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Competition Law Enforcement in Informal Markets – Contribution from Zambia

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Competition Law Enforcement in Informal Markets

– Contribution from Zambia –

1. Introduction

1. The informal market plays a critical role in shaping the economic, social, and political landscape of many developing countries. In contexts marked by rapid population growth and urbanization, it serves as a primary absorber of the expanding labor force, particularly among economically inactive or marginalized populations. Despite its association with low wages, limited returns, low productivity, and substandard working conditions, the informal market remains a vital source of livelihood¹.

2. In Zambia, the informal sector significantly outweighs the formal market in size and scope. This sector provides income-generating opportunities for workers, traders, and small-scale entrepreneurs, contributing meaningfully to poverty alleviation and social resilience². These informal markets constitute a significant portion of the national economy, particularly in urban and peri-urban areas where many citizens rely on trade and services for their livelihoods. Common informal activities include street vending, artisanal production, small-scale manufacturing, hairdressing, mobile phone repairs, and agricultural trading³. Despite their importance in employment and income generation, these enterprises often operate outside formal registration, taxation, and licensing systems. Estimates suggest that informal trade represents 40–60% of total retail activity in major commercial hubs such as Lusaka, Kitwe, and Kasumbalesa⁴.

3. The formal sector comprises production units registered with tax and licensing authorities such as the Zambia Revenue Authority (ZRA) and the Patents and Companies Registration Agency (PACRA). These entities are generally easier to monitor and regulate. In contrast, the informal sector includes unregistered production units that operate outside official oversight, making them more difficult and costly to regulate⁵. Characterized by ease of entry, low skill requirements, labor-intensive operations, and small-scale enterprises, the informal sector has become a dominant force in many African economies, including Zambia⁶. Although recent studies highlight its rapid growth and substantial share

¹ Statistics on the informal economy - ILOSTAT. Role Of Informal Economy in National Development

² Role Of Informal Economy in National Development by Agarwal, Chinki and Khan Saifullah Madhepur Teachers' Training College, Madhepur. 2025 IJCRT | Volume 13, Issue 3 March 2025 | ISSN: 2320-2882

³ Charmes, J. (2013) Informal Sector, Informal Employment and National Accounts. African Group on

Employment and Informal Sector (AGEIS), Yaoundé, Cameroon. April 29-May 3, 2013.

⁴ Ibid 3

⁵ The Informal Sector in Zambia Get access Arrow - Bupe Simuchimba, Dale S. Mudenda, Rudo Phiri-Mumba. Published: 19 September 2024

⁶ <https://odad.org/article/informal-economy-and-labour-market-in-developing-countries>

of adult employment, there remains limited data on the actual size, structure, and nature of informal businesses especially those located in rural and household settings.

4. The International Labour Organization (ILO) defines the informal market as encompassing all economic activities by workers and economic units that are not adequately covered by formal legal or institutional frameworks. These activities may fall outside the scope of the law, be insufficiently enforced, or be discouraged by regulatory burdens and high compliance costs.

5. This paper focuses on the mandate of the Competition and Consumer Protection Commission (“the Commission”), as provided under the Competition and Consumer Protection Act No. 24 of 2010 as amended by the Act No. 21 of 2023 (“the Act”), to regulate and address anti-competitive behavior and unfair trading practices across all sectors of the economy. While the Commission is empowered to enforce the provisions under the Act broadly, implementation within informal markets presents unique challenges. A significant number of market participants operate without formal registration, lack traceable business records, and are generally difficult to engage through standard investigative or enforcement procedures.

2. How to Measure the Size of Informal Markets: Current State of Informal Markets in Zambia

6. In Zambia, informal markets are primarily identified through their lack of formal registration and are measured using national surveys and labor statistics that capture employment and enterprise data outside the formal economy⁷. However, accurately measuring Zambia’s informal economy remains a persistent challenge. National surveys provide macro-level indicators but fail to capture the diversity and scale of market activities at local levels. Informal enterprises often lack permanent premises, maintain no formal records, and operate under fluid, trust-based systems that complicate oversight and enforcement. Further, workers in these markets generally lack formal employment contracts and access to social protection, making them vulnerable to economic shocks.

