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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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Global Forum on Competition

Competition Law Enforcement in Informal Markets

Draft Summary of Discussion

2 December 2025

This draft summary of discussion of the Roundtable on Competition Law Enforcement in Informal Markets, held by the OECD Global Forum on Competition on 2 December 2025, is circulated for fact-checking of the section in the summary concerning exclusively their own intervention. Delegates are requested to submit any proposed changes by 6 May 2026.

This document presents a factual summary of the views expressed by speakers and delegations that intervened during the discussion.

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Summary of Discussion

By the Secretariat

1. Introduction

1. On 2 December 2025, the OECD Global Forum on Competition (GFC) held a Discussion on Competition Law Enforcement in Informal Markets chaired by Professor Frédéric Jenny.
2. **The Chair** opened the session by introducing the topic of competition law enforcement in informal markets, noting that this was the first occasion on which the Global Forum addressed informality focusing in the enforcement standpoint. He recalled that previous discussions had taken place within the Competition Committee and the OECD- IDB Latin American and Caribbean Forum (LACCF), with the last comprehensive debates dating back in the Competition Committee to 2009 and in the LACCF to 2018. At that time, the focus centered on how competition policy could contribute to reducing informality and improving market governance. The present discussion, by contrast, shifts the emphasis to enforcement, an area that has not been yet examined.
3. The Chair highlighted a significant change compared to earlier debates. In 2009, most enforcement-related contributions came from OECD countries and often involved cases in mergers or abuse of dominance where informal market dynamics played a secondary role. In the current roundtable, however, only a small number of OECD jurisdictions contributed, whereas non-OECD economies provided extensive input, indicating a higher level of enforcement activity in informal markets.
4. The Chair then presented data demonstrating the continued significance of informal markets in both developed and developing countries. He noted that informal employment accounts for up to 80% in some African countries and up to 50% in parts of Latin America. He further referenced data from the European Parliament showing that informal activity also remains substantial in OECD countries, representing an average of 17.2% of GDP, with wide jurisdictional variation – from 5-10% in Switzerland, Austria, and the Netherlands to nearly 30% in Romania, Croatia, Turkey, and Bulgaria. France records approximately 14%, while Portugal and Spain reach 15-16%. Sectoral disparities in developed economies are also pronounced; construction and home repairs show informality rates near 30%, agriculture around 40%, and hospitality and household services similarly exhibit high levels of informal activity.
5. The Chair referred to the International Labour Organization’s definition of informality as a reference framework for the discussion, noting that it encompasses economic activities not covered or insufficiently covered by formal agreements – either because they operate outside the law or because, although formally within its reach, the law is not effectively applied or enforced. He emphasised that in some cases regulatory frameworks may discourage compliance by being inappropriate, burdensome, or excessively costly. This definition underscores the complexity of applying competition law in contexts where formal legal mechanisms function imperfectly.
6. The Chair explained that the discussion would examine recent enforcement developments in jurisdictions where authorities have encountered informality in practice. He identified three scenarios: competition among informal actors within informal markets and the extent to which authorities may intervene; competition between formal and

informal firms, where informality affects market definition and assessment; and interactions between formal sectors and informal actors at the retail or input level. He recalled past cases – such as a 2019 cement merger in Turkey involving parallel imports – and stressed the need to revisit methodological and legal challenges in these settings.

7. To guide the debate, the Chair proposed four thematic areas: assessing informality and its relevance for competition analysis; identifying enforcement challenges, including economic, statistical, and legal constraints; exploring potential future approaches to enforcement in informal markets; and considering how informality is treated in developed economies.

8. Finally, the Chair introduced the panelists: **Mahmoud Momtaz** (head of the Egyptian Competition Authority), **Francis Kariuki** (former Director-General of the Kenyan Competition Authority), **María Elena Vásquez** (head of ProCompetencia, the Dominican Competition Authority), and **Jorge Grunberg** (National Economic Prosecutor in Chile). He invited Francis Kariuki to open the discussion with a general perspective on the relationship between informality and competition.

2. Discussion on assessing informality

9. **Mr. Kariuki** thanked the Chair and began by clarifying that his remarks reflected personal observations from his tenure as Director-General of the Competition Authority of Kenya and did not represent the views of his former employer or any current engagements. He outlined three points for discussion: the role of the informal sector in Kenya's economy, its significance for competitive dynamics, and a merger case in the dairy sector in which an initially presumed market share of 45% was later determined to be approximately 7.35% once competition from informal actors was taken into account.

