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COULD NIGERIA HAVE A COMPETITION LAW REGIME WITHIN THE YEAR?

Could Nigeria have a competition law regime within the year?

Key business groups in Nigeria have called on the government to pass without delay the Competition Bill currently before the legislature.

Nigeria has long been a rarity amongst the large African economies in not having established – or at least created the framework for – a competition law regime. For instance, South Africa has a well developed competition law regime administered by a relatively sophisticated regulator (the Competition Commission of South Africa), whilst COMESA member states from Burundi to Zambia have established a supra-national framework for merger control and antitrust regulation.

Hopes have been raised by the National Assembly, which has identified the Competition Bill as one of its "priority Bills for passage". As currently drafted the Bill would prohibit the abuse of a dominant position, anti-competitive agreements and create a merger control regime.

Questions remain, however, around the chances of the Bill passing in to law. This is not Nigeria's first go at introducing a competition law regime, which it first attempted in the late 1990s and then again in 2000 – with the current iteration having crawled through the legislative process for the last 16 years. For instance the Federal Competition Bill, proposed in 2002, attempted to regulate "*possible abuses of dominant positions by business, and anti-competitive combines, and to establish the Federal Competition Commission*". It was also envisaged that the bill would have criminalised anticompetitive agreements among competitors, as well as more surreptitious offences such as bid-rigging and geographic/customer market allocation.

Yet thanks to the opposition of some high-profile senators – citing concerns such as a "proliferation of commissions" – the Bill's progress ground to halt. Similar criticisms have been levied at the Bill more recently, and those opposed to the Bill have questioned whether a legal system and an economy that has no history of competition regulation should be subject to a regime the structure of which has merely been "transplanted" from other jurisdictions.

In the meantime a number of acts currently on the statute books in Nigeria do contain provisions tackling, or empowering sectoral regulators to tackle, unfair trade practices – and these include the Electric Power Sector Reform Act, 2005, the Civil Aviation Act, 2006, the Investment and Securities Act, 2007 and the National Broadcasting Commission Act. Nonetheless, if the Bill were to pass then this would have long-term and far reaching ramifications for businesses operating in Nigeria – both in terms of the practices they were able to engage in, as well as the way in which M&A and other transactions would require clearance.

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