7. Measurement of the informal sector is conducted through national surveys, which estimate employment and enterprise data outside the formal economy. The informal sector accounts for approximately 70% of total employment, with 77% of rural workers engaged in informal activities⁸. Informal markets are especially prevalent in agriculture, retail trade, food vending, and transport services, and they play a crucial role in urban food supply and livelihoods despite offering low wages and limited job security⁹.

8. The Commission typically relies on national surveys, market inspections, third reports, internal studies, to estimate the scope of informal activities. Observations in major market hubs also help authorities understand informal dynamics. Municipal councils and market associations often fill the regulatory vacuum, through prescribed fees sitting in their regulations, allocating stalls, or determining trading schedules. While these measures help maintain order, they can unintentionally restrict competition by creating barriers to entry or facilitating collusion.

⁷ ILO, 2012

⁸ Zambia Statistics Agency (ZAMSTATS)

⁹ Ibid 8

9. For example, in a case investigated by the Commission in a border area of Zambia’s Kasumbalesa’s Ming’omba Community market, an association of chicken traders introduced restrictions on trading days and time slots to maintain market balance between wholesalers and retailers¹⁰. Although well-intentioned, this practice effectively amounted to market allocation, contravening Sections 8 and 9(1)(b) of Act. Recognizing the traders’ informal status and limited understanding of the law, the Commission opted for a non-punitive approach conducting on-site education and sensitisation rather than imposing fines.

10. This intervention led to greater awareness of competitive conduct and voluntary dissolution of restrictive trading practices. This case exemplifies how informal markets, though self-organised, can inadvertently engage in anti-competitive coordination and how proportionate enforcement can correct such behaviour while safeguarding livelihoods.

3. How Informal Markets Interact with Formal Markets

11. Zambia’s formal and informal economies coexist in symbiotic yet tension-filled relationships. Informal traders often purchase goods from formal wholesalers or serve as low-cost resellers, creating downstream competition that benefits consumers through lower prices and wider accessibility. However, disparities in compliance costs especially relating to taxes, standards, and licensing can distort competition.

12. At times, formal businesses leverage regulatory standards to exclude informal rivals. This tension was evident in the case of the Chipata–Chipangali–Kasenengwa Small-Scale Millers Association. Among the twelve millers involved, only four were formally registered, yet all were accused of collectively fixing uniform prices for maize and sunflower milling services. The Commission’s inquiry found that informal members followed collective price guidance set by the association to avoid undercutting each other. Instead of penalising these traders, the Commission facilitated awareness and sensitization on competitive pricing and business ethics¹¹. The result was voluntary cessation of the price-fixing arrangement and improved understanding of competition obligations, illustrating how enforcement and education can coexist to support gradual formalisation.

13. Similarly, informal traders supplying formal retail chains such as small-scale vegetable or poultry suppliers often face subtle exclusion through exclusive supply contracts or minimum volume requirements that only large, formal suppliers can meet. The Commission’s Fruit and Vegetables Association case in Kasumbalesa highlighted this dynamic, where non-member traders were denied access to key supply channels. The Commission intervened by promoting inclusive market access and joint sensitisation with local authorities, reinforcing the principle that all traders regardless of registration status should compete fairly and transparently¹².

¹⁰Competition and Consumer Protection Commission case on Allegations of Restrictive Business Practices against Mingomba Community Market of Kasumbalesa, 16th March, 2016

¹¹Competition and Consumer Protection Commission, Allegations of Restrictive Business Practices against Chipata, Chipangali, Kasenengwa Small Scale Millers Association (2020)

¹²Competition and Consumer Protection Commission, Allegations of Unfair Trading Practices against the Fruit and Vegetables Association Southern Region (2022)

4. How to Factor Informal Markets into Competition Analysis

14. In assessing the Kabwata Hair Association price-fixing case¹³, the Commission adopted a pragmatic approach to competition enforcement in the informal economy balancing legal compliance with market realities. The case involved over 170 informal salon operators at Kabwata Market who, through their association and with the tacit involvement of a local council officer, agreed on uniform minimum prices for hair plaiting services and restricted customer mobility between salons.