10. He emphasised that enforcement must reflect market realities, recalling comments by the European Commission underscoring this point. In Kenya, the informal sector plays a central role in shaping competition and constraining the market power of formal firms. The sector accounts for roughly 80% of national employment and includes a wide range of activities, such as Boda Bodas (unregistered motorcycle delivery services), Mama Mbogas (small-scale vegetable vendors), Jua Kali artisans (informal manufacturers), and Kibandaski (small eateries and pubs). These activities are economically and socially significant and have even influenced political developments, with the current administration having campaigned on a commitment to support the transition of informal businesses into formality, with an assessment scheduled for 2027.

11. Mr. Kariuki highlighted the interdependence between formal and informal markets. Informal suppliers provide essential inputs to key formal industries, including construction and hospitality, and frequently deliver goods to areas underserved by formal retail. He noted that informal delivery networks often complement formal distribution channels and that informal vendors supply products to high-end restaurants. In addition, informal actors function as alternative distribution channels for formal manufacturers, particularly when traditional outlets experience reduced sales.

12. Despite this interdependence, informal markets also act as direct competitors to formal businesses. In urban transport, for example, informal Matatu operators have largely replaced formal bus services. Informal vendors commonly sell goods outside formal retail outlets at lower prices, raising issues of competitive neutrality. Comparable dynamics arise in logistics, where platform-based delivery services compete with unregistered riders, and in sectors such as clothing and alcoholic beverages, where informal producers influence pricing strategies and product decisions of dominant formal firms.

13. He then turned to a case study involving the horizontal Brookside/Buzeki merger in the dairy sector. Although Brookside was initially perceived as holding 45% of the market – a perception amplified by political sensitivities surrounding the firm and by the Authority’s recent establishment – subsequent analysis revealed that the Kenyan milk market is predominantly informal. Of the 4.1 billion litres of milk produced annually at the time (now 5.7 billion litres), approximately 2 billion litres were retained for household consumption, while 2.1 billion litres entered the marketed segment through both formal and informal channels. Dairy processors accounted for only 24% of marketed milk, while informal actors handled about 76%. When these dynamics were incorporated into the relevant market assessment, Brookside’s share was determined to be 7.35%, and Buzeki’s 1.44%. The merger was therefore approved.

14. Mr. Kariuki concluded by identifying key lessons from the case. Informal markets can provide credible competitive pressure and support formal sectors, though their role is constrained by health and safety concerns. A weak or absent informal sector may increase market power, whereas active informal participation can disrupt supply chains and affect pricing strategies. He underlined the need for competition authorities to identify diverse data sources, develop mechanisms for cooperation with sector regulators, and recognise the influence of informal markets on competitive outcomes.

15. The Chair thanked Mr. Kariuki for his detailed presentation and described it as an excellent introduction to the roundtable. He noted that the case raised important issues for further discussion: the value of close cooperation with sector regulators when addressing informality; the importance of collecting data from varied sources, including field observations, when official statistics are limited; and the insight that competition within informal markets can exert meaningful pressure on formal firms, thereby mitigating market power.

16. Turning to the next speaker, the Chair introduced South Africa’s contribution, noting that the Statistics South Africa Quarterly Labour Force Survey (QLFS) serves as the primary formalised source for identifying and quantifying informal employment. He highlighted, however, that this source does not contain turnover or margin data necessary for competition analysis. The Chair therefore invited South Africa to explain how QLFS data are complemented in practice and whether market inquiries could provide an alternative means of assessing competitive structures in markets characterised by informality.

17. **South Africa** acknowledged the considerable challenges associated with obtaining reliable data on informal markets. The QLFS remains the main formal source of information, but it provides only employment-related indicators and does not capture revenue, volumes, or assets. These limitations make it difficult to determine market size with precision, as such data are not readily available from official sources, including Statistics South Africa. To overcome these gaps, the authority relies on complementary sources of information. Sector regulators provide useful indicators, such as the number of licensed operators and trading permits in sectors like taxis and agriculture. The Agriculture Producer Agent Council, for instance, supplies data on permits held by “bakkie traders” who operate as authorised hawkers. The authority further commissions business surveys to identify informal operators and approximate market size, frequently supplementing these with focus groups to refine survey design and gather qualitative insights.

18. In addition, South Africa explained that market inquiries have been particularly valuable for understanding informal markets. Inquiries into grocery retail, online intermediation platforms, and fresh produce have enabled the authority to distinguish informal market activity from core market segments, even when precise measurement is challenging. These inquiries have informed recommendations and remedies. Cooperation

agreements with statutory agencies have also improved access to existing market data and facilitated joint research, drawing on sector-specific expertise.

19. South Africa noted that estimating the size of informal markets is seldom required in merger control or unilateral conduct cases, as informal activity typically does not constrain formal sectors. Instead, investigations tend to focus on regulatory or market-access barriers faced by informal businesses. Surveys, town hall engagements, and walkabouts – such as those conducted during the grocery retail market inquiry – provide valuable insights into these barriers. In the rare instances where large independent stores consider entering local markets, relevant information is usually disclosed by merger parties and subsequently verified by the authority.

