



**When competition
cannot be perfect**

Adapting antitrust to small and insular economies

Report

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Executive summary

This report¹ has been developed through a public-private initiative of the International Chamber of Commerce (ICC). The purpose of this report is to enhance understanding of the particular challenges faced by competition authorities operating in small and geographically isolated jurisdictions and to formulate practical recommendations aimed at improving the effectiveness of competition policy in these contexts.

Competition policy is often discussed within the context of larger jurisdictions and integrated economies. However, small and insular economies operate under a set of structural conditions that differ fundamentally from those prevailing in large markets. Geographic remoteness, narrow domestic demand, dependence on imports, high transportation costs and limited economies of scale significantly affect market dynamics. These factors reinforce market concentration, increase barriers to entry and narrow the scope within which competitive pressures can emerge organically.

As a result, markets in such jurisdictions frequently exhibit persistent concentrated market structures. These outcomes do not necessarily reflect failures of competition law enforcement but rather the economic realities of small market size. In many sectors, a limited number of firms is not an anomaly but a condition for market viability. Competition authorities therefore face the challenge of distinguishing between anti-competitive conduct and structural features inherent to the economy.

The report finds that competition authorities in small and insular economies must operate within a uniquely complex environment shaped not only by market structure but also by developmental priorities and institutional constraints. Limited resources, high levels of market concentration, vertically integrated supply chains and the presence of diversified conglomerates all influence enforcement strategies. In practice, authorities frequently prioritise conduct affecting the largest share of consumers and sectors essential to daily life, rather than pursuing broad or highly technical enforcement agendas.

These authorities must also balance competition enforcement with broader socio-economic considerations, including employment, industrial development and access to essential goods and services. Strict application of competition rules may, in certain circumstances, risk undermining economic sustainability where markets cannot support a large number of operators. Consequently, enforcement often focuses less on market structure itself and more on preventing abuses of market power, exclusionary practices and coordinated behaviour.

Small and insular economies can also face heightened risks of regulatory capture and political pressure due to close economic and social relationships between market participants and public authorities. While most competition agencies are established as independent statutory bodies with transparent procedures and judicial oversight, safeguarding independence remains a continuous institutional challenge.

¹ This report was compiled on the basis of competition authorities' responses received to a questionnaire in the participating jurisdictions. The authors of this report are grateful for the support received from these jurisdictions and the willingness of the respective authorities to participate in a project of this nature.

The participating authorities included: the Cayman Islands, Eswatini, The Faroe Islands, French Polynesia, Guyana, Mauritius, New Caledonia, Seychelles, Trinidad and Tobago.

The report further highlights that competition authorities in these jurisdictions frequently perform functions that extend beyond traditional antitrust enforcement. Through market studies, advocacy initiatives, cooperation with sector regulators and advisory opinions to governments, they contribute to broader economic governance. Competition authorities often act as key institutions for maintaining fair market functioning in economies where structural competition cannot be fully relied upon.

International and regional cooperation emerge as essential. Participation in regional networks provides technical expertise, training, investigative support and coordinated enforcement, allowing small authorities to overcome resource limitations and address cross-border conduct, particularly involving multinational firms.

Based on the responses received and analysed, the ICC Task Force on Small and Insular Economies² concludes that competition policy in small and insular economies cannot simply replicate models developed for large jurisdictions. Instead, a contextualised approach is required – one that promotes competitive behaviour, preserves market contestability and prevents abuses of dominance while recognising structural constraints inherent to small markets.

Accordingly, the report recommends strengthened advocacy and market studies, prioritisation of high-impact enforcement actions, enhanced cooperation agreements and integration into regional competition frameworks. These measures aim to ensure that competition law contributes both to consumer welfare and to sustainable economic development.

Ultimately, the experience of small and insular economies demonstrates that the objective of competition policy is not always to maximise the number of competitors but to ensure that market power, where unavoidable, is exercised responsibly, transparently and subject to effective oversight.

1. The economics of small and insular markets

1.1 Structural characteristics of small and insular economies

Competition policy is often analysed within the context of larger and more integrated jurisdictions. However, small and insular economies operate within structural conditions that differ significantly from those prevailing in large markets. These jurisdictions are characterised by geographic isolation, relatively modest population size, limited trade flows and dependence on a narrow range of industries. Economies of scale and scope that are achievable in larger economies frequently cannot be attained in these environments.

Remoteness and isolation have direct economic consequences. Transport and logistics costs are higher, supply chains are longer and less diversified, and reliance on imported goods is substantial. These factors contribute to elevated consumer prices and restrict the range of available products and services. At the same time, the limited size of the domestic market constrains demand and reduces the number of viable market participants.

As a result, many sectors naturally support only a small number of operators. In certain circumstances, a market may only sustain one or two efficient firms. These outcomes are not necessarily the result of anti-competitive conduct but arise from the economic realities of scale, infrastructure costs and market size. The small number of competitors narrows the scope within which competitive pressures can emerge organically and increases the likelihood of persistent concentration.

² The ICC Task Force on Small and Insular Economies is co-chaired by Johanne Peyre, President of the French Polynesian Competition Authority (APC), and John Oxenham, Director of Primerio.

Structural features are further reinforced by barriers to entry. New entrants face high fixed investment requirements, logistical constraints, access to finance limitations and uncertain revenue prospects. Geographic distance from major commercial centres also discourages potential entry, particularly where transportation delays or perishable goods are involved. Consequently, concentration often reflects structural constraints rather than enforcement deficiencies.

These economic conditions also interact with social and policy considerations. Small and insular economies frequently face higher levels of inequality and vulnerability to external shocks. Public authorities may therefore adopt policies intended to protect employment, ensure supply continuity or stabilise essential sectors. Such measures may include exclusive arrangements, sectoral protections or regulatory restrictions that further shape market structure.

Accordingly, competition authorities must assess market outcomes within the broader economic context. Market concentration, vertical integration and limited entry cannot automatically be interpreted as indicators of anti-competitive behaviour. Instead, authorities must distinguish between conduct that harms competition and structures that are inherent to the functioning of a small economy.

1.2 Structural sources of limited competition

The structural characteristics described above explain why competitive dynamics in small and insular economies differ from those in larger jurisdictions. Limited domestic demand reduces the number of firms that can profitably operate within a given sector. High fixed costs – particularly in infrastructure-intensive industries such as telecommunications, transport, utilities and fuel distribution – further restrict entry.

In such environments, oligopolistic market structures frequently emerge. A limited number of suppliers may provide essential goods and services to the entire population. The presence of few competitors does not necessarily indicate a failure of competition law enforcement but reflects the underlying economics of the market. In some cases, a certain degree of concentration is required for firms to remain viable and to ensure continuity of supply.

These conditions may also encourage vertical integration. Firms often control multiple stages of the supply chain in order to secure access to inputs, reduce logistics risks and ensure distribution reliability. In geographically isolated economies, integration from importation to retail distribution may represent an efficiency response to logistical uncertainty rather than an attempt to foreclose competition.

Similarly, diversified conglomerates frequently arise. A single economic group may operate across multiple sectors, spreading risk and compensating for limited opportunities in individual markets. While such structures can raise competition concerns, they may also contribute to economic stability and investment capacity within the jurisdiction.

Consequently, competition authorities must balance the promotion of rivalry with the preservation of economically sustainable firms. Excessive fragmentation of already small markets may lead to firm exit, reduced investment and diminished service availability. Authorities therefore often focus enforcement on exclusionary conduct, coordinated behaviour and abuse of dominance rather than on concentration alone.

1.3 Essential facilities and natural monopolies

Certain sectors in small and insular economies present characteristics of natural monopoly. Infrastructure such as ports, maritime freight, energy distribution networks and telecommunications systems requires substantial capital investment but serves a limited consumer base. Duplicating these facilities is frequently economically inefficient.

Seeing as access to these facilities is indispensable for market participation, they play a central role in competitive dynamics. Limited access, discriminatory conditions or restrictive arrangements may significantly affect downstream competition. At the same time, the operator of such infrastructure must maintain financial viability in a small market with limited demand.

Competition authorities therefore increasingly emphasise conduct-based oversight. Rather than challenging the existence of monopoly infrastructure, enforcement focuses on preventing exclusionary practices, discriminatory access or abusive pricing. This approach seeks to preserve contestability while recognising the structural necessity of certain monopolistic arrangements.

These considerations illustrate a broader point: in small and insular economies, the objective of competition policy is not always to eliminate concentration but to ensure that unavoidable market power is exercised in a manner consistent with fair competition and consumer welfare.

2. Consequences for competition law enforcement

2.1 Enforcement priorities in a concentrated market environment

In small and insular economies, competition authorities operate within a uniquely complex landscape. Their decisions are not made in isolation but are shaped by limited resources, market concentration and broader economic realities. Rather than adopting rigid or highly sector-specific approaches, many authorities favour holistic enforcement strategies intended to address issues affecting the largest portion of the population.

Responding authorities commonly indicated that enforcement priorities are guided by practical considerations. With small teams and modest budgets, it is often not feasible to pursue every complaint or to undertake extensive investigations across all sectors. Authorities therefore tend to focus on conduct with significant impact on consumers, particularly in essential goods and services.

This often leads agencies to prioritise clear anti-competitive practices such as price fixing, market allocation and exclusionary conduct. Highly complex or resource-intensive cases may be approached more cautiously, especially where evidentiary burdens are significant and the expected consumer impact is limited. In contrast, matters involving everyday consumer markets receive greater attention because they affect a substantial share of the population.

Market studies and economic monitoring are also widely used tools. Authorities rely on data collection, complaints and sectoral observations to identify competition concerns and guide enforcement. These mechanisms allow agencies to monitor behaviour within concentrated markets and detect patterns of coordination or abuse even in the absence of formal complaints.

At the same time, enforcement approaches frequently incorporate developmental considerations. Authorities reported balancing competition objectives with employment protection, access to essential goods and economic stability. This does not imply departure from competition principles but reflects the practical need to evaluate cases within the broader economic environment.

2.2 Oligopolies and coordinated behaviour

Oligopolistic structures are a recurring feature of small and insular economies. Telecommunications, fuel distribution, retail grocery, construction and transport sectors commonly exhibit high concentration. These industries typically require substantial investment and serve limited consumer bases, naturally restricting the number of viable operators.

In such markets, competition concerns often arise not from explicit cartel agreements but from coordinated behaviour and parallel conduct. A small number of market participants, repeated interactions and high transparency of pricing can facilitate alignment of commercial strategies even without direct communication. This makes detection and enforcement particularly challenging.

Authorities therefore face the difficulty of distinguishing between normal market behaviour and tacit coordination. The absence of formal agreements complicates investigations, while legal standards may require a level of proof that is difficult to obtain in small markets. At the same time, market participants may be reluctant to file complaints due to commercial interdependence or fear of retaliation.

To mitigate these risks, agencies engage in advocacy and outreach. Educational programmes, stakeholder meetings and open communication channels are used to encourage compliance and increase awareness of competition rules. Public communication of decisions also serves a deterrent function by signalling that anti-competitive conduct will be addressed.

Consequently, enforcement in oligopolistic environments often combines investigation with prevention. Rather than relying exclusively on sanctions, authorities seek to influence behaviour and maintain competitive pressure within structurally concentrated markets.

2.3 Vertical integration and conglomerate structures

Vertical integration is widespread in small and insular economies. Firms frequently operate across multiple stages of the supply chain, from importation to distribution and retail. This structure often emerges as a response to logistical uncertainty, supply security concerns and the need to reduce operational risks.

While vertical integration may raise concerns regarding foreclosure or discrimination, it can also generate efficiencies. Integrated firms may achieve cost savings, improve coordination and ensure continuity of supply in environments where transport delays and limited suppliers are common. As a result, authorities typically do not treat integration as inherently problematic but instead evaluate specific conduct.

Merger review and market monitoring therefore focus on whether a firm has the ability and incentive to restrict access to inputs or customers. Behavioural remedies and commitments are frequently used to preserve market access and prevent exclusionary practices while allowing efficiency gains to materialise.

Diversified conglomerates represent a related phenomenon. In many small economies, a single corporate group may operate across multiple sectors. Such diversification can stabilise economic activity by spreading risk and supporting investment. However, it may also increase barriers to entry and reduce opportunities for smaller firms.

Authorities therefore assess transactions for potential leveraging, bundling or cross-subsidisation effects. The objective is not to prevent firms from achieving scale but to ensure that market power in one sector is not used to distort competition in another.

2.4 The balance between competition and economic sustainability

A recurring theme across jurisdictions is the need to balance competitive rivalry with economic sustainability. Markets in small economies may not support numerous operators. Excessive fragmentation can lead to firm exit, reduced investment and instability in essential services.

