STREAMSOWERS & KÖHN
BARRISTERS, SOLICITORS AND ARBITRATORS

COMPETITION LAW IN ACTION:
Compliance, Enforcement, and Business Strategy in Nigeria

Ebook

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About Us

Streamsowers & Köhn (SSK) is a leading Nigerian law firm renowned for delivering innovative and exceptional legal solutions. With a blend of deep-rooted local knowledge and a global perspective, we provide forward-thinking legal counsel that empowers our clients to navigate their most complex legal challenges.

At SSK, we give our clients confidence. The confidence that we will do all that can be legitimately done to address their legal issues, protect their interests and achieve the most favourable outcomes.

We are committed to understanding you, your business, and your goals. On your behalf, we will deploy a deep bench of legal experience and expertise to create solutions to the issues you are facing. We go to work for you.

We are a law firm that is comfortable with every aspect of our heritage, our Nigerian roots, our broader African heritage and the practice of law in the common law tradition. We are able to blend the seemingly incongruous.

STREAMSOWERS & KÖHN
BARRISTERS, SOLICITORS AND ARBITRATORS

Our Practice Areas

Aviation

Competition Law

Corporate & Commercial Law

Dispute Resolution

Energy, Natural Resources & Environmental Law

Legislative Oversight & Related Governmental Activities (LORGAP)

Address to our participants

Dear Valued Participant,

We are delighted to extend our sincere appreciation to you for participating in the NSAAC Breakfast Forum on "Competition Law in Action: Compliance, Enforcement, and Business Strategy in Nigeria." Your presence, engagement, and thoughtful contributions greatly enriched the discussions and showed the importance of competition law in shaping fair, efficient, and open markets in Nigeria.

The discussions focused on the practical application of competition law in Nigeria, including compliance expectations, enforcement trends, and the implications for business operations. We recognise that these conversations may have prompted further questions, reflections, or highlighted areas requiring closer consideration.

This e-book has been carefully prepared to reflect the key discussions from the forum and to provide clarity, and additional context where necessary. Our aim is to preserve the valuable insights shared, while expanding on them in a manner that supports informed decision-making, regulatory awareness, and sustainable business practices.

We trust that you will find this publication both insightful and instructive, serving as a useful reference as you navigate compliance obligations, enforcement risks, and competitive strategy within Nigeria's dynamic market landscape.

Once again, thank you for being part of this important conversation.

Meet our Speakers

Chiagozie Hilary-Nwokonko
Senior Partner,
Streamsowers & Köhn
Keynote Speaker

Florence Abebe
Head of Anti-Competitive Practices,
FCCPC
Panellist

Morayo Adebayo-Adisa
Director, Public Policy
Mastercard
Panellist

Chukwuyere Izuogu
Partner,
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Panellist

THE DISCUSSION

Chiagozie Hilary-Nwokonko
Senior Partner,
Streamsowers & Köhn
Keynote Speaker

CHIAGOZIE HILARY-NWOKONKO

Q1: Do Nigeria's competition laws effectively address monopolies and abuse of dominance?

Nigeria's competition laws contain clear mechanisms for addressing monopolies and abuse of dominance, and enforcement actions are already being taken in this regard. The FCCPC is a highly consequential regulator with substantial authority to intervene in markets. Dominance can arise in sectors that require high capital investment or where a small number of players control critical resources. Abuse of dominance is not limited to single firms; it can also occur where groups of actors coordinate their conduct.

Using the example of sand dredging in Lagos, coordinated local actors can manipulate supply, limit competition, and fail to pass economic benefits on to consumers. Such patterns of behaviour illustrate how abuse of dominance can manifest at both regional and national levels. Many Nigerian industries are therefore ripe for disruption, and recognising and addressing dominant positions is essential for effective competition enforcement and market openness.

Q2: How should advisers guide clients in assessing and documenting compliance efforts that can withstand judicial scrutiny?

Advisers should encourage clients to engage experienced professionals to guide their compliance processes. Effective compliance requires clearly defined objectives, a thorough assessment of risks and obligations, and proper documentation of all measures taken. Training relevant personnel is also critical to ensure consistency and preparedness. These steps help prevent disorganised or reactive responses when engaging with regulators and enhance the credibility of compliance efforts before courts and tribunals.