20. South Africa also observed that informal markets are increasingly mapped by large suppliers and market research firms seeking distribution channels through informal retailers. These sources offer indicative information on market structure and estimated turnover, which complements official data and supports enforcement work.

21. The Chair thanked South Africa for its contribution and noted the complementarity with Mr. Kariuki's presentation, particularly regarding the use of diverse data sources and cooperation with sector regulators. Before turning to the second part of the roundtable on enforcement cases, he invited comments from other regions.

22. **Australia** thanked the Chair and identified two areas in which informal markets are particularly relevant. The first concerns the supply of tobacco products, which coexists alongside a tightly regulated formal market. Formal supply is subject to strict licensing requirements, high excise duties intended to discourage consumption, plain packaging rules, and import controls. These measures have contributed to the growth of an illicit tobacco market, estimated at around 25% of total supply and rising due to high legal prices. This informal market poses serious criminal concerns, including links to organised crime and associated public health risks. From a competition perspective, it constrains the formal market by influencing demand and pricing. Australia noted that, in at least one merger context, firms had sought to have informal supply considered as part of the competitive assessment, although no merger case to date has required such treatment.

23. The second example related to the care economy, particularly childcare services. Australia explained that its childcare market inquiry revealed a mix of formal and informal provision. Regulated childcare centres operate alongside informal in-home care, which is especially important in remote and rural regions often described as “childcare deserts”. Informal care is also preferred by some culturally and linguistically diverse communities for language and cultural reasons. The inquiry included informal providers within its assessment to understand competitive dynamics and identify supply gaps.

24. The Chair thanked Australia and noted parallels with experiences in Europe, particularly in tobacco markets where cross-border purchases driven by tax differentials create comparable challenges. He then asked Australia to describe how information on informal childcare providers was gathered during the inquiry.

25. Australia explained that data collection proved difficult and therefore relied on outreach-based methods, including virtual town halls and engagement with a wide range of culturally and linguistically diverse consumer groups. Some limited visibility was possible through childcare subsidy schemes, which partially formalise certain providers. Nevertheless, overall estimates remained approximate due to the inherently opaque nature of informal care provision.

26. The Chair then invited the United States to share its perspective.

27. The **United States** observed that the concept of informality has evolved since the 2009 roundtable. While previously associated with cash-based, untaxed transactions, informality today is shaped by the gig economy and digital platforms, where electronic payments and tax reporting are more widespread. The United States suggested that informality tends to emerge under conditions of excessive regulation and taxation – factors that are less pronounced domestically.

28. The United States explained that executive orders issued in early 2025 under the leadership of President Donald Trump aim to reduce regulatory burdens and promote competition by reviewing and eliminating rules that impede small businesses and entrepreneurship. Working in tandem with the Federal Trade Commission, the administration has identified multiple opportunities to reduce anti-competitive regulation. The United States encouraged competition agencies to use advocacy to support deregulation, noting that informal markets created by regulatory constraints often generate non-price harms, including risks to public safety.

29. The United States also recalled its 2009 contribution on digital music distribution, where informal markets for infringing content had a significant impact on the market power of legitimate distributors. Similar dynamics persist today in markets affected by intellectual property infringement, which distort competition and undermine innovation. The United States concluded by emphasising that robust competition relies on dynamic markets and equal opportunities for innovation among all participants.

30. The Chair thanked the United States for its observations and noted that informality in the United States appears limited – estimated at roughly 5% of GDP – while recognising the importance of identifying new forms of informality emerging in digital markets. The Chair then announced the transition to the second part of the session, focusing on enforcement experiences in informal markets, and invited Mr. Mahmoud Momtaz to present recent cases and associated challenges.

3. Discussion on enforcement challenges

31. **Mr. Momtaz** thanked the Chair, emphasising the importance of addressing informality in enforcement, given its significant presence in his jurisdiction's economy. He presented recent cases illustrating the challenges and opportunities involved in tackling anti-competitive conduct within informal sectors.

32. The first case concerned the poultry value chain, where the authority conducted a comprehensive assessment to identify bottlenecks. While infringements were found in the formal segment, the investigation also uncovered a cartel among informal brokers operating in the egg market. These brokers – individuals with minimal infrastructure, typically using only mobile phones – acted as intermediaries between farmers and wholesalers and coordinated prices across regions. With no formal documentation, the authority relied on Facebook pages used by the brokers to announce prices. Monitoring these pages over six months revealed evidence of price-fixing among three brokers responsible for different geographic areas. Additional confirmation came from a live video in which one broker urged others to adhere to previously agreed prices after a deviation.