Accordingly, authorities often focus less on market structure and more on conduct. Dominance alone is not treated as unlawful; enforcement concentrates on abusive practices such as exclusionary behaviour, discriminatory supply conditions and excessive restrictions on entry.

This approach reflects the understanding that competition policy must operate within the constraints of economic reality. The objective is not to maximise the number of competitors but to maintain contestability and prevent harm to consumers. In some circumstances, conditional approvals or behavioural remedies may achieve better outcomes than structural intervention.

Through this approach, competition authorities aim to preserve both fair competition and reliable market functioning. The challenge is therefore not simply to promote rivalry but to ensure that concentrated markets remain open, transparent and subject to effective oversight.

3. Institutional and regulatory implications

3.1 Political economy and risks of regulatory capture

Maintaining operational independence is a cornerstone of effective competition enforcement. In small and insular economies, however, this objective presents particular challenges. Close social and economic relationships between businesses, political authorities and regulators are more common in small jurisdictions, increasing the potential for perceived or actual influence on regulatory decisions.

Most competition authorities are established as independent statutory bodies with clearly defined mandates. Appointment procedures, fixed terms of office and the possibility of judicial review are intended to safeguard impartial decision-making. Authorities also rely on transparency measures, including publication of decisions, annual reporting and public consultations, to reinforce accountability and public confidence.

Nevertheless, the small size of markets and communities can heighten exposure to political pressure. Decisions affecting major employers, essential industries or key economic actors may have broader economic implications. Authorities therefore operate in an environment where legal considerations must be applied alongside awareness of economic sensitivity.

In response, agencies emphasise adherence to formal procedures and evidence-based analysis. Collective decision-making by boards or commissions, disclosure of interests and recusal mechanisms are commonly used safeguards. The possibility of appeal to independent courts also serves as an important external check.

These institutional arrangements demonstrate that independence in small and insular economies is not a static condition but an ongoing process requiring transparency, clear governance rules and consistent application of competition law principles.

3.2 Institutional capacity and resource constraints

Resource limitations represent one of the most consistent challenges reported by competition authorities. Many agencies operate with small teams and modest financial resources. Staffing shortages, limited access to specialised economic expertise and high staff turnover can affect the capacity to conduct complex investigations or comprehensive market studies.

Consequently, authorities must prioritise their activities. Enforcement often focuses on cases with the greatest expected impact on consumers and the economy. Highly technical or resource-intensive matters may require cooperation with external experts or regional partners.

Limited resources also influence the tools used by agencies. Advocacy initiatives, compliance programmes and guidance documents are frequently employed as cost-effective mechanisms to promote voluntary compliance and prevent anti-competitive conduct. Market monitoring and screening activities may substitute for extensive litigation in certain circumstances.

Training and capacity-building therefore become critical components of institutional effectiveness. Participation in workshops, secondments and knowledge exchanges helps compensate for internal resource constraints and strengthens investigative capability.

These realities illustrate that institutional design for small competition authorities must recognise practical limits. Effectiveness depends not only on formal powers but also on realistic prioritisation, efficient use of available resources and the development of cooperative networks.

3.3 The expanding role of competition authorities

The experience of participating jurisdictions indicates that competition authorities frequently perform functions extending beyond traditional antitrust enforcement. Through advisory opinions, market studies and interaction with public authorities, agencies contribute to broader economic governance.

Authorities often provide guidance on legislation, regulatory frameworks and sectoral policies. They may recommend reforms to remove barriers to entry, improve market transparency or address structural distortions. In this way, competition policy becomes closely linked with public policy and economic development strategies.

Cooperation with sector regulators is also common. Memorandums of understanding and joint consultations allow agencies to address issues in regulated industries such as telecommunications, energy or transport. Such collaboration helps ensure that regulatory measures support, rather than undermine, competitive market functioning.

This broader role reflects the reality that in small and insular economies competition authorities may serve as central institutions for promoting fair market conditions. Because structural competition cannot always be relied upon, authorities contribute to maintaining contestability through oversight, advocacy and policy advice.

3.4 Regional and international cooperation

International and regional cooperation plays a particularly important role for small competition authorities. Participation in regional networks provides access to expertise, training opportunities and information sharing mechanisms that would otherwise be unavailable.

Cooperation allows agencies to coordinate investigations, especially where conduct involves multinational firms or cross-border transactions. It also facilitates convergence of practices, adoption of best practices and development of guidelines adapted to local circumstances.

Regional organisations and international forums provide technical assistance, joint training and opportunities for staff exchanges. These initiatives strengthen institutional capacity and help overcome resource limitations. Shared databases and collaborative enforcement mechanisms also enhance the ability to address complex cases.

While differences in legal frameworks and economic structures may create challenges, the benefits of cooperation are widely recognised. Collective action enables small jurisdictions to address competition issues more effectively than isolated national enforcement.

Accordingly, integration into regional and international networks emerges as a key component of effective competition policy in small and insular economies.

4. Toward a contextualised competition policy for small economies

4.1 Rethinking enforcement objectives

The responses gathered in this report indicate that competition policy in small and insular economies cannot be implemented in the same manner as in large jurisdictions. Structural market characteristics – limited size, geographic isolation and persistent concentration – require an adapted enforcement approach.

Competition authorities therefore increasingly emphasise the preservation of competitive behaviour rather than the multiplication of competitors. In concentrated markets, dominance alone is not necessarily problematic; the primary concern is the exercise of market power through exclusionary or abusive practices.

Enforcement priorities consequently focus on conduct that produces direct harm to consumers. Practices such as price fixing, market allocation, discriminatory supply conditions and exclusionary agreements typically receive the greatest attention. By contrast, purely structural concentration may require monitoring rather than intervention.

This approach recognises that competition law must operate within economic realities. The objective becomes maintaining contestability and preventing harm, while allowing firms to achieve sufficient scale to remain viable and ensure continuity of supply.

4.2 Advocacy and market studies as core tools

Advocacy initiatives play a central role in this context. Because enforcement resources are limited and markets are concentrated, prevention is often more effective than ex post sanctions. Authorities therefore place emphasis on education, awareness and communication with businesses and consumers.

Public communication of cases, guidance documents and stakeholder outreach contribute to building a culture of compliance. Media engagement and educational programmes help market participants understand the implications of competition rules and the consequences of anti-competitive behaviour.

Market studies represent another essential tool. Unlike investigations focused on a single firm, market studies allow authorities to analyse entire value chains, identify structural barriers to entry and propose policy reforms. These studies facilitate dialogue with government institutions and private stakeholders and can prevent distortions before they result in formal infringements.

Civil society organisations and professional associations may also assist in disseminating competition principles. Their involvement can strengthen credibility, improve outreach and encourage voluntary compliance across sectors.

4.3 Prioritisation and efficient resource allocation

Given capacity constraints, competition authorities must prioritise their interventions. It is generally impractical to investigate every complaint or suspicion of anti-competitive conduct. Agencies therefore focus enforcement on sectors most widely used by consumers and on practices with significant economic impact.

In many cases, enforcement concentrates on hardcore cartel behaviour and clear horizontal restraints. More complex matters – such as certain vertical arrangements or highly technical market structures – may require a selective approach depending on available resources and expected consumer benefit.

This prioritisation enables authorities to maximise the effectiveness of limited institutional capacity while maintaining credibility and deterrence. Balanced allocation of resources between enforcement, advocacy and monitoring activities allows agencies to achieve practical results despite operational constraints.

4.4 Cooperation and regional integration

Even with prioritisation and advocacy, national authorities may face limits in addressing complex or cross-border competition issues. Cooperation agreements and integration into regional frameworks therefore become essential.

Multilateral cooperation enables the sharing of information, experience and investigative support. Participation in regional organisations allows small authorities to access expertise, training and coordinated enforcement mechanisms. These arrangements can also facilitate review of mergers involving multinational firms and help address cross-border anti-competitive conduct.

Technical assistance from more established competition authorities – through training programmes, internships, secondments and joint investigations – further strengthens institutional capacity. Such cooperation improves both substantive analysis and procedural effectiveness.

Regional integration also contributes to legal convergence and predictability for businesses. Shared standards and coordinated actions enhance credibility and allow small jurisdictions to exercise influence disproportionate to their individual size.

4.5 Toward international recognition of contextualised competition policy

The experience documented in this report suggests that small and insular economies should not simply replicate models developed for large markets. Instead, competition policy must be adapted to local economic conditions while maintaining core principles of fairness and consumer protection.

A contextualised approach does not weaken competition law. Rather, it recognises that structural constraints may limit the number of competitors and require authorities to focus on market behaviour, access conditions and transparency. The aim is to ensure that unavoidable market power is exercised responsibly and subject to effective oversight.

International organisations, regional networks and development institutions can support this approach by recognising the specific challenges faced by small economies and by promoting tailored guidance, capacity-building and cooperation mechanisms.

Ultimately, competition policy in small and insular economies is not solely about increasing the number of firms in a market. It is about safeguarding fair market functioning, protecting consumers and supporting sustainable economic development within the structural realities of these jurisdictions.

5. Policy recommendations

<p>1. Adopt a contextualised approach to competition enforcement</p> <p>Competition authorities in small and insular economies should interpret and apply competition law in light of structural market constraints, recognising that high concentration may result from economic necessity rather than anti-competitive conduct.</p>	<p>2. Prioritise conduct over structure</p> <p>Enforcement should focus primarily on exclusionary behaviour, collusion and abuse of dominance rather than on concentration levels alone.</p>
<p>3. Use market studies and advocacy as core enforcement tools</p> <p>Authorities should regularly conduct market studies and develop advocacy initiatives to address structural barriers to entry and promote compliance, particularly in essential consumer sectors.</p>	<p>4. Implement targeted enforcement prioritisation</p> <p>Given limited resources, agencies should prioritise sectors with the greatest impact on consumers and essential goods and services and focus on clear anti-competitive practices such as cartels and market allocation.</p>
<p>5. Strengthen cooperation with sector regulators</p> <p>Competition authorities should establish structured cooperation mechanisms with sectoral regulators to address issues arising in regulated or infrastructure-dependent markets.</p>	<p>6. Promote regional and international cooperation</p> <p>Small jurisdictions should actively participate in regional competition networks and multilateral cooperation agreements to share expertise, coordinate investigations and address cross-border conduct.</p>
<p>7. Support capacity-building and technical assistance</p> <p>International organisations and established competition authorities should provide training, secondments and technical assistance adapted to the needs of small competition agencies.</p>	

Conclusion

This report has examined the experience of competition authorities operating in small and insular economies and the specific challenges they encounter in applying competition law. The evidence collected from participating jurisdictions shows that these challenges do not primarily arise from deficiencies in legal frameworks or enforcement efforts, but from structural economic conditions inherent to small and geographically isolated markets.

Limited demand, high transportation costs, dependence on imports and the need to achieve a minimum efficient scale frequently result in concentrated market structures. In such environments, the presence of a small number of firms is often unavoidable. Competition authorities must therefore distinguish carefully between anti-competitive conduct and outcomes that reflect the economic realities of the market.

The analysis demonstrates that the effective application of competition law in these jurisdictions depends less on replicating enforcement models developed for large economies and more on adapting tools and priorities to local conditions. Authorities tend to focus on preventing abuses of market power, preserving access to markets and ensuring transparency, rather than attempting to restructure markets that cannot sustain numerous competitors.

Institutional considerations reinforce this approach. Limited resources, exposure to economic sensitivities and the importance of essential sectors require pragmatic prioritisation, reliance on advocacy and cooperation with other regulators. Regional and international cooperation also emerges as a central element of effective enforcement, allowing small authorities to access expertise, share information and address cross-border conduct.

The experience of small and insular economies thus highlights a broader lesson. Competition policy cannot always be applied as a uniform model. While its core principles remain constant, its implementation must account for the economic context in which markets operate.

Ensuring fair competition in small markets does not necessarily mean increasing the number of competitors. It means ensuring that market power – where it cannot be avoided – is exercised in a manner that is transparent, accountable and consistent with consumer welfare and sustainable economic development.

Annexure

Cayman Islands

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

There is no overarching competition legislation in the Cayman Islands, but the following utility sectors are regulated under the Utility Regulation and Competition Act (2024 revision) (the URC Act): information and communications technology (ICT), electricity, fuels and water. The Utility Regulation and Competition Office (the Office), as an independent multi-sector regulatory office, is an amalgamation of the Information and Communications Technology Authority (ICTA), the Electricity Regulatory Authority (ERA), and the Petroleum Inspectorate, which hitherto had been a Department of the Government of the Cayman Islands. The Office was established by the enactment of the Utility Regulation and Competition Law 2016, and it commenced operations on 16 January 2017. The Office's objectives include promoting effective and fair competition; protecting consumer interests; and encouraging innovation and economic development. These objectives align broadly with those in larger markets but are applied in a more sector-specific and pragmatic way, recognising the limitations of a small economy.