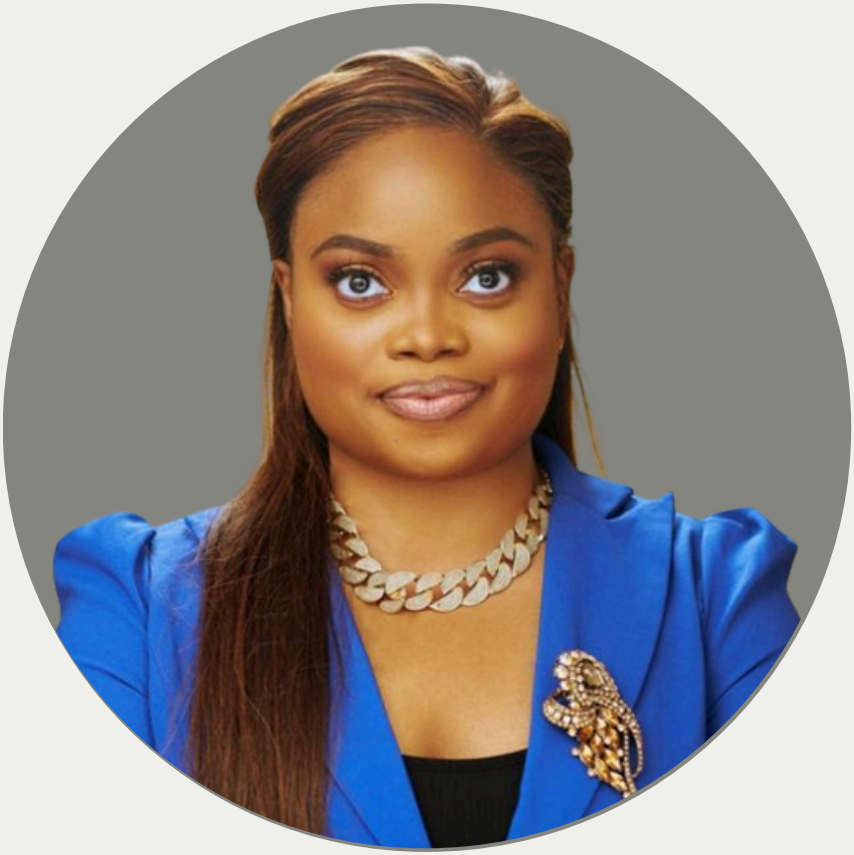
Q3: How should advisers set appropriate boundaries when engaging in negotiated settlements with regulators?

Regulators actively encourage negotiated settlements and have issued regulations and guidelines governing such processes. Competition advisers must communicate candidly with clients and provide realistic assessments of regulatory risks. In many cases, negotiation is a more pragmatic and effective option than prolonged litigation, particularly where settlements can achieve regulatory objectives while reducing exposure and uncertainty for businesses.

Q4: Do existing laws in Nigeria provide adequate mechanisms to prevent monopolistic positions and curb excessive pricing.

Yes, Nigeria's competition laws provide mechanisms to address monopolies and the abuse of dominant positions. Enforcement efforts are already targeting cases of dominance abuse, and over time, stronger regulatory actions will increasingly curb monopolistic behaviour. The FCCPC is a highly consequential regulator with substantial authority to intervene in markets, and the practical application of competition law is essential for economic growth and market openness.

Dominance often arises in sectors that require significant capital investment or where a small number of players control critical resources. For example, in sand dredging in Lagos, local actors can coordinate to manipulate supply, limit competition, and fail to pass benefits on to consumers. Such abuse is not always the result of a single company's actions but can involve groups acting in concert. Many Nigerian industries, at both regional and national levels, are ripe for disruption, and identifying and addressing dominant positions is critical for effective competition enforcement.



Florence Abebe

Head of Anti-Competitive Practices, FCCPC

Panellist

FLORENCE ABEBE

Q1: How does the FCCPC approach competition enforcement in sectors that were already structurally concentrated before the introduction of competition law in Nigeria?

Nigeria's competition regime was introduced at a time when many sectors of the economy were already highly concentrated. In several industries, dominance and market distortions existed long before competition law came into force, which makes the regulator's task more complex. In response, the FCCPC adopts a deliberate and evidence-based approach to enforcement. One of the key tools used by the Commission is the conduct of market studies, which allow it to understand how particular sectors operate, how dominance emerged, and what structural or historical factors may have contributed to market concentration.

The objective of competition law is not to eliminate dominance or punish businesses simply for being successful. Rather, the focus is on preventing the abuse of dominance and ensuring consumer welfare and a level playing field for all market participants. The FCCPC therefore examines how dominance was achieved and, more importantly, whether that dominance is being used to restrict competition, exclude rivals, or harm consumers.