33. The courts upheld the competition authority's findings and confirmed the existence of a cartel affecting egg prices between 2020 and 2024. A similar infringement was identified in the chicken market, where brokers described their activities as a “stock market for chicken,” publicly announcing agreed prices on social media platforms.

34. Mr. Momtaz also described a case in the logistics sector involving informal drivers and formal companies transporting goods from Alexandria port to various destinations. Coordination occurred through a WhatsApp group used to agree on transport prices. Evidence obtained during a dawn raid, including access to the WhatsApp group, enabled the authority to refer the case to public prosecution. These cases highlight the increasing role of digital platforms – such as Facebook and WhatsApp – in facilitating collusive conduct within informal markets. To address data limitations, the authority adopted social-media monitoring tools and developed methods to track price exchanges in real time. Mr. Momtaz emphasised that these techniques, combined with traditional investigative tools, were essential for detecting and proving infringements in informal markets, where documentation is limited and conduct often occurs outside formal institutional frameworks.

35. The Chair thanked Mr. Momtaz and observed that brokers had initially been unaware of competition rules, and enforcement had contributed to raising awareness – potentially preventing future infringements before they occurred.

36. The Chair further noted that numerous jurisdictions have enforcement activity involving informal markets, although not all were able to present their cases, particularly where investigations remain ongoing. He referred to Brazil as an example, where CADE is currently examining a merger in the pet services market, which includes informal activity that has formed part of the assessment.

37. Reaffirming the importance of advocacy in preventing infringements, the Chair introduced Zambia's contribution, which concerned a 2022 case involving price fixing among 170 informal hairdressing salons under the Kabwata Hair Association. He highlighted Zambia's pragmatic approach, which balanced legal compliance with market realities, and asked why advocacy and educational remedies had been chosen rather than punitive measures.

38. **Zambia** thanked the Chair and explained that enforcement had to be proportionate to structural constraints and socio-economic vulnerabilities. Most operators were unregistered, lacked traceable records, and in many cases did not legally qualify as enterprises, creating uncertainty in applying sanctions. Imposing fines would have been difficult and risked eliminating income for low-income women and youth, potentially driving activity further underground and undermining trust in regulators. Besides, investigations revealed that the conduct resulted from income instability and fear rather than deliberate cartel behaviour. Competition literacy was extremely limited, and many operators did not know that price fixing was unlawful. The authority concluded that education would be a more effective deterrent, as sanctions alone would not address underlying gaps in pricing practices or market governance.

39. The Chair thanked Zambia and observed that its example echoed similar dynamics in other jurisdictions. He referred to France, where traditional salon-based hairdressers have lobbied for regulations restricting home-based hairdressers – for example, prohibiting the use of hair dye – under the pretext of safety concerns. He noted that such lobbying illustrates how regulation can be used to restrict informal competition, contrasting it with Zambia's more constructive and competition-oriented approach.

40. The Chair invited Somalia to expand on its written contribution, which described the integration of data from tax authorities and licensing bodies to identify unlicensed businesses and detect under-reporting. He asked Somalia to share its experience using these data sources and to clarify whether they were also used in formal market investigations.

41. **Somalia** thanked the Chair and explained that informal markets form the backbone of its economy, supporting livelihoods and enabling access to essential goods. According to recent surveys, 47.4% of businesses operate informally, while 91% of the workforce

participates in informal employment. Key sectors include agriculture, transport, street vending, and small-scale manufacturing, all of which are central to food security and mobility. Somalia then outlined the challenges of measuring and regulating informality, including fragmented data sources and the absence of formal representation for many operators.

42. The Chair thanked Somalia for its contribution and invited further comments.

43. The **United Kingdom** thanked the Chair and described a case of informal coordination in the beauty sector. Approximately 18 months earlier, an online community of about 5,000 nail technicians expressed support for collectively increasing prices to achieve higher wages. The Competition and Markets Authority responded by issuing an open letter explaining that collective price-setting would violate the Competition Act. The letter set out the principles of competition law in clear, accessible language and outlined the benefits of competition. The CMA considered this approach effective in educating a sector with limited awareness of competition rules.

44. The Chair thanked the United Kingdom and observed that this example, together with previous interventions, illustrates the value of soft-law approaches – using education and persuasion rather than formal enforcement – when working with actors unfamiliar with competition principles. He noted that advocacy can complement enforcement, as seen in the experiences of Egypt and the United Kingdom, and may be especially effective in informal markets lacking a culture of compliance.

45. The Chair then introduced the next speaker, Mr. Jorge Grunberg from Chile's *Fiscalía Nacional Económica* (FNE), to present an enforcement experience in the transportation sector, where formal operators compete directly with informal providers, mirroring situations previously described by African jurisdictions.

