

**Competition Commission of Mauritius**  
***Endorsing a pragmatic and market-based approach to competition***

By **J. Gilbert Gnany**  
**MCB Group Chief Strategy Officer & Advisor to the Board**  
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[Protocol]

It is an honour and indeed a privilege for me to address you today on the occasion of the First Year Anniversary of the Competition Commission of Mauritius. Please accept my wholehearted wishes.

To start with, let me congratulate the Competition Commission for the journey it has crafted till date. Indeed, after being established in June 2009 to enforce the Competition Act 2007, the institution has made non-negligible headway in gearing up its resources and functioning. Besides, efforts are currently being accelerated to achieve *'la vitesse de croisière'* that should be aimed for the Commission. In fact, going forward, the stakes are high. At a junction whereby Mauritius is embarking on a challenging economic development trajectory, the importance of judiciously and fairly monitoring market practices that optimise socio-economic welfare and espouse economic rationality principles is more than ever on the cards. Some days back, the National Budget highlighted the ambitions of achieving a GDP of one trillion rupees and of tripling per capita income by the 2020s. Towards this end, it is obvious that relevant growth drivers should be harnessed in the most considerate manner. In this respect therefore, allow me to share some humble views with you on the significance of the competition policy from an economic perspective and a private sector angle.

Ladies and Gentlemen,

As Henry Ford, the pioneer of mass production famously said: *'Competition is the keen cutting edge of business, always shaving away at costs'*. Indeed, prompting market competition in an economy is strongly advocated insofar as it should trigger a reallocation of resources from lower to higher-productivity enterprises as a result of the increasing recourse to innovative practices by business leaders in their bid to be closer to the technological periphery. Empirical evidence shows that, to the extent that frontier innovation may require open markets and free entry, countries should move towards more competitive structures to sustain high growth rates all the way through the successive stages of their development cycle. Furthermore, the *laissez-faire* model and *'Invisible Hand'* principles, as preached by Adam Smith, postulate that the natural force that guides free market capitalism via competition for scarce resources among market participants, creates favourable conditions for profitable firms, while ensuring that consumers obtain the best product at the best possible price. Eventually, society at large is better off following the achievement of what economists refer to as a *'Pareto efficient'* outcome. In the same vein, I will quote the Chairperson of the Competition Commission of India who recently described an effective competition regime as one which [quote] *'creates an environment which maximizes the welfare of consumer as well as producer by bringing in the allocative, static and dynamic efficiencies'* [unquote]. He further stressed that *'competition is about giving wider choice to the consumer in terms of price and quality'*.

From an empirical perspective, evidence from Eastern Europe and Asia in the early 2000s demonstrated how productivity enhancements, spawned in large part by the opening up of the

labour and traded goods markets, cleared grounds for sustained economic growth and an improvement of the material welfare of populations. Likewise, in line with the Schumpeterian growth paradigm in which growth is largely rooted in entrepreneurial innovations, the economic success of Mauritius over the past decades hinged a lot on the broad-minded policies adopted by the authorities to create a level playing field for the operation of enterprises across different sectors, which thus in turn spurred productive efficiency, while igniting broad-based industrial spirit and market dynamism. Generally speaking though, I wish to underscore that an improved competitive framework is a necessary, but not a sufficient condition for increased market entry, enhanced company viability and accelerated economic growth since it should be complemented by extensive microeconomic reforms and supportive macroeconomic strategies. All in all, it cannot be disputed that efforts blending both public interest and economic efficiency considerations should be undertaken to tackle restrictive market practices that can abnormally limit competition and provoke serious market failures. On the worldwide scale, competition law and enforcement have never been so widespread, with the 1990s being marked by the mushrooming of relevant agencies in least developed and developing countries which have been embracing comprehensive and tailored competition policies as a gateway towards international openness and economic diversification. As for advanced economies, the UK and Japan enacted their relevant pieces of legislation in the 1940s. Besides, the Sherman Act of the US dates back to 1890, while various European countries have been abiding by competition rules since 1957 as per the Treaty of Rome. Allow me here to dwell upon the important role played by competition agencies in many jurisdictions towards promoting sound market interactions. As demonstrated by global experiences, the institution is usually responsible for contriving equitable opportunities for businesses to participate in the economy, thereby buttressing the efficiency, adaptability and vibrancy of the latter, while safeguarding the wellbeing of its people. Of course, the functioning model of the institution does differ in terms *inter alia* of the investigative and law enforcing powers in place, the type of organisation structure and the degree of autonomy.

