

THE NEED FOR LESS COMPETITION LAW ACROSS AFRICA

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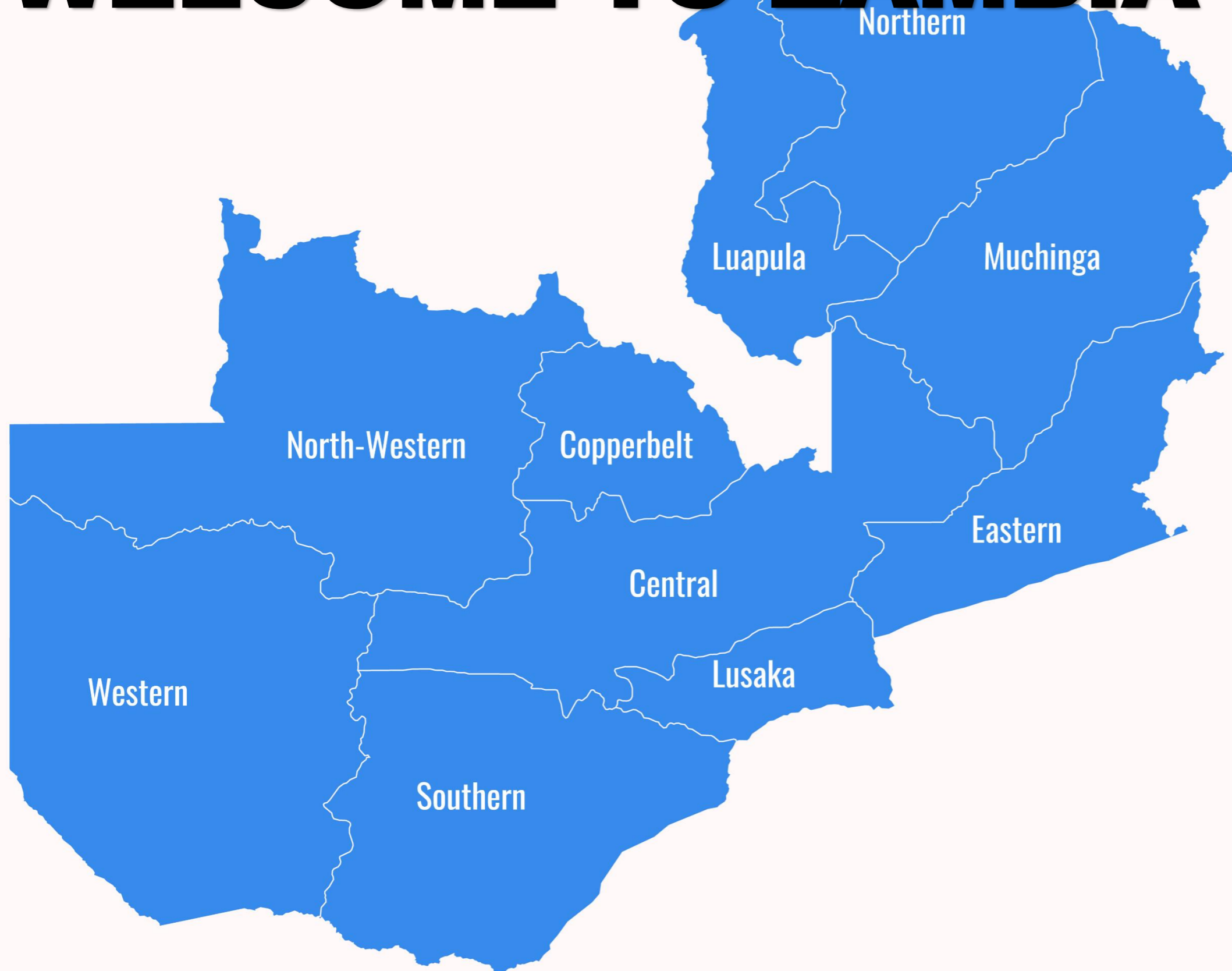
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WELCOME TO ZAMBIA



- a) **Zambia has 72 ethnic tribes and out of these tribes, there are 9 major ethnolinguistic groups.**
- b) **Bemba, Lozi, Nyanja- Chewa, Ngoni, Tonga, Tumbuka, Kaonde, Nkoya and Luvale.**
- c) **Speaking in two of these languages, Mwaiseni, Mwaboonwa.**
- d) **In English, the words mean welcome and welcome to Zambia, the real Africa to all you distinguished delegates, to this Commonwealth Law Conference.**

IMPORTANCE OF COMPETITION LAW IN THE AFRICAN CONTEXT

Effective competition leads to consumer welfare as it leads to the lowering prices of goods and services which is cardinal to emerging markets in Africa.