46. **Mr. Grunberg** thanked the Chair and expressed his appreciation for the opportunity to share Chile's experience in anti-cartel enforcement. He emphasised that even limited interventions in informal markets can reinforce an agency's broader cartel-enforcement strategy. While the FNE prioritises matters with greater economic significance, he noted that smaller, localised cases, also contribute meaningfully to deterrence, institutional credibility, and competition culture.

47. He contextualised these comments within Chile's current enforcement landscape, highlighting that interventions in informal markets remain relatively infrequent, which he attributed to the maturity of national institutions and established market structures.

48. Despite this focus on large cases, the FNE has undertaken several investigations in markets characterised by significant informality and has acquired valuable experience. These typically involve small but locally significant cartels. He highlighted three examples: shared-taxi services in smaller southern cities in Patagonia; local bread production and distribution, where small informal industrial bakeries fixing wholesale prices were recently brought before the Competition Tribunal; and artisanal fishing, where a buyer cartel affected informal king-crab fishermen.

49. He explained that such cases often involve legally permitted activities that are insufficiently covered by formal arrangements and that the actors involved are typically precarious. These actors often do not operate through corporate structures, do not declare all sales for tax purposes –complicating fine calculations – and do not respond to formal information requests as corporate entities would. These characteristics make information-gathering and investigative processes more difficult.

50. He observed, however, that proving the existence of an agreement in these informal-market cases is sometimes easier today than in the early 2000s, before leniency

programmes and stronger investigative tools were established. In several recent matters, the FNE encountered public evidence of coordination, including a local radio announcement in a transport case and a signed protocol within an informal trade association in the bakery case. The challenge lies not in demonstrating the agreement itself but in applying enforcement tools effectively where counterparties lack legal representation and where their advisors may be unfamiliar with competition law, investigative powers, or settlement procedures. Leniency and commitments are difficult to utilise without a baseline understanding, requiring the FNE to incorporate a pedagogical component early in the process.

51. Against this backdrop, he described the FNE’s approach to small, localised cases, as pragmatic and proportionate, enforcing the law while remaining sensitive to local conditions. The agency has relied on commitments and fines calibrated to the participants’ size and involvement – significantly lower than those pursued in major national cases. In one transport matter, payments totalling nearly USD 20,000 were agreed. He emphasised the efficiency benefits of commitments, noting that litigation before the Competition Tribunal and potentially the Supreme Court may extend for three to four years beyond the investigation, whereas commitments enable more timely reinforcement of competition rules.

52. He highlighted the educational dimension embedded in these resolutions. Remedies have included competition-law training, often delivered in partnership with universities, to ensure that participants understand compliance obligations and the functioning of the enforcement system. This component is central to the resolution framework rather than supplementary.

53. Turning to the “other side of the coin”, he presented a buyer-side cartel case filed in June concerning king-crab purchases in Patagonia – Chile’s first such case in several years. The victims are informal fishermen, whereas the investigated buyers are multinational processors exporting 97% of output. The investigation required direct engagement in the field, including taking statements aboard fishing vessels, making multiple site visits, and conducting explanatory outreach on the relevance of competition law. The informality of complainants had a distinctive procedural impact: allegations became public at an early stage, generating immediate media attention and prompting one firm to seek leniency even before the FNE deployed wiretaps or dawn raids – earlier than in most recent cartel cases. The case is currently before the Competition Tribunal, where the requested fines are under consideration.

54. In closing, he reflected on the broader implications of these cases. First, they enhance the authority’s presence in local markets, with cases frequently appearing in local media and demonstrating that Chile combats cartels across the entire country. This visibility strengthens institutional legitimacy, including in Congress, by highlighting the relevance of enforcement beyond multinational firms. Second, these cases contribute to refining cartel-policy design. Not every cartel warrants maximum fines or extended litigation – especially as Chilean law permits imprisonment. A balanced enforcement portfolio should combine commitments, advocacy, and proportionality while preserving deterrence. In his view, efficiency, pedagogy, and proportionality form complementary pillars for addressing small, locally significant cartels in or near informal markets.

55. The Chair thanked Chile for its presentation and noted that Mexico had also encountered cartels with a significant informal dimension. He referred to a case in which the Mexican competition authority sanctioned tortilla producers for price fixing in small and low-income municipalities. He invited Mexico to present its experience and asked whether the challenges and reflections were similar to those highlighted by Chile.