Over the past five years, the Commission has been actively working to unlock concentrated markets, including digital markets, through targeted interventions. Capacity building has also been a priority, not only for businesses, but for public-sector regulators as well, because effective regulation requires a deep understanding of the business models and markets being supervised. Although Nigeria entered the competition law space later than many mature jurisdictions, progress is being made gradually and deliberately.

Q2: Do Nigeria's existing laws contain provisions to prevent monopolistic positions and address excessive pricing?

Nigerian competition law does provide mechanisms to address monopolies and the abuse of dominance. However, it is important to clarify that dominance in itself is not illegal or problematic. What competition law seeks to prevent is the abuse of dominance through conduct that harms competition and consumers. Such conduct may include predatory pricing, price-fixing, restricting market access, or excluding competitors.

With respect to excessive pricing, determining whether a price is "excessive" is a complex exercise that requires detailed economic analysis, empirical evidence, and contextual understanding of the relevant market. This assessment cannot be made in the abstract. Past enforcement actions, such as those taken during the COVID-19 pandemic when some businesses sharply increased prices of essential goods like hand sanitiser, illustrate how excessive pricing can attract regulatory scrutiny and penalties. These cases demonstrate that the Commission is willing to intervene where pricing conduct clearly exploits consumers under exceptional circumstances.

Q3: How does the FCCPC work with sector regulators in enforcing competition law?

The FCCPC is a generalist regulator with economy-wide competition and consumer protection powers. However, it recognises that sector-specific regulators possess the technical expertise required to understand the nuances of particular industries. As a result, collaboration with sector regulators is central to effective enforcement. This collaboration may involve joint investigations, shared expertise, coordinated enforcement actions, and the development of joint regulations.

The overarching objective is not merely to punish businesses, but to modify behaviour and foster a sustainable culture of compliance and fair competition across markets. Enforcement actions remain necessary where breaches occur, but behavioural change remains a core goal.

Q4: Is Nigeria's institutional framework and court system adequate for resolving competition disputes, or is there a need for specialised tribunals?

While elements of competition regulation existed in Nigeria prior to the FCCPA, the current regime represents the first comprehensive and all-encompassing competition framework in the country. This is a significant and positive development. The judiciary has begun receiving targeted training in competition law, and judges are increasingly being exposed to the technical and economic aspects of competition disputes.

Judges, by the nature of the judicial system, adjudicate matters across a wide range of sectors and legal disciplines. In technically complex competition cases, they rely on expert evidence to inform their decisions.

Importantly, Nigeria already has a specialised forum in the Consumer and Competition Protection Tribunal (CCPT), which is designed to handle competition and consumer protection matters. Ultimately, effective adjudication depends heavily on knowledge and expertise. Any judge seeking to deliver sound and well-reasoned decisions in competition cases must take deliberate steps to acquire the requisite understanding of competition law and economics.

Q5: How does the FCCPC respond to concerns about regulatory overreach and excessive reliance on penalties?

Perceptions of regulatory overreach are often rooted in broader cultural attitudes toward regulation. Where businesses conduct their affairs in compliance with the law, over-regulation does not present a significant challenge. The FCCPC's focus is on shaping appropriate market behaviour rather than merely displaying regulatory power through penalties. While enforcement and sanctions are necessary where rules are breached, the broader objective is to ensure lawful conduct and fair competition within markets.

Q6: What statutory timelines apply to merger reviews and approvals under Nigerian competition law?

In the context of mergers, the FCCPC typically has sixty (60) days to conduct a Phase I review. Where a more detailed assessment is required, a Phase II review may be initiated, with a total period of one hundred and twenty (120) days for final determination. At the end of this process, the Commission may prohibit the merger or approve it, either with or without conditions. Importantly, if the Commission fails to issue a decision within the prescribed one hundred and twenty (120) days, the merger is deemed approved by operation of law.

Q7: Do digital market registrations operate on a state-by-state basis or nationally?

Digital market registration is undertaken at the state level and is territorially restricted. However, where a business's customer base extends across multiple states, approval from the Federal Competition and Consumer Protection Commission is required.

Morayo Adebayo-Adisa
Director, Public Policy
Mastercard
Panellist

MORAYO ADEBAYO-ADISA

Q1: What are the most significant challenges to competition law compliance in Nigeria, and what role should competition lawyers play in addressing compliance challenges?

Two most significant challenges are knowledge gaps and regulatory clarity. There is a fundamental question as to how well industry participants understand the existence of competition law and its practical implications. Compliance requires more than awareness of the law; it demands a cultural shift within organisations, which can only be achieved through sustained education and engagement. Legal principles and their application are not static, and what applies today may evolve over time.