2. How does your agency prioritise enforcement actions?

The Office analyses the nature and severity of the breach (e.g., abuse of dominance vs anti-competitive agreements), as well as considers the history of compliance and the impact on market competition. Subsequent to the relevant investigation, remedies may include directives, interim measures, administrative fines and court-enforced actions. The Office has administrative fining powers to enforce against anti-competitive practices, with a penalty fixed by the Office in respect of any single infraction of section 66 (agreements, etc. preventing, restricting or distorting competition) or section 70 (abuse of dominance) by a sectoral provider or undertaking up to CI\$3 million.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

While there have been no formal political interventions, certain high-impact commercial transactions have influenced how the Office addresses specific competition concerns. These are informal influences reflecting the economic importance of key players in a small market.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

While specific challenges of the Cayman Islands economy are not reflected in Part 12 of the URC Act (anti-competitive practices), it is noted the Act does allow authorisation holders to protect their legitimate business interests, providing flexibility to accommodate market realities.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

Yes. The absence of general competition law means that the Office focuses on sector-specific enforcement. Strategies are tailored to the structure and dynamics of each regulated sector.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction?

As a small jurisdiction, our regulated markets cannot sustain a large number of market players. This is common in small island economies.

6.1. Namely, are there sectors within the economy that are prone to high market concentration?

Yes, those that are subject to utility regulation under the URC Act.

6.2. If yes, kindly name the sectors.

Electricity, ICT, fuels and water

6.3. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

No, utility sectors often show high concentration of market players, particularly in small jurisdictions.

7. What strategies do you employ to prevent and address anti-competitive practices in mark?

As mentioned in the response to question 1, there is no general competition law in the Cayman Islands, but the following utility sectors are regulated under the Utility Regulation and Competition Act (2024 revision): ICT, electricity, fuels and water. The Office employs several tools: monitoring and publishing prices, reviewing and approving mergers, investigating potential abuses of dominance or anti-competitive agreements, as well as imposing remedies and administrative fines.

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

One example is the sharing of infrastructure between ICT and electricity providers. ICT companies are permitted to use electricity poles to extend broadband infrastructure. This has allowed four market players in the ICT sector to extend their fibre broadband footprint across large portions of the Cayman Islands.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

Not necessarily. The Office's main responsibilities are: (1) to promote appropriate effective and fair competition, (2) to protect the short and long term interests of consumers in relation to utility services, and (3) to promote innovation and facilitate economic and national development.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy’s small size or isolation be a barrier to entry?

Yes, the small size and geographic isolation of the Cayman Islands inherently limit economies of scale and increase entry costs.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

In the ICT sector, despite infrastructure sharing efforts, high capital costs and limited consumer base deter entry. In the energy sector, the transmission and distribution market is a natural monopoly; economies of scale prevent multiple players. In the fuels market, a few importers dominate due to logistics and storage constraints. Consequences include limited consumer choice and potential price rigidity.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

Please see the above response to question 11.

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

Please see the above response to question 11.

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

The Office’s regulatory framework assists with the challenges posed by the smallness and/or isolation for new market entrants by providing flexibility which facilitates infrastructure sharing, providing oversight on mergers/acquisitions, and enabling co-regulation and self-regulation where possible.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

The Office addresses entry barriers by promoting transparency, evaluating mergers for their competitive effects, supporting infrastructure development and encouraging innovation through policy and licensing decisions.

Section 4: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

The Office is established under the URC Act as an independent multi-sector regulator with a clear mandate to operate free from political interference. Key safeguards include the following:

- Section 6(4)(g) of the URC Act explicitly states the Office shall act “free from political interference” subject only to general policy directions from Cabinet under section 12.

- The Office is governed by a board of directors with defined appointment, tenure, and removal procedures, protecting against arbitrary interference.
- Decisions must follow public consultation and be based on the administrative record, promoting fairness and shielding from ad hoc political pressure.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

While the Cabinet appoints Board members, the Public Authorities Law (2020 Revision) requires that appointees be qualified, politically neutral, and free from conflicts of interest (Section 9(4)). No more than 40% of a board can consist of civil/public servants, and none of them may serve as Chair or have voting rights (Section 9(6)). Dismissals must follow defined conditions (e.g., misconduct, conflict of interest), and cannot be executed arbitrarily, ensuring a buffer against politicised removals.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

While the Office has not recorded direct political interventions, there have been instances where large-scale private transactions involving economically influential entities have required the Office to tread carefully. In such cases, the Office adheres to its investigative and consultation procedures. Where necessary, the Office may publish findings and consult publicly, creating a layer of accountability and scrutiny that discourages undue influence. The structure of the Office ensures that decisions are made by a Board of Directors, not a single official, further insulating the process from external interference.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

Transparency is central to the Office's regulatory integrity. The Office is statutorily required to publish administrative determinations that are of public significance (Section 8, URC Act). It must conduct public consultations before making major decisions, providing a record of input and rationales for decisions (Section 7). Decisions are documented, reasoned, and grounded in law, making it harder for political considerations to override legal or economic analysis. Through these measures, the Office builds public trust and protects the objectivity of competition rulings.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers?

Yes. Please see the above response to question 1.

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

As mentioned in the response to question 1, there is no general competition law in the Cayman Islands, but the following utility sectors are regulated by the Office under the URC Act: ICT, electricity, fuels and water. This situation is different to other jurisdictions, such as New Zealand, where a single authority has powers under the national overarching competition legislation, as well as regulatory powers in certain sectors.

- 22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?**

Please see the above response to question 21. The Office keeps records of any potential conflict of interest with respect to market players in our regulated sectors.

- 23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?**

Please see the above response to question 21. The Office has successfully balanced its regulatory powers and enforcement of competition provision under the URC Act in the fuel sector, which was previously limited to non-competition aspects of the regulated sectors (i.e., health and safety regulation). However, it is noted that the regulatory framework in relation to the fuels sector is not adequately designed to address purely competition matters that may arise in the sector (e.g., anti-competitive practices).

- 24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?**

Please see the above response to question 21.

- 25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?**

Please see the above response to question 21.

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

- 26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?**

Please see the above response to question 21.

- 27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?**

Please see the above response to question 21.

- 28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?**

Please see the above response to question 21.

- 29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?**

Please see the above response to question 21.

- 30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?**

Please see the above response to question 21.

Section 7: The number of firms within a jurisdiction that are vertically integrated

- 31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?**

Please see the above response to question 21.

- 32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?**

Please see the above response to question 21.

- 33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?**

Please see the above response to question 21.

- 34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?**

Please see the above response to question 21.

- 35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?**

Please see the above response to question 21.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

- 36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?**

Please see the above response to question 21. The main market players in our regulated sectors are not operating as conglomerates in our jurisdiction.

- 37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?**

Please see the above response to question 36.

- 38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?**

Please see the above response to question 36.

- 39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?**

Please see the above response to question 36.

- 40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?**

Please see the above response to question 36.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

Certain regulated utilities have historically been in a comfortable position to influence the regulatory outcomes, because of the inherited favourable contractual arrangements with the government. For example, an initial licence issued to a regulated utility granting the exclusive rights to operate critical network infrastructure in a utility sector was drafted in manner that favours the business interest of the regulated utility and undermines the promotion of competition in a critical segment of this regulated sector.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

Please see the above response to questions 18 and 19.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

Please see the above response to questions 18 and 19.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

Please see the above response to questions 18 and 19.

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

Please see the above response to questions 18 and 19.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

In the ICT sector, the Office's Interconnection and Infrastructure Sharing Regulations have proven effective in promoting market entry and expansion.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

The Office's licensing framework allows for a tailored approach to allowing regulated activities in exclusive geographic areas in its regulated sectors.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

International cooperation and regional agreements play an important role in strengthening the in-house capabilities and the credibility of the work done by competition/regulatory agencies. Having said that, the Office currently does not have any such agreements in place.

- 49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?**

Please see the above response to question 1.

- 50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?**

Please see the above response to question 1.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

- 51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?**

The Office does exercise certain level of cooperation with other regional competition/regulatory agencies. Such cooperation provides the opportunity to enhance the knowledge of regulatory practice in comparable jurisdictions (e.g., market reviews conducted in the ICT sector in small jurisdictions).

- 52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?**

There were no such instances in the past.

- 53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?**

There were no such instances in the past.

- 54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?**

Please see the above response to question 51.

- 55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?**

The Office is currently not part of any such agreements or cooperation frameworks.

Section 12: What is the impact or significance of being part of a regional competition network?

- 56. Does your competition enforcement agency participate in a regional competition authority body?**

No.

- 56.1. If yes, please proceed in answering the below questions, if no, kindly proceed to the following section of questions.**

- 57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?**

N/A

- 58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?**

N/A

- 59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?**

N/A

- 60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?**

N/A

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

- 61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?**

The Office relies on its in-house experts and external consultants, subject to budget constraints.

- 62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?**

The Office's capacity to conduct in-depth investigations is subject to budget constraints associated with each regulated sector.

- 63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?**

The Office encourages cross-sector collaboration when completing certain projects where the required in-house expertise is available to be shared.

- 64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?**

There is currently no such partnership or collaborations with international or regional bodies that may help supplement the Office's resources and enhance its capabilities.

- 65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?**

The Office's ability to address emerging competition issues or respond to significant anti-competitive practices is affected by budget constraints associated with each regulated sector. This means that certain enforcement actions may be protracted.

Eswatini

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

The primary objectives of competition law in Eswatini as enshrined in the Competition Act, 2007 are to encourage competition in the economy by controlling anti-competitive trade practices, mergers and acquisitions, and protecting consumer welfare.

These objectives are broadly in line with international best practices. However, there are some differences when compared to competition laws in larger or more interconnected markets. For example, authorities in the European Union or the United States often handle more complex, cross-border cases and have more advanced and better-funded regulatory systems. They also focus more on issues like digital markets, intellectual property, and global supply chains, which are less prominent in Eswatini's smaller and more limited economy.

2. How does your agency prioritise enforcement actions?

The Eswatini Competition Commission prioritises enforcement actions that have the greatest potential impact on consumer welfare. Cases involving price fixing, abuse of dominance, and market allocation are typically given higher priority, as these practices directly harm consumers through higher prices, reduced choice, or lower quality of goods. Moreover, enforcement efforts are often focused on sectors that are critical to the national economy or that affect a large portion of the population, such as the essential goods. The Commission uses market studies and economic data to identify and monitor these sectors for anti-competitive behaviour. Furthermore, while the Commission investigates complaints received from the public or businesses, it also undertakes proactive investigations based on market surveillance or intelligence. Priority is given to cases with strong evidence, and significant economic impact.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

While political and external influences are a reality in any economy, the Commission strives to maintain its independence and transparency in enforcement decisions. Any exemptions or amendments are made within the framework of the law and are subject to public scrutiny and justification based on national interests.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

Eswatini's Competition laws are tailored to address the unique challenges of the country's economy, such as its small market size, limited number of firms, and concentrated industries. These factors necessitate a flexible approach to enforcement to balance competition principles with developmental objectives.

For instance, our regulations provide exemptions for certain trade practices directly associated with exclusive or preferential trading privileges conferred by legislation or government agencies. This allows for considerations beyond strict competition concerns, accommodating public interest factors like employment and national development.

Moreover, Section 36 mandates the Commission to review the structure of production to identify concentrations of economic power or anti-competitive practices that may outweigh efficiency advantages. This provision underscores the need for context-sensitive enforcement in Eswatini's economic landscape.

While the Act allows for such flexibility, the Commission remains committed to enforcing competition laws transparently and effectively, ensuring that enforcement practices are adaptable yet aligned with the core objectives of promoting fair competition and protecting consumer welfare.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

Yes, the nature of the economy significantly impacts how competition laws are enforced, as a developing economy with a high level of market concentration in many sectors and limited competition due to the small number of players. As a result, enforcement must be both strategic and flexible.

The Commission in enforcing its competition laws often takes into account broader economic goals such as employment, access to essential goods and services, and industrial development. For example, mergers that might reduce competition could still be approved with conditions if they are likely to preserve jobs or produce essential goods or services for the public.

While the Commission upholds the principles of fair competition, the enforcement approach is tailored to fit the country's economic realities allowing for a balance between legal compliance and economic development.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction?

6.1. Namely, are there sectors within the economy that are prone to high market concentration?

Yes, there are.