56. **Mexico** thanked the Chair and confirmed that its enforcement challenges in informal markets closely mirrored those described by Chile. Mexico explained that informal businesses rarely provide reliable financial or tax information, complicating assessments of economic capacity. In a 2019 case involving price fixing among tortilla producers in small, low-income municipalities, the Commission addressed this limitation by relying on alternative data sources. Publicly available information from the National Institute of Statistics and Geography was used to estimate the average annual income of tortilla factories in the relevant municipalities. This approach enabled the authority to comply with proportionality requirements and avoid infringing the principle of legal certainty, ensuring that enforcement remained aligned with its legal mandate.

57. The Chair thanked Mexico and remarked on the creative use of data to achieve proportionality. He then invited Saudi Arabia to present its experience in the water-supply sector, which has a distinctive market structure.

58. **Saudi Arabia** thanked the Chair and explained that informal activity accounts for an estimated 15–17% of GDP – lower than in many emerging markets yet still significant. Informality is defined as the presence of at least one unlicensed supplier operating alongside licensed firms. This coexistence creates cost asymmetries, as informal actors avoid licensing fees, taxes, and compliance costs, undermining competitive neutrality. While Saudi competition law applies to all undertakings, enforcement against informal operators is often impractical due to their micro-scale operations and mobility. The authority therefore focuses on structural conditions that allow informality to affect market incentives.

59. Furthermore, Saudi Arabia shared a recent case in the water-tank supply market in the southern mountainous region, where water is delivered through tanks. The investigation began as a traditional horizontal case involving licensed suppliers but uncovered extensive informal participation. Unlicensed operators – avoiding compliance costs – offered lower prices, placing strong pressure on licensed firms and creating incentives for price alignment between formal operators. The authority adopted a proportionate enforcement approach, complemented by structural measures such as simplifying licensing, improving monitoring systems, and strengthening digital tools to increase transparency. The case showed that while direct enforcement against informal actors is difficult, competition authorities can address distortions indirectly through advocacy, inter-agency cooperation, and reforms promoting formalisation.

60. The Chair thanked Saudi Arabia for its contribution and observed that many cases in informal markets have a local dimension. He noted that soft approaches – such as advocacy, education, and structural reforms – are often appropriate tools in such contexts.

61. The Chair shifted the discussion to the third topic of the day: forward-looking approaches to enforcement. He observed that new strategies may be necessary given the challenges authorities face when engaging with informal markets. To explore this issue, he invited María Elena Vásquez from the Dominican Republic to present initiatives developed by her authority to better anticipate and prepare for cases involving informality.

4. Discussion on new strategies looking forward

62. **Mrs. Vásquez** thanked the Chair and expressed her appreciation for the opportunity to present the Dominican Republic's experience in managing the coexistence of formal and informal economies. She noted that informality dominates more than half of the country's productive structure, with 54% of micro and small enterprises operating outside the formal system, according to central bank data. She stressed that this is not merely a tax or social

concern but one of the main obstacles to effective enforcement of the General Law on the Protection of Competition.

63. She explained that informality weakens market functioning, obstructs investigations, and creates conditions for unequal competition between formal and informal firms. Such coexistence undermines efficiency and innovation, as non-compliance with legal, tax, and regulatory obligations reduces costs and distorts competitive neutrality. Between 2018 and 2023, Pro-Competencia had to suspend or close 17 investigations due to the inability to obtain verifiable information, illustrating the structural impact of informality on the authority's work.

64. Mrs. Vásquez then provided concrete examples from affected sectors. In the purified water market, more than 60% of supply comes from unlicensed operators, according to health ministry data. The discrepancy between real consumption and officially recorded production prevented meaningful analysis, leading to the closure of the investigation. In the automotive spare-parts sector, six companies under investigation were unregistered and could not be located, preventing notification and access to accounting records. In the egg production and distribution chain, complaints of price fixing revealed pervasive informality, including the absence of health permits, no tax registry documentation, and the exclusive use of cash transactions. The sectoral association involved was not legally constituted, making it impossible to identify producers or verify agreements, and the case was ultimately dismissed due to insufficient evidence.

65. These cases, she noted, illustrate four major consequences of informality: it prevents robust economic analysis due to unreliable data; it limits the authority's ability to influence public policy; it obstructs inter-institutional coordination; and it creates microeconomic distortions that affect productivity and business decision-making. These dynamics are mutually reinforcing, contributing to a vicious cycle of low institutional effectiveness.

66. To address these challenges, the Dominican Republic is implementing institutional and methodological reforms. Key initiatives include establishing a Competition and Informality Observatory to centralise data, analyse market impacts, and support policy design through coordination with the central bank, ministries, and tax authorities. Planned legislative reforms aim to expand Pro-Competencia's powers by authorising unannounced inspections, access to banking and tax information, and enhanced international cooperation in cross-border cases. The reform package also introduces measures tailored to micro, small, and medium-sized enterprises, linking formalisation to tangible benefits through partnerships with chambers of commerce, trade associations, and universities.