Knowledge encompasses both a general understanding of competition law and a clear appreciation of how the law applies to an organisation's specific operations. Competition lawyers advising clients are encouraged to go beyond a superficial assessment of legal knowledge and client profiling. Practitioners are urged to articulate clearly how competition law applies to each client's particular business model and activities; this requires a deep understanding of both the law and the client's commercial realities.

There should be stronger internal knowledge frameworks within organisations, including an understanding of competition law from a neutral and policy-driven perspective, as well as from the standpoint of regulatory agencies.

Q2: How can industry associations support effective competition compliance among their members?

Industry associations must take a proactive and assertive role in educating their members on competition law requirements and prohibitions. They should encourage the adoption of comprehensive compliance policies and implement internal rules that prohibit discussions on sensitive competition issues such as pricing, geographic allocation, and market sharing. Continuous knowledge development is critical, and associations should facilitate regular training programmes for their members.

Q3: What protocols should in-house teams establish to enable a prompt and effective response to regulatory inspections while minimising business disruption?

Businesses should approach regulatory inspections calmly and cooperatively, without escalation. Such engagement should be treated with care and sensitivity.

It is advisable to designate a small, specialised response team to manage inspections and dawn raids, given the sensitive nature of the information involved. Frontline staff, including security and reception personnel, should be trained on appropriate engagement protocols. Employees should also be educated on how to respond accurately and appropriately to regulators' questions. Proper preparation and internal coordination are essential to ensuring compliance while minimising business disruption.

Chukwuyere Izuogu
Partner,
Streamsowers & Köhn
Panellist

CHUKWUYERE IZUOGU

Q1: Could a strong shift toward formal competition regulation in Nigeria unintentionally stifle business growth, profitability, and investment, given the country's difficult and sometimes chaotic economic environment, where monopolistic behaviour is often adopted as a survival strategy?

Nigeria is still at a very early stage in the development of its competition regime. The country's competition law was only enacted in 2019, which means that businesses, regulators, and even consumers are still adjusting to what competition regulation means in practice. Because of this, enforcement must be approached with caution and sensitivity. Overly aggressive or poorly calibrated enforcement could risk stifling legitimate business activities, especially in an economy where businesses already operate under severe constraints. However, this does not mean that coordinated conduct between market players can be excused. Any form of coordination, whether formal or informal, between competitors raises potential anti-competitive concerns. Such conduct can ultimately harm consumers by reducing choice, undermining trust in markets, and distorting fair competition.

For Nigeria's competition regime to succeed, it must be anchored on strong and credible institutions and guided by core consumer welfare principles. These elements are essential to ensuring that enforcement promotes market efficiency and fairness without discouraging investment or innovation.

Q2: How does Nigeria's competition law compare with more developed antitrust regimes, particularly in relation to digital markets and platform regulation?

One of the most significant differences between Nigeria's competition framework and those of more developed jurisdictions lies in the regulation of digital platforms. In advanced economies, regulators have recognised that large technology companies often wield substantial market power and can influence markets in ways that traditional businesses cannot. As a result, those jurisdictions have introduced proactive regulatory frameworks, commonly described in competition law as ex-ante obligations, to prevent the abuse of such power before harm occurs. Nigeria's competition law, however, did not sufficiently anticipate or address the unique challenges posed by digital markets and platform-based businesses at the time it was enacted by the National Assembly.

Traditionally, competition law relies on market definition as a starting point for analysis, which involves assessing both the relevant product market and the relevant geographic market. Price is usually a key parameter in this assessment, based on the assumption that if prices rise, consumers will switch to cheaper alternatives. However, many digital platforms operate on zero-price models, offering services to consumers free of charge. This makes it extremely difficult to apply conventional price-based tests. Regulators in other jurisdictions have therefore developed alternative approaches that focus on non-price parameters, particularly quality. In digital markets, quality often manifests in areas such as data protection and privacy. When a platform weakens privacy protections or misuses consumer data, it effectively reduces the quality of its service, thereby harming consumer welfare. The absence of a comprehensive and sophisticated framework for platform regulation remains a major gap in Nigeria's competition regime and highlights the need for future regulatory development in this area.

Please Note

The Panel Discussion included in this e-book may have been modified for clarity and coherence purposes only. We have also maintained the original responses and views of our panellists.

This e-book is intended solely for informational and educational purposes. It does not constitute legal advice, nor should it be relied upon as a substitute for professional legal counsel. The content herein must not be used as a basis for any legal decision or action without consulting a qualified legal practitioner.

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