6.2. If yes, kindly name the sectors.

- Manufacturing (including dairy processing, soft drink concentrate, sugar milling)
- Agriculture (animal feed production, wheat milling, egg production, production of day-old chicks, forestry)
- Construction
- Telecommunications
- Energy
- Medical healthcare cover
- Mining

6.3. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

Yes, the level of market concentration is largely unique due to the small size of the economy. To enhance competitiveness, export-oriented sectors like manufacturing must leverage economies of scale to take full advantage of Eswatini's membership in regional and continental economic blocs such as SADC, COMESA, and AfCFTA. This is essential for accessing broader markets beyond the country's limited domestic demand.

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy's size or geographic isolation?

- Compliance programme – to educate the companies about fair competition and raise awareness for them to comply with the law.
- Monitoring of conditions for mergers that are approved with conditions, as well as ensure compliance with Board Decisions
- Market scanning or screening
- Advocacy to raise awareness through media management and stakeholder engagement
- Conducting investigations and market inquiries
- Conducting Impact Assessment of decisions made

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

In sectors like wholesale and retail distribution, a few dominant companies operate nationally. Rather than penalising dominance itself, the Commission focuses on prohibiting exclusionary practices, such as exclusive dealing or refusal to supply, under Section 30 of the Competition Act. This approach helps maintain competitive pressure and market access for smaller retailers or new entrants.

In the energy sector and telecommunications sector, natural monopolies exist due to the high cost of infrastructure and the impracticality of duplicating grids. The Commission has Memorandums of Understanding (MoUs) with sector regulators in those industries. These MoUs allow the Commission and the sector regulators to have in-depth discussions regarding restrictive business practices in those sectors.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

Yes, striking a balance between promoting competition and allowing businesses to achieve scale is a key consideration in competition enforcement. As a small economy with relatively few large players, the challenge could be encouraging competitive markets while also avoiding unnecessary fragmentation that could undermine business viability and economic development.

Therefore, balance can be maintained through:

- a) Case-by-Case Merger Assessments – when reviewing mergers or acquisitions, the Commission evaluates the potential for reduced competition but also the potential efficiency gains, economies of scale, and long-term sustainability of the merged entity. For instance, if a merger helps a local company become more competitive or expand

its operations sustainably without significantly harming consumers or excluding rivals it may be approved, sometimes with conditions. This balanced approach is guided by Section 35 of the Competition Act, which provides for both competition effects and public interest considerations in merger control.

- b) Also, in sectors where scale is necessary to maintain efficiency or provide reliable service the Commission does not automatically view dominance as problematic. Instead, the focus is on preventing abuse of market power, such as excessive pricing or exclusionary conduct, rather than breaking up firms that are dominant by necessity.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy’s small size or isolation be a barrier to entry?

Yes, specifically industries that primarily provide services or goods locally, within the specific geographic area of Eswatini, and which are not easily traded internationally.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

The small size and geographic isolation of a jurisdiction like Eswatini can significantly discourage new firms from entering the market. These limitations include, high operational costs, and structural inefficiencies such as reduced economies of scale, high levels of concentration, high transport cost, regulatory barriers and in some instances limited access to finance, which significantly raises the barriers to entry. To attract new entrants and stimulate competition, it has been essential for Eswatini to implement supportive frameworks that reduce these barriers, including regional integration efforts, infrastructure development, and targeted incentives for innovation and investment as well as a strong competition law enforcement mechanism.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

The small market size and geographic isolation of Eswatini have created significant barriers to entry in various sectors, discouraging potential new entrants and impacting competition. The following examples illustrate how this has unfolded in specific industries.

In the telecommunications sector, the high capital investment required to build infrastructure, combined with a relatively small customer base, has historically deterred new entrants. For many years, MTN Eswatini operated as the sole mobile network operator under exclusive licensing arrangements. As a result, consumers faced limited choice, high prices for mobile and data services, and slower technological innovation. Although regulatory reforms have liberalized the market with a new player, Eswatini Mobile, having entered the market. Notwithstanding, new players remain reluctant to enter due to the high costs and limited revenue potential.

The pharmaceutical and healthcare supply sector is another area where small market size and logistical challenges have deterred entry. Due to limited size of the economy, no manufacturers operate within Eswatini with only a few local pharmaceutical wholesalers and distributors. This has led to a high dependence on imports, primarily from South Africa and India, and frequent delays in the availability of essential medicines. Additionally, limited

competition in the sector has resulted in higher prices and restricted access to certain specialist medications.

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

It is a case-by-case scenario, some industries might find it costly to operate, given the economies of scale, and other factors.

The limited consumer base, high transportation costs, and reduced economies of scale do serve as significant structural barriers to market entry in a small and insular economy such as Eswatini. Addressing these challenges has necessitated targeted policy interventions, such as regional market integration, investment in infrastructure, and targeted support for firms seeking to scale beyond the domestic market provided by institutions established to facilitate and promote local and foreign trade and investment such as the Eswatini Investment Promotion Authority (EIPA).

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

In the context of Eswatini, regulatory frameworks and local market conditions, particularly those that promote competition and attract investment are essential for creating an environment where new firms can enter and exit the market despite structural limitations. Without such enabling conditions, small or isolated economies like Eswatini risk falling short of their development goals due to limited competition, reduced innovation, and restricted consumer choice.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

- Competition Policy still under development
- Have MoUs with sector regulators
- Advise the Government on competition matters
- Compliance programme for the firms themselves

Section 4: The extent to which competition regulation and enforcement is subject to political capture

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

The Commission was established under Section 6 of the Competition Act of 2007, which provides for its status as an autonomous statutory body. Therefore, it gives the Commission the authority to carry out investigations, make decisions, and enforce competition law without requiring political approval or direction.

Further, the Commission is governed by a Board of Commissioners, established by Section 8 of the Competition Act, who are appointed based on their expertise in law, economics, business, and public policy. Although appointments are made by the Minister of Commerce, Industry and Trade, the Board is expected to operate independently, free from political or commercial influence. This is to say, decisions on investigations, mergers, and enforcement actions are made collectively and transparently, reducing the risk of individual pressure or bias.

Lastly, the Commission has clear procedures located in the Competition Commission Regulations, 2010 which are applied when handling complaints, conducting investigations, or assessing mergers. Outcomes as per the Regulations are typically published through the Commission's website, which ensures transparency and public accountability. This openness acts as a safeguard against improper influence and builds the confidence of the public through the fairness of its decisions. Parties affected these decisions have the right to appeal to the High Court of Eswatini, which provides an additional layer of independent review. This ensures that the Commission's decisions are legally sound and based on evidence, not external pressure.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

Key officials typically serve fixed terms, and the grounds for dismissal are clearly defined in the Commission's Disciplinary Code which is aligned with the Employment Act of Eswatini, 1980. This includes removal only for just cause such as misconduct, incapacity, or breach of duty rather than for political reasons. This provides security of tenure and protects leadership from arbitrary dismissal.

The Commission ensures transparency through annual reporting to the line Ministry and Parliament and through public communication of major decisions and activities. This level of accountability ensures that any politically motivated interference would be subject to public and institutional scrutiny, discouraging improper actions. In addition, political appointees such as the Chief Executive Officer and the Chief Financial Officer positions are appointed through the recommendation of the Board, therefore their dismissal is supposed to be carried out upon the recommendation of the Board, thus limiting political influence.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

All decisions by the Commission are guided strictly by the Competition Act of 2007, based on legal and economic analysis and not personal influence.

The Commission uses collective decision-making through its independent Board, enforces disclosure of interest provisions stipulated in the Act, and maintains transparency by publicly communicating major decisions. In sensitive cases, individuals with potential conflicts are required to recuse themselves, and the Commission ensures fairness by applying the law equally to all market participants, regardless of political ties. These safeguards help protect the Commission's independence and uphold public trust in its enforcement practices.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

Transparency plays a vital role in the Commission's enforcement process by promoting fairness, accountability, and public trust. Transparency is one of our values. The Commission ensures objectivity by following clear, evidence-based guidelines and procedures, making decisions collectively through an independent Board, and allowing for judicial appeal of the Board's decisions. We also issue guidelines which are supposed to guide our stakeholders on the processes of the Commission, and how decisions are made. These safeguards help prevent political considerations from influencing competition rulings.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers?

Yes, the Commission holds both competition enforcement and limited regulatory powers under the Competition Act of 2007. It enforces laws against anti-competitive conduct, reviews mergers, and can impose remedies or penalties. While not a sector regulator, the Commission also plays a regulatory role by monitoring markets, issuing guidelines, and working with sector regulators to promote fair competition – particularly in concentrated or strategic sectors.

20.1. If you have answered yes, please answer the below questions. If you have answered no, kindly proceed to the following section of questions.

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

Combining competition and regulatory powers within a single authority offers advantages such as an integrated approach, efficiency in decision-making, and comprehensive market oversight. However, it also presents challenges, including potential conflicts of interest, resource constraints, and a higher risk of political interference. While it can enhance market oversight, careful management is necessary to ensure that competition enforcement remains effective and independent.

22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?

The Commission manages potential conflicts by ensuring that it publishes its decisions publication on the Commission's website, ensuring that actions align with competition principles. For instance, any pricing support in regulated markets is clearly explained through our monthly price trackers. Further, the Commission's decisions can be challenged in Court, providing an additional safeguard against conflicts. If a dominant firm disputes a ruling, it can be reviewed by the High Court.

23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?

We use both, we educate stakeholders, and get involved in enforcement, and we do it vice versa; we can start by enforcing and then educate. For instance, there was a case involving price fixing for Driving schools in the country. The Commission investigated, found them guilty and started an education programme, as well as raised awareness on competition. The Commission did the same for Schools uniform investigation, where the Board of Commissioners found that appointment of one supplier for school uniforms was against the law; and it was decided that there should be engagement with schools to comply with the law.

24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?

Integrating competition and regulatory functions allows us to address market issues more holistically and respond faster to anti-competitive behaviour. This leads to fairer outcomes, especially in key sectors where consumer impact is high.

25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?

As a Commission, we maintain clear internal processes, separate decision-making structures, and transparency in our operations to ensure impartiality. We also have established procedures and guidelines to help staff manage both roles without bias or conflict.

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?

- Telecommunications
- Poultry
- Animal feed
- Egg production

We monitor them through:

- Conducting market inquiries.
- For telecommunications, we have an MoU with the communications regulator

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

Generally, the Commission observes the market by measuring:

- Market shares
- Market concentration levels by implementing concentration ratio or the Herfindahl-Hirschman Index (HHI)
- Entry and exit dynamics
- Countervailing power
- Import competition

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

Investigated cartel conduct:

- Market allocation and allocation by quota in the egg production industry
- Exclusive supply agreements for school uniforms
- Price fixing for driving schools
- Exclusive lease agreements

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

Challenges:

- The firms often have the ability to influence prices, limit consumer choice and create barriers to entry for competitors
- Regulatory complexities
- Defiant legislation
- Resources constrain

- Customer loyalty and brand dominance
- Absence of competition culture
- Vertical integration

Mitigation strategies

- Predatory conducting market surveillance
- Implementing compliance programmes
- Raise awareness to promote compliance
- Robust competition laws and enforcement
- Market transparency i.e. agreements
- Whistle blower programme
- Encouragement of competitive market structures

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

- Outreach programmes, including through meetings and educational sessions
- Traditional media (radio, TV, print)
- Social and digital media, including through publishing on the website
- Workshops
- Publications such as newsletters and pamphlets

Section 7: The number of firms within a jurisdiction that are vertically integrated

31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?

Since 2021, the Commission has reviewed and approved five vertical integration mergers in different sectors which included the poultry industry, private health services and agricultural inputs. Vertical integration mergers are reviewed by defining the market and assessing pro-competitive and anti-competitive effects. They are approved with remedies that aim to address competition concerns that arises such as input and/or customer foreclosure. Vertical mergers are tracked through monitoring of the remedies attached to their approval.

32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?

We do not have exact statistics, but some of the largest firms, particularly in the agriculture sector, are vertically integrated. This sector remains a key priority for our monitoring and enforcement efforts.

33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?

- I-Care Africa (Pty) Ltd and the Clinic Group (Pty) Ltd
- National Chicks Swaziland (Pty) Ltd and Kikilikigi (Pty) Ltd
- ACESO2 Health Group (Pty) Ltd and West Care Hospital (Pty) Ltd
- Lionhead (Pty) Ltd and Royal Eswatini Corporation Limited vertically integrated with Enviro Applied Products (Pty) Ltd
- Ngwane Mills (Pty) Ltd and Umbuluzi Farm Chicken

34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?