15. In competition analysis, the Commission recognised that the market definition was narrowed to the Kabwata Market area where informal enterprises operated without formal registration or financial records. Given the absence of formal cost structures or reliable market share data, the Commission assessed competitive effects qualitatively, finding that collective price setting among salons distorted competition by eliminating price differentiation, limiting consumer choice, and discouraging innovation. However, the Commission also contextualised the conduct within the realities of the informal market where concerns over “customer poaching” and income instability often drive traders to self-regulate through collective pricing.

16. Accordingly, remedies were educational and corrective rather than punitive: the Commission engaged the association and the Lusaka City Council in extensive sensitisation on the illegality of price fixing, clarified permissible competitive conduct such as advertising and fair marketing, and encouraged salons to set independent prices based on cost structures.

17. The case demonstrated how informal market dynamics such as weak limited business literacy, and communal governance structures necessitate proportionate, partnership-based enforcement that promotes compliance without threatening livelihoods. Ultimately, the intervention improved trader awareness of competition principles, restored price autonomy, and guided local authorities in developing non-restrictive market management practices highlighting Commission’s adaptive enforcement strategy in Zambia’s informal economy.

5. Legal and Enforcement Framework

18. The Act provides the Commission with authority to investigate restrictive business practices, abuse of dominance, unfair trading practices, and anti-competitive mergers. Sections 8 and 9(1) prohibit agreements or concerted practices that restrict competition, including price-fixing, market allocation, and collusive tendering.

19. However, enforcing these provisions in informal contexts requires adaptive, proportionate, and collaborative approaches. Many associations in informal sectors are not registered, raising questions about their legal status as “enterprises.” In such cases, the Commission works with local councils, trade associations, and regulators to promote compliance through education rather than punitive sanctions, ensuring enforcement supports rather than destabilises livelihoods.

¹³Competition and Consumer Protection Commission, Kabwata Hair Association price-fixing case (2022)

6. Zambia's Experience

20. Zambia's experience demonstrates that competition law enforcement in informal markets demands flexible tools and partnership-based interventions. Valuable experience has been gained in addressing competition issues within informal markets through adaptive, educational, and collaborative strategies that balance enforcement with economic inclusion across the cases the Commission has handled. The Commission consistently faced challenges stemming from the informal nature of participants such as lack of registration, poor record keeping, and limited legal awareness which constrained the use of conventional sanctions.

21. In response, the Commission prioritised sensitisation, voluntary compliance, and collaboration with municipal councils and sector regulators rather than punitive measures. These strategies fostered behavioural change, dissolution of collusive practices, and improved trader understanding of competition law, while maintaining livelihoods in vulnerable communities. The Commission's outcomes highlight that effective enforcement in informal markets depends on education, proportionality, and inter-agency coordination, transforming competition regulation from a punitive exercise into a developmental tool that promotes fairness, market access, and progressive formalisation.

7. How to Enforce Competition Law in the Informal Markets

22. In Zambia, enforcing competition law within informal markets presents a unique and multifaceted challenge. These markets are largely composed of unregistered businesses that operate without formal records, fixed premises, or traceable financial accounts. As a result, collecting reliable data and evidence for investigations becomes extremely difficult for the Commission. The legal ambiguity surrounding informal operators many of whom do not meet the formal definition of "enterprises" under the Act, further complicates enforcement, as it limits the Commission's ability to apply legal remedies or hold actors accountable.