Competition enables businesses to compete in the open market place. Predominantly, economies in Africa follow the capitalist model.

Competition helps lead to efficiency and innovation of competing firms.

Competition is a crucial driver of economic growth and it helps to protect economies in Africa.

INTERFACE BETWEEN COMPETITION LAW AND POLICY

Competition law and competition policy compliment each other.

The difference between competition law and policy is that a competition law protects competition and regulates the maintenance of competition whilst competition policy outlines the objectives of what a Government intends to achieve in competition.

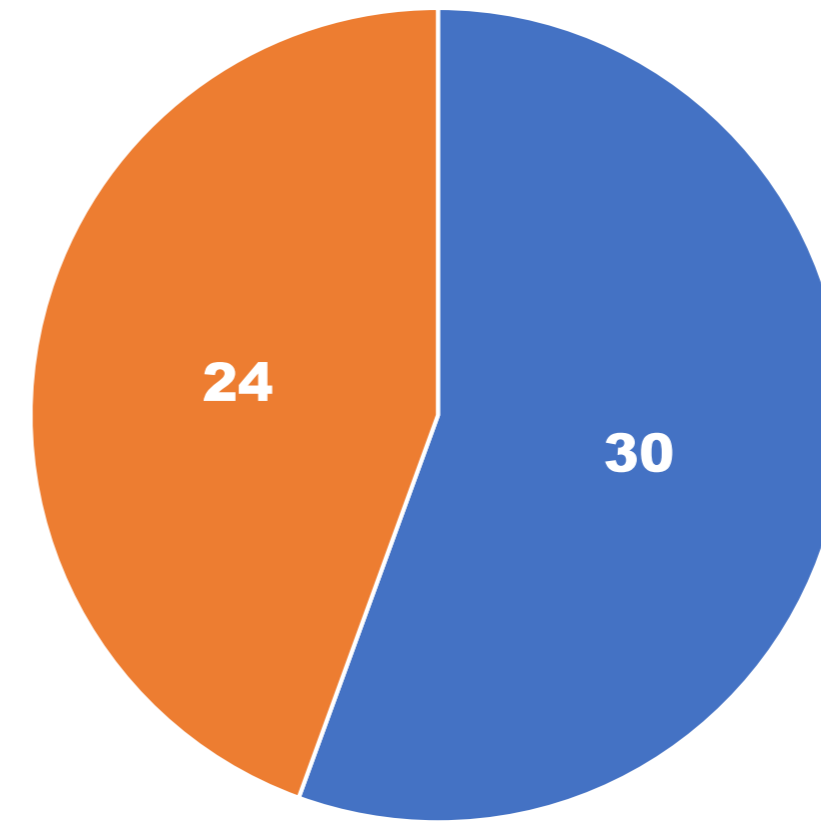
Most African countries that have enacted competition legislation have a competition policy.

Both competition law and policy are necessary in the promotion and maintenance of competition in an economy.

IS THERE TOO MUCH COMPETITION LAW IN AFRICA?

To put this in context, there are 54 countries in Africa and 30 have competition laws with latest being Nigeria that recently enacted a competition law.

African Competition Matrix



- Countries With Competition Laws
- Countries Without Competition Laws

COMPETITION LAW IN AFRICA CONT'D

There are about 5 regional competition regimes such the Comesa Competition Commission, East African Community has agreed, West African Economic and Monetary Union, Central African Economic and Monetary Community, Economic Community of West African States.

Comesa(CCC)/ EAC/
WAEMU/
CAEMC/ECOWAS

There are more than 30 functional Competition Authorities in Africa compared to 13 in 2000.