Key motivations for vertical integration:

- **Cost reduction (economies of scale and scope)** – By owning more stages of the production or distribution process, firms can reduce the need for contracts, negotiations, and third-party suppliers.
- **Improved control over supply chain** – by acquiring suppliers (upstream) or distributors (downstream), firms can better control the supply of inputs and the flow of finished goods.

35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?

Vertical mergers are categorised as a phase three and require an in-depth analysis which involves third party submissions, request for information, interviews, etc. This is to ensure that competition concerns such as foreclosure, unilateral and coordinated effects which are likely are determined and addressed.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?

The presence of conglomerate entities which are large, diversified corporations that operate across multiple, often unrelated industries can have a significant impact on competition across different sectors. These entities can have increased market power by having a diversified portfolio of businesses, conglomerates often gain substantial economic power in multiple markets.

37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?

One example we can give pertains to a forestry company which produces paper and other paper-related products and has control over input costs – as a major player in the forestry industry in Eswatini can influence the pricing of raw materials such as wood pulp, which impacts paper product prices in the local market.

38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?

- May engage in anti-competitive practices, such as predatory pricing to gain market share. Identifying and proving such behaviour can be challenging.
- Lack access to detailed information about the firms' operations, financial performance and market strategies making it difficult to assess their impact on competition.

39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?

- Large, diversified companies affect the competitive landscape by controlling multiple industries in the economy which enables them to influence market operations, e.g., pricing.
- Regulatory reviews include public interest considerations

40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?

- **By mitigating risk** – if one industry faces downturn, profits from other sectors may help stabilise the overall financial performance of the conglomerate.
- **Job creation** – create jobs across multiple industries contributing to overall employment and economic stability

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

Limited market players and resource constraints increase the risk of regulatory capture.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

The Commission is a statutory body; therefore, it maintains its autonomy through enforcement of Board decisions in line with the establishing legislation, the Competition Act 2007.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

The Commission has not yet experienced any regulatory capture.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

Transparency and accountability in regulatory decisions are ensured through independent legal status, collective decision-making by the Board of Commissioners, and clear, published guidelines. The Commission also promotes transparency by issuing annual reports, and its decisions are subject to judicial appeal by the High Court. Regular stakeholder engagement further helps prevent undue influence and builds public trust.

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

The Commission implements measures mentioned in question 44 to ensure effectiveness in promotion of competition and protection of consumer welfare

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

Currently, there is no competition policy in place. However, the Commission liaise with the relevant regulatory agencies in different sectors through signing of MoUs. We have also conducted market studies that have highlighted competition issues in concentrated markets which has resulted in effective recommendations being made to the relevant stakeholders including government. Also, we have carried out engagements with sector regulators on how to deal with competition issues within their sectors.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

The policies can be developed to integrate SME policies, procurement processes, effective cooperation to promote compliance with the competition laws and enhancing whistle blower protections in exposing anti-competitive practices.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

Strengthening competition frameworks, through:

- Harmonisation of standards
- Promotion of knowledge sharing and best practices
- Capacity building

This can be enhanced through:

- Collaboration of national competition authorities through staff exchange programmes

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

Competition laws can be designed to prevent monopolistic behaviour by large foreign firms while allowing room for small businesses to grow organically.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

- Cooperation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories. This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.
- Harmonisation of the laws particularly dealing with concurrent jurisdiction so that the mandate of the Commission and that of sector regulators is understood.
- Clear and effective provisions on anti-competitive trade practices
- Clear and effective provisions on market enquiries which have been used as a tool in some jurisdictions to address the market issues.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?

The Commission works closely with COMESA Competition Commission, which enhances its ability to enforce competition laws by enabling cross-border coordination, information sharing, and capacity building. This cooperation helps address regional mergers and anti-competitive conduct, strengthens local enforcement, and ensures consistency with regional

standards ultimately improving the effectiveness and credibility of competition regulation in Eswatini.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?

The Commission has collaborated with COMESA in mergers, investigations, market studies and with the Zambian competition authority in staff exchange programmes.

The Commission has collaborated with the South African Competition Authority, the Mozambican Authority and the Kenyan Authority in particular for exchange of information affecting specific markets in respective jurisdictions and for input on competition tools.

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

Benefits:

- Knowledge sharing
- Cost benefit
- Capacity building

Challenges: None.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

Regional cooperation helps address limited resources and expertise by providing access to technical expertise, capacity building through training and workshops and support for joint investigations. It also offers shared tools and research, reducing duplication of effort, and encourages peer learning and adoption of best practices. This collaboration enhances enforcement capabilities and promotes consistent, effective application of competition law across the region.

55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?

Although Eswatini currently does not have a national competition policy, regional agreements such as those under COMESA and SADC will influence the national competition policy by ensuring that it aligns with regional standards, enabling cross-border consistency, and providing access to policy expertise and case experience. At the same time, the national competition policy will allow flexibility to adapt to the country's unique economic conditions, such as smaller market size and development priorities. Regional cooperation also strengthens institutional capacity through training and technical support, helping the Commission implement effective and locally relevant policies.

Section 12: What is the impact or significance of being part of a regional competition network?

56. Does your competition enforcement agency participate in a regional competition authority body?

Yes.

56.1. If yes, please proceed in answering the below questions, if no, kindly proceed to the following section of questions.

57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?

Benefits of regional participation in competition network/ Envisaged influence of regional participation in the regional competition network:

- The Commission participate in various regional competition networks. Regional competition networks foster cooperation and consistency among the competition authorities leading to more effective enforcement.
- There is coordinated enforcements efforts.
- It fosters international cooperation.
- It provides platform for exchange of information.
- It assists in bridging resources gaps especially for smaller agencies that may lack the expertise of financial capacity to conduct large scale investigations.
- It assists in the development of competition policy.
- Participation in regional competition networks, such as COMESA, has strengthened the Commission's ability to address anti-competitive practices as well assisting with guidance on developing the Commission's guidelines.
- It enables better case coordination, access to shared expertise and information, and ensures Eswatini's interests are considered in regional decisions. This cooperation also supports policy alignment and enhances enforcement capacity.
- Interaction with ACF forum has also been beneficial to the Commission

58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?

Being part of COMESA has provided Eswatini with significant benefits, including access to expertise, coordinated enforcement actions, and capacity building. The Commission also gains from shared resources, such as regional databases, research and training, which enhance its ability to address anti-competitive practices effectively.

59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?

Regional cooperation through COMESA has improved Eswatini's competition enforcement and policy development. Notable examples include the adoption of regional best practices in development the Commission's guidelines and policies as well as assist in reviewing the Commission's legislation, particularly in aligning it with digital markets amongst other things. These collaborations have strengthened Eswatini's ability to protect market competition effectively.

60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?

Currently, there is no competition policy.

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?

The Eswatini Competition Commission relies on key resources including skilled human capital, specific expertise, and government funding to carry out its mandate. These resources enable the Commission to investigate cases, assess mergers, and conduct advocacy, although limited funding can sometimes restrict the scale and speed of enforcement activities.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

The size and budget of the Commission directly affect its ability to manage complex cases and conduct thorough investigations. With more resources, the Commission would be able to undertake more in-depth research, handle larger caseloads, and engage more proactively in competition policy work.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

To maximise effectiveness despite resource constraints, the Commission prioritises high-impact cases, promotes cross-departmental teamwork, and adopts systems thinking. Capacity building and continuous staff training also help us do more with the limited resources available.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

The Commission enhances its resources and capabilities through partnerships with COMESA, SADC and others. These collaborations provide technical expertise, capacity-building programmes, and access to shared resources and policy advice, helping the Commission strengthen its enforcement and align with international best practices.

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

Limitations in resources often mean we cannot respond as quickly or as thoroughly as we would like to emerging competition issues or major anti-competitive practices. With increased human and financial resources, we would be able to conduct more extensive investigations, deepen our research efforts, and proactively enforce competition laws more effectively across the board.

The Faroe Islands

Section 1: What are the roles and objective of competition law in you economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

The Faroese competition law states our purpose/objective in section 1. It is to promote society-wide efficient resource allocation through productive competition, for the benefit of undertakings and consumers.

An English version of our competition law is available on [our website](#) (second link from the bottom). The competition law more or less mirrors the Danish competition law, except for some EU related provisions and some provision allowing us to conduct market investigations, such as in the UK.

2. How does your agency prioritise enforcement actions?

In our guidance document we put more weight on enforcement actions regarding cases of greater principled legal significance and of greater societal and economic significance. Generally we also prioritise cases where there has been a breach concerning our section 6 (cartels and agreements adversely affecting competition) and section 11 (abuse of a dominant position) above cases regarding government aid distorting competition. Last in priority are cases of government regulation distorting competition, where we can recommend legislative change.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

We cannot think of any such cases. We are by law independent from any political bodies. There are only matters of principled significance where decision can be overruled by the competition council, who are also independent. Otherwise, only an appeal to the courts or to the Faroese Appeals tribunal can change a decision, which is standard in other countries.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

To a large extent, our law mirrors the Danish competition law. As such there is not a lot of reflected in it for our jurisdiction specifically. The main difference is that our law does not have any provisions pertaining to the EU and additionally we have recently introduced provisions to allow for market investigations, which Denmark does not have. Market investigations may allow for the flexibility to deal with some unique challenges that do not require a breach of the competition law. It is however new and is yet to be used, so no examples can be given yet.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

In some sense. The Faroe Islands is a very small market and as such monopolies or high market concentration are more “normal” than in your average jurisdiction. That is to be expected and will alter some consideration. Abuse of a dominant position are cases which we must be very vigilant on, since a small market already makes it so that the barrier to entry might be difficult, especially so if there already is a dominant actor on the market.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction? Namely, are there sectors within the economy that are prone to high market concentration? If yes, kindly name the sectors. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

Abuse of dominant position causing barrier to entry as mentioned above, is something we must be vigilant in monitoring. And yes, there is high concentration for example in the oil and energy sector, the telecommunication sector, the construction sector, just to name a few main contenders. To some extent these challenges are unique, simply because the size of the market does not accommodate easily for more actors to enter the market.

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy’s size or geographic isolation?

The answers to question 6 and 7 are at play here. Being very vigilant of dominant actors on the market, and their ability to react and disrupt the ability for smaller firms to operate is something we focus heavily on.

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

The regulatory framework does not adapt to economic structures. It is just we as an agency that have the freedom to conduct our strategies accordingly, with the limited resources we have. Examples are given above.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

Yes, for example, fusions might be allowed, even if competition might suffer from a monopolistic market after the fusion, since not allowing the fusion and the smaller business closing up shop and those resources being wasted, might be a worse outcome when balancing possible outcomes considering the small market.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy’s small size or isolation be a barrier to entry?

Answers given on the previous page regarding abuse of a dominant position.

- 11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?**

Again, the responses on the previous page answers this.

- 12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?**

Industries are mentioned on the previous page.

- 13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?**

Quite highly. Some markets simply do not have an high enough consumer base to support vibrant competition between multiple companies. High concentration tends to occur instead, and it is to be expected in certain sectors, such as those mentioned on the previous page.

- 14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?**

It is not addressed specifically in the regulatory frameworks. Instead, it is up to our strategy as an agency and our independence to address those concerns we deem important. We can also provide recommendations based on our expertise regarding to the minister for business and trade if we think legislative change might help address problems in the market.

- 15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?**

The answers on the previous page regarding abuse of a dominant position provide good examples.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

- 16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?**

There are specific regulations enshrining our independence into law. We do not operate under the orders of any political influence. Legislative change would need to happen for that to be possible. Additionally, if a minister or the prime minister were to involve themselves in a decision, ignoring the regulations regarding our independent operation, they would violate the law regarding ministerial duties, which is punishable by fine or jail.

- 17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?**

Since this has never happened it is hard to give an example. We do have administrative laws regarding conduct and duties of public employees, and these laws would be enforced regarding undue influence of administrative decisions.

- 18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?**

No examples can be given since this is not an issue that has ever come up.

- 19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?**

All our decisions and correspondence regarding any cases have to be recorded/journaled in a case database. There are laws regarding public access to such government databases, however, some information is exempt from such public access, such as sensitive information or trade secrets. We have never had to prevent political considerations from undermining a competition ruling.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

- 20. Does your authority possess both competition enforcement and regulatory powers?**

If you have answered yes, please answer the below questions (questions 21-25).

If you have answered no, kindly proceed to the following section of questions (section 6).

We do have very limited and defined powers to produce secondary legislation, where primary legislation has allowed for that. For all intents and purposes, if anything major regarding competition enforcement or regulation has to change, this has to be done through legislative change. As such, from a practical perspective, the answer is no, even if minor rules can be regulated through secondary legislation where it has been delegated in primary legislation.