23. Resource constraints also pose a significant hurdle. Investigations in informal markets often require extensive fieldwork, including direct engagement with traders scattered across various districts and municipalities. This process is time-consuming and costly, especially given the limited budget and manpower available to the Commission. Moreover, informal traders frequently perceive enforcement efforts as punitive or threatening to their livelihoods, leading to resistance and a lack of cooperation. This is compounded by low levels of awareness about competition law and its benefits, which makes outreach and education essential but challenging.

24. Another layer of complexity arises from overlapping regulatory mandates. Informal market activities often fall under the jurisdiction of municipal councils, sector-specific regulators, and licensing authorities. For example, enforcement in agricultural or transport-related informal trade may intersect with local by-laws or sectoral regulations, creating potential jurisdictional conflicts. Effective competition enforcement in these environments therefore requires coordinated action and clear communication among multiple regulatory bodies to avoid duplication, gaps, or contradictory rulings.

25. These constraints were evident in the Mongu Water Vessel Operators case¹⁴, where an unregistered group of small boat operators established a passenger queuing system that allegedly restricted smaller operators' opportunities. Investigation revealed that the

¹⁴ Competition and Consumer Protection Commission, Mongu Water Vessel Operators case (2024)

arrangement originated from safety and operational needs rather than collusive intent. With support from the Department of Maritime and Inland Waterways (DMIW), the Commission determined that there was no contravention but used the case to educate traders and regulators on competition principles and collaborative market management.

26. This experience underscored the importance of multi-agency coordination and accurate classification of market actors before initiating enforcement action. Together, these challenges underscore the need for a nuanced and collaborative approach to competition law enforcement in Zambia's informal economy one that balances legal rigour with practical engagement and institutional synergy.

8. Remedies, Outcomes, and Lessons Learned

27. The Commission's approach to enforcing competition law in informal markets prioritises education, engagement, and proportionality rather than punitive action. It focuses on building trader awareness through targeted sensitisation campaigns on competition and consumer protection laws, fostering collaborative regulation with municipal councils, law enforcement, and relevant ministries, and supporting lawful self-regulation among informal associations to promote fair trading practices. Additionally, the Commission actively encourages gradual formalisation by motivating small traders to register with the Patents and Companies Registration Agency (PACRA), thereby strengthening compliance, transparency, and inclusion within the broader market system. Outcomes from these interventions include improved awareness of fair competition principles, voluntary compliance, and stronger institutional partnerships with local authorities.

28. The Mongu Water Vessel case underscored the critical importance of accurately classifying market actors prior to initiating enforcement actions. It also highlighted the value of multi-agency coordination particularly between the Commission and technical regulators such as the Department of Maritime and Inland Waterways (DMIW) in promoting competitive neutrality while safeguarding public safety and operational standards.

29. These collaborative strategies yielded tangible outcomes. Notably, the Commission recommended that vessel operators be formally registered with PACRA, and advised the responsible Ministry to establish a framework for business formalization, recognizing the public safety implications of water transport services. Similar progress was observed in other sectors: Chipata millers voluntarily discontinued price collusion; Kasumbalesa chicken traders abandoned restrictive scheduling practices; Kabwata hairdressers embraced competitive pricing; and fruit traders in Kasumbalesa expanded their supply networks. The Mongu case, in particular, illustrated the effectiveness of inter-agency dialogue and preventive education as alternatives to punitive enforcement.

9. Conclusion

30. Zambia's experience reveals that effective competition law enforcement in informal markets hinges on balance between legal rigour and socio-economic sensitivity, between deterrence and education, and between national mandates and local realities. While informal actors may not always fit neatly within the legal definition of enterprises, their collective influence on prices, access, and consumer welfare is undeniable.

31. The Commission's approach anchored in advocacy, collaboration, and proportional enforcement ensures that competition principles are internalised across both informal and formal markets. By fostering partnerships with local authorities, trade associations, and technical regulators, the Commission continues to advance a fair, inclusive, and competitive economic environment one in which market efficiency and social equity coexist to the benefit of all Zambians.