contracts. This subsequently boosts sectoral linkages as sectors feed-off each other, which promotes a diversity of income sources for the country.

Competition agencies offer a quicker alternative of solving disputes between businesses as they work within defined time frames contained in the Competition statutes. Some competition agencies have their court-like setup called a commission or a tribunal. These are independent bodies given authority to adjudicate on competition related matters. Therefore some of the disputes which would normally be handled by the courts can be adjudicated by the competition agency.

This saves money, time and effort for businesses and creates a conducive environment for businesses to operate which improves the competitiveness of a country as an investment destination of choice. The rest of the economy also benefits as the back log of cases is reduced which allows the judicial system to improve the quality of its work rather than being saddled with a lot of cases including competition matters. Competition law also presents a fair, stable and a predictable business environment which minimises investment risk for potential investors.

Despite setting up corruption agencies, corruption has remained prevalent in many countries. A lot of money is spent preventing and fighting corruption which makes this issue a top priority for any nation. Competition agencies have since become a welcome weapon against corruption as their investigations continue to unearth unfair business practises of bid-rigging, price-fixing and market allocation. Many countries have therefore been able to minimise their infrastructure investment costs and professional or service provision costs.

The benefits of building a competition culture can be far reaching in light of the above. A country can be able to improve its attractiveness to investors, improve the welfare of its citizens, bring about efficiencies in the economy and mitigate corruption. This therefore calls for adequate support for competition agencies from the public, business community and the media to help the agencies to deliver results which have a positive impact on the economy.

**Mothusi Lotshwao is a Graduate Intern at the Competition Authority (Botswana)**



## Mr. Tonny Kolanyane

The Botswana Competition Bulletin continues to profile CA employees. This edition features: Tonny Kolanyane

### BCB: Tell us about Tonny Kolanyane

I was born in Kgagodi in 1976. I am the first born in a family of five, three boys and two girls. I started my primary school in Gaborone up to junior secondary before I transferred to Palapye at Lotsane Senior where I did my secondary education.

I joined the Authority on 1st November 2011. I wanted to change the environment because where I was before, we worked long hours seven days a week which was tiring and straining my mind.

### BCB: What are your duties and responsibilities at the CA?

I work as a driver/messenger, I deliver mail to all businesses or companies that deal with the Authority, I also transport officers within and outside work station, I make sure that all vehicles of the authority are in good condition and clean. I also assist with office work in general.

### BCB: Before you joined the CA what were you doing?

Before joining the Authority I worked for several companies including OK FOODS as stock controller and driver/messenger, H&A Cutting Works Botswana as a driver/messenger, as well as ASC Enterprise t/a Engen Phakalane as forecourt supervisor.

### BCB: What have been your experiences at the Authority so far?

I have learnt a lot, I learnt about PMS (performance management system), customer service, I learnt to multi-task like assisting at the reception. I have enjoyed the team building initiatives and being a member of the Staff Welfare Committee.

### BCB: Describe your best experience at the CA?



Mr. Tonny Kolanyane

When the CA sent me school to do my certificate in Archives and Records Management. At the moment I am doing a Diploma in Archives and Records Management. I also had the opportunity to go for a short course in Customer Service at the University of Botswana.

### BCB: What do you find most challenging about being at the CA?

You must be dedicated to even work beyond your stipulated hours, be trustworthy and abide by the code of conduct, protect the image of the Authority by conducting yourself in an appropriate manner that will not soil the image of the CA.

### BCB: If you were to leave the CA now what special memories would you take with you?

The team that I am working with at the moment, all the support and motivations that we share at the Department, the retreats, the MTI Parastatals Games and not forgetting the CA football team.

### BCB: What are your future plans beyond the CA say five years from now?

I want to see myself at the top as Director of the Archives and Records Management Department!

### BCB: Is there anything else you would like to share?

I would like to see the Authority expand to other places like Maun, Kasane, Selibe-Phikwe, Kgagodi, Palapye so that I can head one office in those places especially the Kgagodi office, hahahahahahahahahahaha!!!!!!



# COMPETITION AUTHORITY IN PICTURES

## BOTSWANA HOSTS ICN AGENCY EFFECTIVENESS WORKSHOP



### Captions

1. The CEO Mr. Thula Kaira, Mr. Kjell Sunnevåg, Honourable Vincent Seretse, Professor William Kovacic, and the Chairperson of the Botswana Competition Commission Dr. Onkemetse Tshosa at the AEWG opening ceremony 2. Delegates at the AEWG workshop 3. Delegates and CA staff at the AEWG welcome dinner 4. Traditional dance entertainment for the delegates 5. Delegates with a CA staff member 6. Delegates at the welcome dinner

NOTE: Access ICN AEWG 2016 Photos from the CA's Facebook Page: : Competition Authority Botswana



# SWEDISH COMPETITION AUTHORITY VISITS BOTSWANA'S COMPETITION AUTHORITY



## Captions

- 1 & 2.** Swedish Competition Authority officials Ms. Kristina Geiger and Mr. Graeme Jarvie receiving a token of appreciation from the CEO Mr. Thula Kaira  
**3.** Ms. Kristina Geiger, Mr. Graeme Jarvie, Ms. Gladys Ramadi, Mr. Thula Kaira, Mr. Gideon Nkala, Ms. Magdeline Gabaraane **4.** UNCTAD's Economic Affairs Officer Ms. Elizabeth Gachuiri **5.** CA staff with Swedish Competition Authority officials and UNCTAD's Elizabeth Gachuiri on 9th March 2016 in Gaborone



# CA BIDS FAREWELL TO LEGAL OFFICER KESEGO MODONGO

The Competition Authority on 4th February 2016 bid farewell to the Legal Officer Mr. Kesego Modongo who had been with the Authority since January 2012. Mr. Modongo has joined the Companies and Intellectual Property Authority as Manager Compliance and Enforcement.



## Captions

1. Kesego receiving a gift from the CEO Mr. Thula Kaira
2. Keoagile Ntshaanana, Amantle Moreetsi, Kesego Modongo, Potlako Mpe
3. Sebilo Kebotsamang, Tapiwa Masie, Kesego Modongo, Otlaathusa Seforo
4. Thabang Tlhalerwa, Kesego Modongo, Dikago Seitiso



# EMPLOYEE PROFILE

## TONNY KOLANYANE



### Captions

1, 2 CA's Tunny Kolanyane

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