DANGERS OF OVER REGULATION OF COMPETITION

Increases the cost of doing business in Africa.

Rejection of potential pro-competitive mergers that can impede economic growth and investment promotion.

Limits the number of competing firms and limits the ability of consumers to make decisions around goods and services.

Multiple regional competition bodies increase regulatory approval costs and may delay the fulfillment of conditions precedent in transactions.

IS THERE LESS COMPETITION LAW IN AFRICA?

There is a poor competition culture across Africa.

Lack of adequate capacity building in most Competition Authorities.

Effective regulation is impeded by lack of or limited financial resources to the Regulators.

Political interference.

DANGERS OF LESS COMPETITION LAW IN AFRICA

Efficiencies which aid consumer welfare will not be achieved.

Barriers to entry will increase leading less foreign direct investment.

Economic growth will not be achieved without effective regulation of cartels that have an adverse effect on the economy.

FUTURE OUTLOOK OF COMPETITION LAW IN AFRICA

In their infancy, most competition authorities focus on merger control but as the competition authorities mature or as time passes, they become active in regulating restrictive business practices and anti-competitive trade practices.

Public interest will become more prominent in merger control because of unemployment issues etc.

A leap in the future will see the development of jurisprudence in most African jurisdictions.

The competition culture in Africa will improve due to increased awareness.

OUTLOOK OF COMPETITION LAW IN AFRICA CONT'D

Competition policy is likely to become international across Africa as inward investment increases. The enactment of a competition law in Nigeria is a game changer.

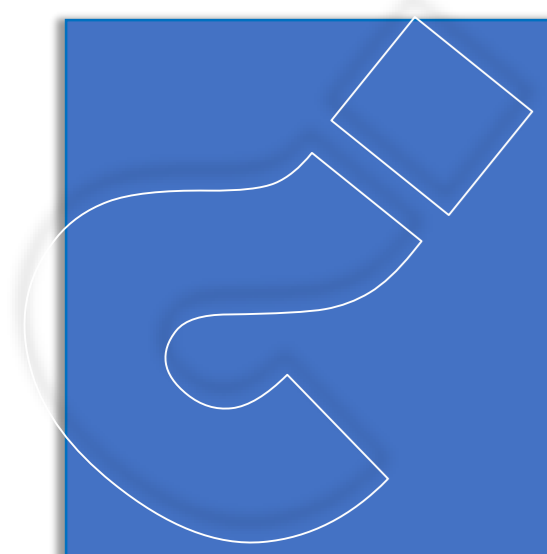
CONCLUSION

There isn't too much competition law in Africa if we use the variable of consumer welfare.

Competition is key to Africa in promoting efficiencies.

We must be wary of overlaps and over regulation through multiple regional bodies.

There is need of a truly one stop shop for multi- jurisdictional regulation to reduce the cost of doing business in Africa.




QUESTIONS

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Sydney Chisenga is a Partner and the Head of the Dispute Resolution and Public Policy practice at Corpus Legal Practitioners. He leads and handles high level commercial litigation cases which include high-profile tax disputes and other major regulatory litigation involving multi-national corporations. More recently, Sydney successfully represented a multi-national corporation in a transfer pricing dispute.

Sydney is also an expert in competition and consumer protection law, specialising in complex merger clearance and defending clients in investigations by the Competition and Consumer Protection Commission and appeals before the Competition and Consumer Protection Tribunal. He is considered an expert in Zambian and African competition law. He is also listed as a competition law expert in Zambia by the World Bank Global Competition Group and the COMESA Competition Commission.

He is a trusted advisor to major corporations in sectors including manufacturing, transport, IT, telecommunications, consumer and retail, mining and resources, on all types of disputes.

As a Chambers and Partners and Corporate Live Wire ranked Attorney, Sydney is also recognised as a national expert with regards to Merger Control Law by the Global Law Experts. He also contributes articles on Merger Control in the “Getting the Deal Through” publication and is a contributor to “Doing Business” annual publication by the World Bank.

Sydney is also frequent speaker on competition law to a variety of fora such as the Africa Competition Conference and Global Competition Review.