67. Mrs. Vásquez concluded that informality is not merely a statistical phenomenon but a structural distortion that undermines competition enforcement and fair market conditions. She emphasised that effective defence of competition requires an integrated approach combining economic formalisation with institutional strengthening. These two pillars, she stated, are essential for promoting productivity, innovation, equality, and inclusive economic development.

68. The Chair thanked María Elena Vásquez for her comprehensive presentation and highlighted the importance of the Dominican Republic's efforts to strengthen enforcement and reduce informality through institutional reforms. He then invited Guatemala to share their experience.

69. **Guatemala** thanked the Chair and outlined three priorities for promoting formalisation through competitive neutrality. First, the authority is working with the executive branch to develop Guatemala's first national competition policy, linking competition and formalisation as complementary objectives. The policy will include

measurable targets, such as reducing informality rates, and establish mechanisms for inter-institutional coordination. Second, Guatemala is building partnerships with regulators in highly concentrated sectors, where regulatory barriers often impede entry. By distinguishing between rules that serve legitimate public objectives and those that protect incumbents, the authority aims to inform its mandatory annual report to Congress on market-opening reforms. Third, Guatemala is preparing a legislative initiative addressing both competition barriers and disincentives to formalisation. The proposal seeks to eliminate unnecessary regulatory obstacles and introduce positive incentives so that formalisation becomes an appealing business decision rather than a punitive requirement. The authority underscored that enforcement alone cannot reduce informality, which affects an estimated 80% of economic activity. Where dominant firms control key markets, informal entry may be the only viable option for new businesses. The strategy therefore seeks to build evidence demonstrating that competitive markets make formalisation a rational and beneficial choice.

70. The Chair thanked Guatemala and recalled the 2019 discussion, which focused on how competition policy can contribute to reducing the size of the informal sector – insights he suggested could be useful for Guatemala.

5. Discussion on informality in developed countries

71. The Chair then invited the European Commission to share its reflections on informality in developed economies, opening the discussion on the fourth topic. He also asked the Commission to indicate whether it had encountered cases directly involving informal markets.

72. The **European Commission** thanked the Chair and emphasised that informal activities remain part of the economic landscape in developed jurisdictions and can affect consumer welfare, requiring competition authorities to consider their impact where relevant. Informal markets often involve small, hard-to-trace operators, posing challenges for data gathering and the identification of anti-competitive practices. Historically, EU-level enforcement has focused on formal markets, while national authorities have been more likely to address cases involving informality. However, digitalisation is altering this dynamic by increasing the visibility and reach of informal activities, potentially bringing them within the scope of EU competition law when cross-border effects arise.

73. The Commission observed that digital platforms blur the boundary between formal and informal markets, functioning as quasi-regulators by setting rules within their ecosystems. This development raises new competition concerns while also making informal activities more traceable through transaction and payment data. Whereas informality once had only limited competitive implications – such as private copying of music tapes – digital technologies have amplified its relevance. Peer-to-peer music downloads and streaming, for instance, have significant competitive effects, requiring authorities to consider them as potential out-of-market constraints.

74. The Commission provided two examples illustrating these dynamics. In the UMG-EMI merger (2012), the Commission assessed whether piracy formed part of the relevant market for recorded music. While it concluded that illegal content was not in the same market, the Commission nonetheless evaluated its constraining effect on pricing and output. More recently, in the Facebook Marketplace case (2024), the Commission examined tying practices in online classified advertising, an area where informal transactions – such as the resale of second-hand goods – interact with formal marketplaces.

through digital platforms. This example demonstrates how digitalisation can create quasi-formal markets and reshape competitive dynamics.

75. The Commission concluded that its approach remains consistent: informal activities are considered when relevant, applying the same analytical principles and prohibitions used in formal markets while adapting to data limitations and specific market contexts. Digitalisation, by expanding both the reach and traceability of informal conduct, will continue to influence enforcement strategies going forward.

76. The Chair thanked the European Commission and reflected on how digital markets present new challenges and opportunities for enforcement.

77. Subsequently, the Chair invited **BIAC** to intervene, asking whether it was reassured by the discussion, given its written contribution emphasised the need for competition authorities to consider informal markets when defining relevant markets. He also asked for BIAC's views on the most effective instruments for taking informal activity into account.

78. BIAC thanked the Chair and expressed strong agreement with the themes raised during the discussion, welcoming the broad consensus emerging across jurisdictions. It emphasised that equitable enforcement across both formal and informal markets is essential to maintaining the credibility and effectiveness of competition law, particularly in merger control and abuse of dominance assessments. BIAC noted that many interventions had highlighted practical solutions to enforcement challenges, which aligned closely with recommendations outlined in its position paper.