Ladies and Gentlemen,

Times are fast changing. Without doing away with adequate market supervision and suitable legal oversight of competitive arrangements, there has over time been a marked inclination by various economies worldwide towards gradual and responsible deregulation, whereby cumbersome rules and regulations that tend to constrain the operation of market forces and inhibit productivity are either curtailed or simplified. Basically, the onus is on ensuring that the innovation and risk-taking activities of the private sector are not unjustifiably burdened or stifled so as to further meaningful employment and wealth creation nationwide. Observers argue that, between about 1950 and 2010, the pronounced trust on market forces has been a key engine of the growth of economic and institutional globalisation. Specifically, after experiencing extensive deregulation since 1984, New Zealand is today seen as one of the most business-friendly countries in the world, while Canada has been famously engaged in the liberalisation of its natural resources and electricity markets in the mid-1980s and early 2000s. All in all, the desired free market system is portrayed as one that permits private enterprises to vent out their creative itches, while guarding against the potential risks that can ensue therefrom. Towards this end, backed by a well-defined legal framework, the competition policy has to be vigilantly operationalised by capable institutions and steered by strategic principles that factor in the specificities and realities of the country. Nevertheless, establishing an optimal competition benchmark which is characterised by an appropriate number of firms and a most-favoured standard for the 'hostility of interactions' among the latter is a hard nut to crack. In fact, there

are often debates as regards to what healthy competition is all about, whereas incomplete information in relation to the efficiency levels of firms and the utility functions of consumers tends to mess things up. Besides, competition law enforcement can be rendered sub-optimal if the responsible authorities are not fully equipped with the tools and resources to carry out intricate investigations, yield pertinent conclusions and take correct actions.

Now, after you have been previously apprised of an interesting legal view of competition from my good friend Desiré during his intervention, I will pass on to the significance of economic analysis in modelling an all-encompassing competition policy. So, please bear with me while I navigate through some of the possibly boring theories in the field of economics!!! Well, for long, advanced economies have resorted to applied microeconomics and econometric models to analyse the random process of innovation and patenting, alongside developing adequate measures and instruments for market supervision and monitoring. For instance, the Bertrand and Cournot oligopolistic firm models as well as game theories like the Nash equilibrium and the dominant strategy symmetry are, very often, applied to quantitative and qualitative data, thereby contributing to garnering interesting market suppositions and policy directions. From a general perspective, effective competition policy enforcement is not judged as one of 'more' or 'less' economics, but as one about the nature and application of economic analysis. In fact, recent changes in the European competition policy for example are related to the way in which models and principles of economic theory and evidence have weighed in decision-making instances. By and large, in Europe, antitrust and merger analysis has been based on economics for a long time.

Today, many economies around the world are having greater recourse to strong economic expertise in guiding their competition policy in an attempt to better attune the rules and practices of relevant regulation with sound thinking frameworks. Apart from providing a firm grounding for decisions taken by the authorities, the trend towards the use of economic analysis in competition policy can also assist in working more closely and consistently with agencies in other jurisdictions given that investigations conducted and resolutions made are likely to rest on broadly converging and easily understandable criteria.

Let me now take a specific example: At the European Commission, the mission of the Directorate General for Competition, as you might be aware, is to enforce the rules of the Community Treaties, in order to ensure that competition in the EU market is not distorted and that markets operate as efficiently as possible, thereby contributing to the welfare of consumers and to the competitiveness of the European economy. There, the key responsibilities of the Office of the Chief Competition Economist are to be closely involved with the day-to-day work of case teams, getting involved early in investigation and giving economic guidance and methodological assistance, while providing the Commissioner and Director-General with an independent opinion on all cases. Overall, there are three areas at the European Competition Commission in which economists are involved.

- Firstly, they provide analysis of short-term situations based on information like industry structure, technology and demand, whereby the task is to 'frame' a particular case towards deriving a particular theory of 'harm' in terms of competitive rivalry in the market.
- Secondly, they offer informed reasoning with regard to competition guidelines in order to describe the frameworks that will be used by the policy enforcer under different circumstances.

- Thirdly, they undertake both ex-post analysis to understand how market-based decisions by businesses have affected markets and ex-ante scrutiny through market monitoring. Certainly, the economists are also continuously engaged in capacity building by investing in the analytical understanding of how to analyse markets in the best possible manner.