- 21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?**

N/A

- 22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?**

N/A

- 23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?**

N/A

- 24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?**

N/A

- 25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?**

N/A

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?

The market in the Faroe Islands is not big, and all companies on the market are registered at the Faroese Registration authority. Our section 28 gives the Competition Authority the power to demand all the information the Authority deems necessary in order to conduct its work or to determine whether certain activity falls within the scope of this Act. The information may include accounts, accounting records, transcripts of books, other business documents etc. Section 28 makes it a duty on undertakings, association of undertakings and all legal and natural persons to comply with such demands. This includes when we conduct a market study of an industry or certain agreements within different industries with the purpose of retrieving knowledge or insight into the competitive conditions within a certain industry or industries. As previously mentioned, some sectors that exhibit such characteristics are the telecommunication industry, the construction industry and the oil and energy industry, to name just a few sectors.

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

Most sectors in the Faroe Islands are oligopolistic to some extent, and as such it is not a very high priority to identify competitive dynamics other than what has already been mentioned.

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

In the telecommunications sector, for example, we have given several fines for anti-competitive behaviour and abuse of a dominant position regarding the dominant actor behaving antithetically towards smaller players. There are other cases which cannot be divulged since they are ongoing, but, generally speaking, businesses can meet us to discuss what to look out for and what is not allowed regarding anti-competitive behaviour and to report possible infractions by actors in the market, which we can investigate.

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

This is always a challenge since any such activity would not be freely divulged. We have carried out raids on a number of occasions given suspicious coordinated behaviour or anti-competitive practices. This has proven very successful in uncovering breaches on the competition law.

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

We write articles and organise meetings and hearings with actors on the market to inform about regulatory actions. Generally, we have an open door policy giving anyone the opportunity to discuss possible issues. We do our due diligence in informing the public on major decisions and why they are made, as that is our duty as a public agency.

Section 7: The number of firms within a jurisdiction that are vertically integrated

- 31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?**

We do not have any continuous supervision on vertical integration, but it is tracked to an extent, since there is a duty to reply to the competition authority regarding the fusion or purchases of companies over a certain economic threshold.

- 32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?**

We do not have the data to answer this question.

- 33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?**

P/F Bakkafrost is a good example, but we do not have the necessary data or market studies at the moment to provide any relevant impacts on market conditions regarding such integration.

- 34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?**

Improved profitability and, in the case of Bakkafrost for example, quality control of the product from raw fish to food for the consumer. We do not continuously evaluate such implications.

- 35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?**

Not much, we do not have a lot of data in this area.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

- 36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?**

The presence is certainly there, and it does make it harder for smaller firms to enter the already small market and compete, but it is hard to make an overall impact assessment since the data is not there. The conglomerates are not all profitable either which shows how difficult it is to operate in a small market.

- 37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?**

We do not have any data to provide. Since we are such a small agency, we operate mostly on a case-by-case basis and do not have a lot of resources for full-scale market studies unless deemed necessary for particular cases.

- 38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?**

The challenge for us lies mostly in gathering data given our limited resource. Also, they operate in diverse industries which makes it a bit more challenging.

- 39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?**

We cannot give any specific estimate in this regard. This would require a more in-depth study.

- 40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?**

Conglomerates provide some economic stability for a small economy such as Faroe Islands since their risk is more distributed than most companies. Other than that, it is hard to say.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

- 41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?**

We do not believe there are any specific challenges in this regard.

- 42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?**

None, at the moment, since it is not an issue or risk.

- 43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?**

None.

- 44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?**

The measures mentioned earlier regarding political influence and transparency are the same here.

- 45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare.**

It does not impact our agency.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

- 46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?**

Abuse of dominant position measures and anti-competitive agreements measures are the two main measures used.

- 47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?**

As mentioned, we have recently introduced market investigations as a tool for combatting anti-competitive practices or conditions where there has not been a breach of competition

law. This will possibly allow us to address unique economic concerns, but no examples can be given at this time since the measure is new.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

We are part of a agreement of cooperation with other Nordic countries giving our competition authorities the power to work together. We also attend seminars and conventions in this regard to share expertise. This has worked out well and should continue.

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

It is hard to say at this time. Generally, the law is working well, and we are getting more flexibility to deal with issues that do not involve a breach. Time will tell if this is effective.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

None at this time.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?

Cooperation greatly enhances our ability to enforce competition laws since we can request or provide information to other competition agencies. It is especially useful in enforcing competition law when part of a company operates outside our country's borders.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?

One example is the exchange of information regarding Samskip and Eimskip, which resulted in a hefty fine for violating competition law. More information [here](#).

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

I would give the same answer as in question 52.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

I would give the same answer as in question 52.

- 55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?**

Regional agreements and cooperation frameworks have not led to the development of local regulation; they have helped more on the operational front of our agency.

Section 12: What is the impact or significance of being part of a regional competition network?

- 56. Does your competition enforcement agency participate in a regional competition authority body?**

If yes, please proceed in answering the below questions (questions 57-60).

If no, kindly proceed to the following section of questions (section 13).

It is not a regional competition authority. There is an agreement of cooperation. So, no.

- 57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?**

N/A

- 58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?**

N/A

- 59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?**

N/A

- 60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?**

N/A

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

- 61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?**

Our workforce comprises four people and one student in training who are all hard workers. The Faroe Islands' statistics agency also plays a key role, providing the necessary data on markets, employments and various other things. There are also collaborations with other government agencies, such as the Faroese registration authority, where all companies have to register. We do not have internal prosecutors, so we work with the police to effectively enforce the law.

- 62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?**

It impacts us heavily since we have a limited number of hard-working staff. We are also bound by the budget as written in the Faroese Finance Act which is updated each year.

Among our four employees, we now have a resident economist which allows us to conduct some more necessary economic investigations without relying solely on outside resources.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

We rely on all the resources mentioned in question 62 as much as possible, including help from the police when conducting raids, for example.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

I believe we mentioned our collaboration with the Icelandic competition authority. There are other similar collaborations with the Norwegian and Danish competition authorities since we have a Nordic collaboration agreement.

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

Limited resources affect us mostly in that processing cases require a lot of time if they require a lot of information gathering. We make do with what we have and rely on expert information wherever we can get it. All in all, we are an efficient agency given our size.

French Polynesia

Section 1: What are the roles and objective of competition law in you economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

In French Polynesia, the primary objective of competition law is to ensure a sound and fair functioning of the market among economic actors. It aims to preserve free competition, protect consumers, promote fairness among businesses and foster innovation and local economic growth.

These objectives are broadly aligned with those pursued in larger or more interconnected markets. However, due to the structural specificities of the Polynesian economy – such as its insularity, small market size and market concentration – implementation may require tailored approaches.

2. How does your agency prioritise enforcement actions?

The Authority's top priority is to combat anti-competitive practices, which lie at the core of its mission. This enforcement action is essential to ensure the proper functioning of markets and to protect consumers.

In addition, the Authority's consultative and advocacy roles are key components of its strategy. They help promote a competition culture and raise awareness among institutions, businesses and the general public. These educational efforts complement enforcement by contributing to prevention and long-term compliance.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

The Authority's decisions are made independently and free from any political or external influence, in accordance with its status as an Independent Administrative Authority, which ensures neutrality and objectivity.

That said, a reform in 2018 resulted in the removal of some of the Authority's competences, including the prohibition of exclusive import agreements and the ability to issue structural injunctions, demonstrating that political decisions can affect the framework within which competition law operates. Furthermore, the current legal framework is not yet fully adapted to the specific characteristics of the local economy, which has led to an ongoing reform of the competition code.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

Prior to the introduction of local competition law, the formation of monopolistic – often public – entities and powerful oligopolies directly led to the establishment of a dedicated legal framework. This allowed political authorities to delegate market regulation to an independent authority, capable of addressing behaviours that were previously

unsanctioned, despite their potentially anti-competitive nature. The small size of the territory also increases the risk of collusion between economic and political actors.

These local challenges have shaped a legal approach that seeks to balance enforcement rigor with practical flexibility. While the legal principles remain aligned with international standards, enforcement practices are necessarily adapted to structural and economic constraints.

Additionally, addressing the high cost of living has long been a central priority of public policy, and this has influenced both the direction and content of competition law reforms. Another notable feature specific to French Polynesia (and New Caledonia) is the Authority's mandate to oversee commercial development projects – an area not typically covered by competition authorities elsewhere. While locally relevant, this mission would benefit from a more robust regulatory framework to fully realise its potential.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

Yes, the specific characteristics of the Polynesian economy directly influence the Authority's approach to enforcing competition law. The small size of the market, geographic isolation, heavy reliance on imports, and the archipelagic structure of the territory require a contextualised application of competition rules to ensure decisions are proportionate and tailored to local realities.

This approach involves a heightened focus on the actual market effects of practices under review, and a degree of flexibility in case analysis – while maintaining strict adherence to core competition principles. Although European and French competition laws serve as primary references, the Authority also draws on experiences from neighbouring Pacific jurisdictions, particularly New Caledonia, whose economic and legal context is more aligned with that of French Polynesia.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction? Namely, are there sectors within the economy that are prone to high market concentration? If yes, kindly name the sectors. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

Yes, the Polynesian economic market faces specific challenges related to market concentration due to its limited size. Key sectors such as large-scale retail, telecommunications, and energy are highly concentrated, often dominated by a few major players. This situation stems from structural constraints such as geographic isolation, small population size, and limited consumer bases, which reduce the scope for competition.

However, these challenges are not unique to our jurisdiction. Similar patterns of market concentration are commonly observed in other island economies, where scale limitations and logistical constraints tend to favour monopolistic or oligopolistic structures. Therefore, while the impact is significant locally, the phenomenon itself is not jurisdiction-specific but rather characteristic of many insular economies.

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy’s size or geographic isolation?

One of the primary strategies for preventing and addressing anti-competitive practices is advocacy – educating and reminding economic stakeholders of the “rules of the game.” This proactive approach helps to promote a culture of compliance, particularly in markets with few players where the risks of tacit collusion are higher. In addition to advocacy, the enforcement of competition law through sanctioning decisions and ongoing market monitoring by the investigation unit is critical.

However, the Authority faces several challenges in effectively curbing anti-competitive conduct:

- There are few direct complaints from market participants, possibly due to fear of retaliation or lack of awareness.
- The Authority operates with limited staff, which restricts its capacity to conduct in-depth investigations.
- In oligopolistic markets, where a small number of players dominate, firms often engage in parallel behaviour that is difficult to distinguish from unlawful collusion, complicating detection and enforcement efforts.

These constraints are typical in small or geographically isolated economies, making tailored strategies and capacity-building essential for effective competition oversight.

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

There is no specific regulatory adaptation for sectors that are naturally monopolistic or oligopolistic. These sectors – often dominated by public entities – are instead subject to oversight by the Authority to ensure that their market position is not abused, particularly by erecting barriers to entry that could deter or exclude potential competitors.

However, the regulatory framework does integrate broader economic policy measures to counterbalance the effects of market concentration, especially in cases of vertical integration. This is particularly evident in the food sector, where inflationary pressures can be exacerbated by the dominance of a few integrated firms.

In such contexts, the government regularly implements consumer protection mechanisms, such as:

- Price freezes on essential goods,
- Import taxes or subsidies to support local production,
- Other measures aimed at preserving consumer purchasing power.

While these interventions are not competition-specific tools, they do shape the competitive environment and reflect an adaptive, context-sensitive approach to market realities in small and concentrated economies.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

The Authority considers that the Polynesian economy needs major players capable of achieving economies of scale. These actors can theoretically lower the cost of the products or services they offer, to the benefit of consumers, while also fostering the development of local industrial sectors, to the benefit of the broader economy.

However, the Authority must ensure that these dominant players do not abuse their position by acting independently of their competitors, clients, or suppliers.

This heightened responsibility placed on dominant players is therefore a key issue for the Authority, which may impose behavioural commitments in merger control decisions involving such actors.

At the same time, the Authority also takes care not to create an inefficient administrative or legal deadlock for these companies, which must retain their freedom to conduct business and innovate. This is why the Authority refrains from interfering in companies' commercial strategies as long as they do not result in abuse. Striking this balance is a delicate exercise.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy's small size or isolation be a barrier to entry?

Yes, the small size or geographic isolation of an economy can indeed constitute a barrier to entry. These structural factors often limit market demand, increase operational costs, and reduce the potential for profit, making it less attractive for new entrants – especially in capital-intensive sectors such as telecommunications and transport.

In such cases, the existence of a few large players is often necessary to achieve economies of scale and ensure the viability of service provision. However, this does not justify locking markets into permanent monopolistic or oligopolistic structures.