79. BIAC identified the persistent data gap as the overarching challenge complicating enforcement in informal markets – a concern echoed by numerous delegations throughout the session. It stressed that informal activity plays a substantial role not only in emerging economies but also in developed jurisdictions, as illustrated by contributions referencing its share of GDP. Addressing these gaps is therefore critical to ensuring robust and objective competition assessments.

80. To help bridge this divide, BIAC advocated wider use of indirect measurement tools, such as household consumption surveys, labour-force statistics, electricity-usage patterns, currency-demand models, and structured interviews with suppliers and distributors. These techniques – highlighted earlier by South Africa and Australia – provide valuable insights into the scale and commercial significance of informal activity and its interaction with formal markets. They improve the accuracy of market-share calculations in merger reviews and help clarify whether informal operators impose meaningful constraints on dominant firms in abuse-of-dominance cases.

81. The Chair thanked BIAC for summarising many of the key points raised and for its support of the discussion's conclusions. He then welcomed the final contribution, from Consumers International.

82. **Consumers International** described informality as central to global markets and play a critical role in meeting essential consumer needs. These markets are not peripheral; they provide access, affordability, and inclusion. Yet competition law frameworks are designed around formal economies, leaving a gap between enforcement tools and the reality of where most consumers transact.

83. Consumers International stressed that the main question is not whether competition law should apply to informal markets, but how consumers can be effectively protected in markets where documentation and oversight are limited. While informality provides access and affordability, it also exposes consumers to risks such as unsafe products, price manipulation, and lack of redress mechanisms. Lastly, Consumers International concluded

by calling on the OECD to develop global guidelines on competition and informality, supported by regional cooperation and knowledge sharing.

84. The Chair thanked Consumers International and reiterated that both Consumers International and BIAC should feel reassured by the discussion, which demonstrated significant awareness among competition authorities of the challenges posed by informal markets and the importance of addressing them.

6. Final remarks

85. The Chair invited brief closing remarks from the four experts.

86. Francis Kariuki observed that informality remains an enduring feature of markets in his region, forming an ecosystem that provides essential support to formal sectors. He noted that the collapse of informal activity could undermine the functioning of formal markets, making it crucial for competition agencies to consider the entire ecosystem when promoting sustainable competition.

87. Mahmoud Momtaz emphasised the need for a dual approach combining enforcement and regulatory advocacy. Enforcement is necessary to stop infringements that harm consumers and markets, whereas advocacy is needed to prevent regulatory frameworks that inadvertently promote informality. He underlined that both objectives require close coordination with government bodies.

88. Jorge Grunberg highlighted the frequent complaints raised by formal businesses regarding perceived unfair competition from informal operators. He noted that enforcement of labour and tax regulations falls under the remit of other authorities, but competition authorities can still play an important role by recommending regulatory reforms, particularly in innovative areas such as digital platforms. He referenced Chile's market study in the accommodation sector, which proposed measures to align platform-based services with formalisation requirements.

89. María Elena Vásquez concluded on an optimistic note, expressing confidence that forthcoming legislative reforms and the establishment of an observatory in the Dominican Republic will strengthen enforcement, improve public policy, and promote formalisation as part of a broader strategy for economic development.

90. The Chair thanked the experts for their insights and closed the session by identifying four key takeaways.

- He emphasised that data remains the central challenge in enforcing competition law in informal markets. While informality complicates data collection, the discussion highlighted practical solutions, including cooperation with regulators, statistical offices, and central banks; leveraging administrative data; conducting market studies; and using non-traditional tools such as social-media monitoring. Formal firms can also provide valuable insights into informal supply chains.
- The Chair underlined that proportionate and pragmatic enforcement is essential. Many cases in informal markets are local in nature and involve actors unfamiliar with competition law. Authorities should therefore prioritise commitments, education, and capacity-building rather than punitive fines, which may be ineffective or counterproductive, even when fines play a role in budgetary considerations. Publicising enforcement outcomes can help raise awareness and strengthen competition culture.

- He further noted that institutional and policy initiatives are critical to reducing informality. Examples include the Dominican Republic's proposed observatory and legislative reforms, as well as advocacy to review regulations that inadvertently create barriers to formalisation. Competition authorities play an important role in promoting regulatory environments that facilitate entry and encourage compliance.
- Finally, the Chair observed that digitalisation introduces both new forms of informality and new opportunities for enforcement. Online platforms expand informal trade, yet they also make transactions more traceable. Competition authorities must adapt their tools to address emerging risks while fostering consumer trust in digital markets.

91. The Chair concluded by thanking all participants for a dynamic and forward-looking debate.