Ladies and Gentlemen,

I will now make some specific analytical references to Mauritius. Notwithstanding imperfections prevailing in some areas, our economy has progressively sown the seeds for the primary, secondary and tertiary sectors to expand the circle of opportunities, create sufficient economic space and simplify standards for businesses to undertake market entry, compete, invest and flourish. Firstly, this can be attributed to business-friendly investment frameworks, which is why Mauritius is today prominently positioned on the international scene, being ranked 20<sup>th</sup> in the Ease of Doing Business Index 2011 of the World Bank and 55<sup>th</sup> in the World Competitiveness Index 2010-2011. Secondly, support emanated from the legal background, starting with the Fair Trading Act 1979, followed by the Industrial Property (Unfair Practices) Act 2002 and the Competition Act 2007 to provide for the control of restricted business practice. Coming from the banking and financial services field, I wish to take it as an example of an overall buoyant and well-governed market structure which is characterised by 19 banking institutions, a praiseworthy feature of a small island developing state like Mauritius with a population of only 1.2 million and a GDP of below USD 10 billion. Fundamentally, the important contribution of the sector to the economy and the generally strong financial fundamentals displayed over time testify of the resilience nurtured as a response to compelling competitive imperatives coupled with the adoption of sound business models and the exercise of regulation.

All in all, while competitive environments supported the growth of the Mauritian economy by widening the production base and championing equity principles, the relative concentration of market supply in some instances also played a positive role. For instance, consumer interest has been upheld by the close participation of the Government in crucial industries in the utilities and telecommunications areas. These are close to being '*natural monopolies*', whereby high barriers to entry provide overwhelming advantages over potential competitors, but where the opportunity to restrict output, raise prices and reap abnormal profits is restrained by public intervention. Of course, whereas deficient competitive pressures provoked productive inefficiencies that hampered innovation and the reliability of services in the case of some public-owned organisations, it is comforting to take note of entities which mastered sound financial performances over time, with due focus on the quality of output. At the private level, the textile, tourism and financial services industries are made up of interesting illustrations of thriving organisations that fairly acquired significant market shares on the strength of astute strategic positioning and historically harnessed productive accomplishments. In present times, let me add that having sizeable private enterprises that are suitably energised by multifaceted resources and broad-minded growth orientations can be viewed as a reasonable aspiration for the country given the cut-throat competition to access foreign markets. While being as neutral and factual as possible, may I here take the example of the Mauritius Commercial Bank whose historically harnessed leadership position on the domestic market unleashed the necessary financial clout and strategic momentum to expand its foothold in regional markets. Today, many might not be fully aware that around 45% of the net profit of the Group is foreign-

sourced, thereby propelling the high involvement of the institution in the Mauritian economy in respect of both the real and financial sectors.

Ladies and Gentlemen,

Moving forward, for underpinning its mounting economic openness, liberalisation and resilience endeavours, Mauritius should give due weight to the significance of a strongly poised Competition Commission which is proficient enough to safeguard public interest without jeopardising fair private sector initiatives that pulled off laudable market and financial gains. Fundamentally, besides being endowed with fulfilling technical and financial resources to generate expected benefits, the Competition Commission has to apply a multiplicity of policy instruments which are attuned to the idiosyncrasy of cases under investigation. Furthermore, it should foster a clear understanding through long-term pedagogy and advocacy, among social and economic agents, as to the nature of the guiding doctrines espoused by the institution as well as to their implementation agenda. In fact, competition policy needs to work by broad consensus, by laying due emphasis on non-enforcement mechanisms anchored on trustworthy relationships with stakeholders and the conduct of sensitisation campaigns with the public.

But, above all, the keynote philosophy of the competition policy of Mauritius should be shaped and modulated against the wider backdrop of the market and socio-economic features of the country. As such, alongside the pure substance of competitive analysis, there are specific issues which warrant meticulous and often pre-eminent attention on the part of the authorities. In this respect, let me seize the opportunity here to reflect on how the size of a jurisdiction's market largely impacts the optimal competition policy prescriptions to be endorsed. Indeed, small economies normally require specially-tailored competition guidelines since they face different welfare maximisation issues than larger ones. Given the large size of the minimum efficient scales of production relative to demand, small economies can often support only a small number of competitors in most industries when responding to consumer requirements. In other words, limited market demand can hamper the development of a critical mass of domestic productive activities which are essential to realise productive efficiency and cutting edge on international markets. Accordingly, this is what can sometimes make large plant sizes and high concentration levels stand as a necessary reality. For policymakers, the challenge is to reconcile the aim of promoting enterprises that are large enough to enjoy competitiveness-driving economies of scale with that of breeding numerous enough firms to foster competitive rivalry which is rightfully beneficial to consumer welfare.

Ladies and Gentlemen,

James Cash Penney, a famous American businessman said: *'A merchant who approaches business with the idea of serving the public well has nothing to fear from the competition'*. Of course, I completely adhere to the 'competitive' prerequisite of market structures. But, I also wish to pinpoint that, backed by the contribution of all stakeholders, the national competition policy needs to be imagined and profiled from an all-encompassing perspective catering for both consumer wellbeing and economic rationality for the ultimate long-term progress of Mauritius. Far-sighted pledges maybe! ... Yet, I guess, a laudable aspiration!!!

With that, I thank you all for your kind attention.