It is essential to maintain contestability in these markets – by encouraging potential competition, ensuring transparency, and preventing anti-competitive behaviour by dominant firms – to protect consumer welfare and foster innovation, even in structurally constrained environments.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

The small size and geographic isolation of the jurisdiction significantly impact the willingness of new firms to enter the market. Several structural barriers make market entry less attractive or viable:

1. Limited economies of scale: The small domestic market size restricts potential revenue, making it difficult for firms to achieve profitability, especially in capital-intensive industries.
2. High operational costs: Geographic remoteness leads to elevated costs for materials, infrastructure development, and labour, as well as logistical challenges related to transport and supply chains.
3. Longer production and delivery timelines: Isolation often results in delays in acquiring inputs and delivering finished goods, reducing competitiveness.
4. Regulatory barriers: Complex or burdensome administrative procedures – such as licensing, compliance requirements, or sector-specific regulations – can act as significant deterrents to new entrants.

Together, these factors create a high-risk, high-cost environment that discourages investment and limits competition, particularly in sectors where scale and integration are essential.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

By nature, it is difficult to provide a definitive answer to this question. In any case, such situations have indeed likely occurred, and this deterrence through structural barriers is reinforced by numerous regulatory obstacles that may exist (notably fiscal measures to protect local production).

Overall, the small size of the Polynesian territory, coupled with its fragmentation into 118 islands over an area of five million square kilometres, allows for the observation of all types of entry barriers that may exist – structural and regulatory, certainly, but also behavioural, technological, and those related to switching costs.

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

Factors such as a limited consumer base, high transportation costs, and reduced economies of scale significantly contribute to entry barriers in small or insular economies like ours.

These structural constraints lead to higher fixed and variable costs, reducing potential profit margins for new entrants. As a result, few foreign or local investors are willing to take the financial risk of entering the market under such conditions.

This situation reinforces the position of incumbent firms, which benefit from early market entry, established infrastructure, and supplier networks. Over time, this can lead to market stagnation and reduced competitive pressure, especially in sectors with limited turnover or innovation.

The Competition Authority has recognised these dynamics. In its Avis n°2019-A-02, the Authority analysed importation and distribution mechanisms in French Polynesia, highlighting how existing structures can entrench dominant positions and discourage new market participants.

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

For questions 10 to 15, the ISLE publication *Competition law and small economies unity of principles, diversity of approaches from competition authorities* provides structured and comprehensive responses.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

The Authority addresses specific barriers to entry through both its advisory and enforcement functions. Its advisory role, exercised through the issuance of opinions, enables the Authority to alert public authorities to the potential risks that certain regulations may pose to competition. This contributes to the adoption of legal frameworks that are more conducive to market entry and competitive dynamics.

In its decisional practice, particularly in the area of merger control, the Authority may authorise transactions subject to commitments undertaken by the parties, where such commitments effectively address potential competition concerns, including barriers to entry.

This approach allows the Authority to balance the economic effects of the transactions with the preservation of open and competitive markets.

A recent example is Decision N° 2024-CC-01 concerning the acquisition of exclusive control of Bolloré Logistics SE by CMA CGM SA, in which the Authority authorised the transaction subject to commitments aimed at preserving market access and preventing any undue strengthening of existing market positions.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

The Authority benefits from the independence granted by its status as an independent administrative authority. Accordingly, its decisions are made autonomously and without political pressure by the Authority's board.

This independence is based in particular on Article 30-1 of Organic Law No. 2004-192 of February 27, 2004, concerning the autonomy of French Polynesia, which serves as a local fundamental law. This article allows the territory to establish independent administrative authorities and places the responsibility on the deliberative assembly to ensure their independence, expertise, and continuity.

However, this independence can be weakened by the potential to amend the laws governing the Authority's operation, particularly regarding its human and financial resources.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

The risk may primarily arise at two key moments:

1. At the time of the appointment of the President of the Authority and the General Rapporteur. However, this risk is mitigated by the establishment of a special ad hoc commission responsible for these appointments. These commissions are composed of local political figures (from various political affiliations), representatives of the State (such as the Prefect and magistrates) and representatives from the economic and civil society sectors.
2. At the time of the appointment of the members of the Authority's board, the decision-making body. At this stage, it is more difficult to eliminate political risks, as only the government holds the decision-making power. The President of the Authority merely makes proposals and is consulted for opinion.

Nevertheless, once appointed, these individuals are irremovable and therefore independent from the political authority that appointed them. To further safeguard the President's independence, the term of office (six years) is non-renewable. The mandates of the board members and the General Rapporteur (four years) are renewable once.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

The Authority does not intervene in the political arena and strictly applies the regulations applicable to it, making decisions based on the prevailing rules.

However, it is regularly called upon to provide opinions on normative texts through both optional and mandatory referrals submitted by competent authorities concerning draft regulatory texts. In these instances, the Authority can enlighten policymakers on the interplay between various interests they must consider and those pertaining to competition law.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

Transparency plays a vital role in our competition law enforcement processes. It ensures the legitimacy of our decisions and builds trust among economic stakeholders and the public. In practice, transparency is reflected in the publication of reasoned decisions, the release of official opinions, and regular consultations with stakeholders, all while respecting confidentiality obligations. Additionally, we publish guidelines that clarify our analytical methodologies and outline the criteria for setting financial penalties. These documents give businesses clear visibility into how the Authority makes its decisions.

Our internal structure also reinforces transparency: the team responsible for investigating cases is separate from the deliberating body. This institutional separation safeguards the impartiality of the decision-making process. Lastly, to protect the objectivity of our rulings from political influence, several safeguards are in place: the Authority operates independently and its decisions are subject to judicial review by the competent courts.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers? If you have answered yes, please answer the below questions (questions 21-25).

If you have answered no, kindly proceed to the following section of questions (section 6).

No.

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

N/A

22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?

N/A

23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?

N/A

24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?

N/A

25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?

N/A

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets? Required to answer.

In French Polynesia, several key sectors display oligopolistic features, with high market concentration and limited competition:

- Telecommunications;
- Retail distribution: While not a strict oligopoly, this sector is characterized by a dominant player, an emerging competitor, and a number of smaller actors who play important roles in specific segments or regions.
- Energy (fuels);
- Inter-island air transport;
- Maritime transport and logistics.

The Polynesian Competition Authority aims to monitor these markets more closely but currently lacks the necessary resources to do so comprehensively. The intended monitoring methods include:

- Regular analysis of economic and commercial data;
- Tracking price developments and market share evolution;
- Periodic consultations with businesses and consumers;
- Monitoring of commercial practices that may indicate coordinated behaviour.

These actions are essential to maintaining fair competition and addressing potential market distortions in sectors prone to oligopolistic dynamics.

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

The Polynesian Competition Authority (APC) assesses competitive dynamics in markets dominated by a few players using a set of specific indicators designed to identify market concentration and potential anti-competitive behaviour:

- Evolution of market shares: Tracking the market share trends of major players over multiple years to identify shifts in market dominance.
- Price stability or similarity: Monitoring consistent or similar pricing among competitors, which may indicate coordinated behaviour.
- Barriers to entry: Assessing regulatory, economic, or technical obstacles that could hinder new entrants from accessing the market.
- High profitability rates: Identifying unusually high profitability, which may suggest limited competition within the market.
- Herfindahl-Hirschman Index (HHI): Utilising the HHI to measure market concentration by summing the squares of the market shares of all firms in the market.

While these tools offer valuable insights into market structure, the Authority's ability to apply them systematically is currently constrained by limited resources. Expanding these capabilities remains a key strategic objective.

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

The Polynesian Competition Authority has intervened on multiple occasions in industries characterised by high concentration, notably local oligopolies. To date, six decisions imposing sanctions for anti-competitive practices have been issued, three of which specifically pertain to the telecommunications sector – a strategic industry in French Polynesia historically dominated by a few operators.

For example:

- One decision penalised the historical operator for abuse of dominant position, particularly concerning wholesale pricing and market access conditions for its competitors. These practices had the effect of hindering the entry or development of alternative operators, to the detriment of competition and consumers;
- Another decision addressed an anti-competitive agreement between two operators who coordinated on key elements of their mobile offerings, artificially reducing differentiation between them and distorting normal market dynamics.

Beyond telecommunications, the Authority has also handled cases involving sectors such as large-scale retail, fuel distribution and transportation, where market structures are often oligopolistic and the risks of tacit coordination or abuse are significant.

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

The primary challenges lie in the concentrated structure of many Polynesian markets, often dominated by a few powerful players. This increases the risk of collusion, even tacit, and limits competitive intensity.

To address this, we are strengthening the monitoring of sensitive sectors, conducting proactive investigations, cooperating with other economic bodies, and raising awareness among businesses about competition rules. The objective is to ensure the healthy functioning of the market, even in oligopolistic situations.

Furthermore, among the Authority's missions, the obligations to notify concentrations and commercial developments (from 300m²) to the Authority to obtain its authorisation are particularly useful tools for conducting this market monitoring and preventing potential competition issues arising from proposed operations. These authorisation or refusal decisions are accompanied by robust competitive analyses that justify the Authority's administrative decisions. The decisions of the Authority are indeed subject to appeal by interested parties.

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

The Authority does not engage in competition policy, a power exercised by political institutions. Within the framework of consultations by the Assembly of French Polynesia or the Government on proposals or draft normative texts affecting the market, the APC operates consistently with its other prerogatives.

Specifically, the investigative department conducts hearings with interested parties, both public and private, and prepares an analysis of the situation, which is then presented to the APC's board. Based on the factual elements provided by the investigative department,

the board decides on the opinion it wishes to submit to the government, proposing improvements to the analysed texts to better reconcile their legitimate interests with competition law considerations.

However, only the political authority has regulatory power, and the APC's opinions are purely advisory, even when they are mandatory.

Section 7: The number of firms within a jurisdiction that are vertically integrated

31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?

The Authority monitors and evaluates the prevalence of vertical integration through:

- Regular sectoral monitoring (market analyses, public consultations);
- In-depth analysis of concentration operations that exceed the notification thresholds to the Authority (mergers/acquisitions);

Sectors particularly concerned include:

- Telecommunications (control of infrastructure/final services);
- Energy (fuels, from storage to distribution);
- Large-scale retail (importation/logistics/retail sales).

32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?

A significant portion of the 20 largest companies in French Polynesia are not vertically integrated. However, vertical integration is present in certain sectors, notably distribution, hydrocarbons, telecommunications, and transport.

This trend has intensified over the years in response to local market constraints such as geographical isolation, high logistical costs, and the small market size. Nevertheless, it raises competition concerns, particularly regarding internal margins and transfer pricing. Recent discussions have highlighted the complexity of regulating margins in a context of significant vertical integration, especially within the importation-distribution chain.

33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?

At present, the Authority does not have access to detailed information on the corporate structures of firms operating within its jurisdiction.

34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?

In French Polynesia, vertical integration allows firms to control multiple stages of the value chain – from importation to final distribution. The main motivations for pursuing such strategies include:

- Managing high logistical costs in a remote and insular economy;
- Securing supply chains in a context highly dependent on imports;
- Optimising margins by reducing reliance on intermediaries;
- Addressing transfer pricing and tax optimisation considerations.

While vertical integration may lead to operational efficiencies, it also presents competition risks.

The Polynesian Competition Authority assesses these strategies by examining:

- The impact on competitors' access to upstream and downstream markets;
- Risks of market foreclosure or exclusionary practices;
- Effects on pricing, innovation, and consumer choice.

These assessments aim to ensure that vertical integration strategies do not hinder effective competition and that they contribute to a dynamic and consumer-friendly marketplace.

35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?

Vertical integration significantly influences our approach to merger evaluations. Beyond assessing horizontal effects, we closely examine potential risks of leveraging market power or foreclosing competitors.

Specifically, we analyse whether a merger could enable the integrated firm to restrict competitors' access to essential upstream resources or downstream markets, thereby creating entry barriers or competitive disadvantages.

Our assessment considers market structure, the degree of third-party dependency, and economic incentives to restrict access. This approach aligns with international best practices, such as the U.S. Federal Trade Commission's Vertical Merger Guidelines, which emphasise evaluating the merged firm's ability and incentive to foreclose rivals and the potential impact on competition.

By thoroughly examining these factors, we aim to ensure that vertical mergers do not harm competition or consumer welfare.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?

The presence of conglomerates in French Polynesia – operating across multiple strategic sectors such as retail, media, import-export, and telecommunications – enhances their market power by enabling them to pool resources, benefit from economies of scale, and create commercial synergies. This can result in significant competitive advantages that are challenging for smaller businesses to replicate.

37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?

Pacific Mobile Telecom, operating in the telecommunications sector, and Pacific Energy, active in fuel and gas markets, are part of the same conglomerate.

38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?

While conglomerate effects are increasingly acknowledged by competition authorities globally, the APC is still in the process of considering how to incorporate such assessments into its decision-making framework.

Currently, the APC focuses primarily on evaluating horizontal (between direct competitors) and vertical (between suppliers and distributors) effects in the transactions it reviews.

Nonetheless, the APC recognises that conglomerates can strengthen their overall market power and potentially impact competition in indirect ways. As the Authority continues to refine its analytical tools and develop its internal expertise, the incorporation of conglomerate effect analysis may become a more significant part of its regulatory approach.

39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?

Currently, the APC does not systematically incorporate conglomerate effects into its merger review process. The Authority primarily focuses on assessing horizontal and vertical impacts arising from notified transactions. As a result, only those situations in which conglomerate effects directly impact competition in the relevant markets are examined, using standard assessment tools.

For example, in Decision No. 2024-CC-03 dated March 18, 2024, regarding the acquisition of sole control of Hesnault SAS and Réunion Transit SAS by SIFA SAS, the APC concluded that the transaction was unlikely to result in conglomerate effects, as it did not enable the combined entity to strengthen its position in adjacent markets.

Nevertheless, the APC recognises the growing relevance of conglomerate effects in shaping market dynamics. It is therefore considering the progressive integration of such analyses, particularly in cases where concrete signs point to leveraging or foreclosure risks in related sectors.

40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?

Conglomerates operating across various sectors – such as distribution, telecommunications, energy, and transportation – can offset losses in one domain with gains in another. This internal diversification strengthens their ability to absorb economic shocks. Backed by substantial financial resources and scale, these entities can undertake large-scale investments, promoting innovation and the modernisation of local infrastructure. In times of crisis, they often maintain more stable employment levels than small enterprises, thereby supporting social and economic stability.

However, when certain conglomerates dominate key sectors, they can stifle competition, limit market entry for new players, and reduce the diversity of consumer choices. Their overwhelming presence may discourage SMEs from emerging, thus impeding innovation and local economic diversification. Overreliance on a few conglomerates may also heighten economic vulnerability – difficulties faced by one can ripple across the broader economy.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

In our economy, several structural challenges heighten the risk of regulatory capture, particularly in markets with limited competition. These include:

- A fragmented and geographically isolated territory, which limits the entry of new players and often leads to the concentration of economic power in the hands of a few established operators.
- Close ties between economic actors and political authorities, which can result in undue influence over regulatory decisions, potentially compromising fairness and public interest.

These factors may foster excessive reliance on dominant or legacy operators, undermining the regulator's ability to act independently.

To mitigate these risks, it is crucial to strengthen competitive neutrality, ensuring that all market participants – public or private – compete on equal footing. This involves promoting market-based regulation over discretionary market access decisions.

The adoption of objective and transparent regulatory frameworks, particularly in the area of public service delegation, is a key tool to safeguard against regulatory capture.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

The APC mitigates the risk of regulatory capture through several concrete mechanisms:

- Advisory opinions issued to public authorities provide guidance on economic decisions from a competition law perspective.
- Press releases and its advocacy mission aim to raise awareness among stakeholders – including public officials, businesses and citizens – about the value of fair competition for the broader public interest.
- Transparency is a core principle: all decisions, recommendations, and official positions of the Authority are published on its website and shared on social media platforms, ensuring open access to information and institutional accountability.

In an insular jurisdiction where relationships among individuals, regulators, and political or business figures may be particularly close, these efforts help to reinforce the Authority's independence and sustain public confidence in its impartiality.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

Relevant examples include the Local Development Tax (TDL), food import quotas, the regulation of Essential Goods (PPN), Mass Consumption Products (PGC), as well as public service concessions, particularly in the telecommunications sector.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

Please refer to the previous responses for further details.

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

Regulatory capture can primarily affect political power through traditional lobbying groups – whether economic, associative, or administrative in nature – but does not directly concern the Authority. In this context, interference with the Authority would occur through attempts to reduce its budget and/or restrict its scope of competencies.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

Notably in the telecommunications and aviation sectors.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

See the answers starting from question 42.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

International cooperation and regional agreements play a key role in strengthening competition frameworks in French Polynesia, especially given the unique characteristics of island economies. They have helped legitimise the role of the APC with local institutions and fostered regional integration.

Current role of international cooperation:

- Sharing expertise and best practices: The APC maintains close ties with the French national competition authority through technical cooperation agreements.
- Regional networks: The APC's participation in the Pacific Islands Network of Competition and Consumer Enforcement Regulators (PINCCER network) allows for experience-sharing and collaboration with other competition authorities in the South Pacific.
- Forums and conferences: Events such as the Competition Days – organised by the APC – bring together authorities from the PINCCER network, the European Commission (DG Comp), the French Competition Authority (ADLC), among others. The APC also takes part in major global events such as the ICN, OECD, Fordham, the ABA Spring Meeting, and NAAG conferences.

Key areas for improvement:

- Capacity building: Expand ongoing training programmes for APC staff to strengthen their legal and economic analysis skills.
- Harmonisation of legal frameworks: Work toward greater alignment of competition laws within the region to support cross-border cooperation.
- Improved data access: Enhance access to regional economic data to allow more effective market monitoring and detection of anti-competitive practices.
- Awareness-raising: Conduct outreach campaigns to educate businesses and consumers on competition principles, rights, and obligations.

Regional and international cooperation is crucial to improving the effectiveness of competition policy in French Polynesia. By deepening these collaborations, the APC can better address the specific challenges of island economies and promote fairer markets for all stakeholders.

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

In small island economies like French Polynesia, competition policy must balance market openness with support for local businesses that may be vulnerable to more powerful

external competitors. Key strategies include:

1. Encouraging market entry while supporting local enterprises: Implement temporary measures, such as targeted subsidies or tax relief, to help local businesses enhance their competitiveness without causing long-term market distortions.
2. Promoting competitive neutrality: Ensure that all businesses – local or foreign, public or private – operate on an equal footing, avoiding undue advantages that could distort competition.
3. Strengthening local business capabilities: Invest in training, access to financing, and innovation to enable local enterprises to better withstand competition and seize new opportunities.
4. Implementing tailored regulations: Adapt regulatory frameworks to local specificities, avoiding overly stringent standards that could disadvantage small businesses.
5. Monitoring anti-competitive practices: Enhance market oversight to detect and penalise anti-competitive behaviours, such as collusion or abuse of dominant positions, that could harm local businesses.

By adopting these strategies, competition policies can foster an environment where local businesses thrive alongside open and competitive markets.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

It is essential that the Authority fully regains control over the management of its human resources as well as the effective exercise of its powers regarding structural injunctions. In addition to these initial measures, several complementary actions are proposed:

- A ban on exclusive importation agreements;
- An overhaul of mechanisms governing import restrictions;
- Increased transparency in commercial practices;
- Strengthened regulation of key markets;
- New obligations imposed on groups operating simultaneously in import and distribution activities;
- The creation of a responsible business label to promote best practices;
- Adjustments to local tax exemption schemes to better target actual economic needs;
- Modernisation of maritime freight management, particularly in logistics and cost efficiency;
- Enhancement and modernization of statistical tools for improved market insight;
- Measures to facilitate market access for new competitors.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?

There is currently no regional competition authority in French Polynesia.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?

The Authority actively collaborates with other competition authorities but has not yet addressed cross-border anti-competitive practices affecting its market. This cooperation primarily occurs in the context of retail store openings by national or international groups or in large-scale mergers at the national, European, or international levels. Cooperation is notably manifested through exchanges on cases, including via waivers, or within the framework of cooperation agreements.

A notable case for the Authority was the CMA CGM and Bolloré Logistics merger, which led to cooperation with the French Competition Authority (ADLC), the New Caledonian Competition Authority (ACNC), and the European Commission's Directorate-General for Competition (DG COMP).

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

Collaboration with neighbouring authorities, such as the ACNC, allows the Authority to share experiences and expertise adapted to island realities. This cooperation has been formalised through joint initiatives, including participation in regional conferences and the publication of joint works on the challenges of competition in the Pacific.

Furthermore, regional networks facilitate access to comparative data and analyses, essential for understanding the market dynamics specific to island territories.

Moreover, participation in these networks encourages the alignment of regulatory frameworks and competition law enforcement methods, thus promoting regional coherence beneficial to businesses operating across multiple island jurisdictions.

However, active engagement in regional networks requires human and financial resources that small authorities, such as the APC, can hardly allocate without compromising other missions.

Despite similarities, each island territory presents economic, cultural, and legal specificities that may complicate the adoption of uniform solutions within regional networks.

Additionally, formalising collaborations through bilateral or multilateral agreements can strengthen the stability and effectiveness of regional partnerships.

Finally, working together to develop regulations adapted to island realities can facilitate the effective enforcement of competition law in these territories.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

For the time being, the systems set up as part of the PINCCER network are not yet able to make up for the shortcomings described, other than through agent training.

55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?

Competition policy is generally more advanced in French Polynesia than in other neighbouring jurisdictions (excluding New Zealand and Australia), so it's more likely that

French Polynesia will try to learn from successful implementations in other neighbouring Pacific territories.

However, there is good experience to be had everywhere, and French Polynesia is learning from what has already been done elsewhere, from what has worked and what hasn't, to gain time in setting up an efficient and effective competition law.

Section 12: What is the impact or significance of being part of a regional competition network?

- 56. Does your competition enforcement agency participate in a regional competition authority body? If yes, please proceed in answering the below questions (questions 57-60). If no, kindly proceed to the following section of questions (section 13).**

No. The PINCCER network remains a forum for the exchange of best practices and provides joint training courses. However, the heterogeneity of the regulatory frameworks in force in the Pacific zone makes it impossible to give any normative substance to this network, which cannot therefore be considered as a regional competition body.

- 57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?**

N/A

- 58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?**

N/A

- 59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?**

N/A

- 60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?**

N/A

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

- 61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?**

The Authority has limited human and financial resources, which affects its ability to deal quickly and efficiently with all the cases referred to it.

- Annual budget: in 2025, the APC benefitted from an operating budget of 50 million FCFP (not including payroll costs, as staff are paid directly from the French Polynesian budget).
- Workforce: APC had 11 permanent staff in 2025.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

APC's current budget only allows it to call on a limited number of experts. In addition, the limited number of staff means that it is not possible to carry out visit and seizure operations. Hearings are also limited by the small number of rapporteurs available to conduct them.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

One of the strategies used concerns rapporteurs. Unlike the French Autorité, rapporteurs are not specialised by sector (pharmaceuticals, regulated professions, etc.). This means that, depending on the case, they can work on any type of sector.

In addition, the APC College takes into account the limited human and financial resources available when determining the sectoral priorities to be addressed.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

We work closely with the Autorité de la Concurrence in mainland France and the Autorité de la Concurrence in New Caledonia for the reasons mentioned above (insularity, similar size, etc.).

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

The Autorité is obliged to prioritise certain sectors each year, to the detriment of anti-competitive practice cases that may go untreated for many years.

Guyana

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

Guyana's competition law emphasises consumer protection, market fairness, and economic inclusivity, which aligns with global norms but is tailored to local realities. Unlike larger economies that focus heavily on regulating dominant multinational players, Guyana's approach considers the vulnerabilities of a small and insular economy – such as limited market participants and the need for sector-specific flexibility. Objectives often extend beyond price and efficiency to include equitable access and local development.

2. How does your agency prioritise enforcement actions?

The Competition and Consumer Affairs Commission (CCAC) prioritises cases based on several factors: market impact, consumer harm, prevalence of the conduct, and alignment with national development goals. Stakeholder engagement, resource constraints, and available evidence also guide enforcement.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

There are no provisions in the Competition and Fair Trading Act (CFTA) that permit political or external interventions in enforcement. However, Section 6 allows the Commission to make recommendations to the Minister, and any exemptions or regulatory changes must be made through amendments to the Act. Enforcement actions are guided by the statutory powers outlined in Sections 7–13, and any deviation must occur within legal bounds.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

Guyana's competition law is relatively broad and flexible to accommodate the constraints of a small developing economy. The CCAC often adopts a case-by-case approach, considering both legal principles and economic context. This flexibility allows the Commission to balance enforcement with market realities, such as the need for aggregation in import-dependent sectors or to encourage local entrepreneurship. However, this also places greater responsibility on the agency to exercise discretion transparently and consistently, especially in politically sensitive environments.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

Yes, the size and structure of Guyana's economy impact enforcement practices under the CFTA. Although the Act is neutral in its wording, enforcement is carried out in a manner that considers market realities. The Commission applies its powers under Sections 5 and 7 based

on evidence and market characteristics, especially in sectors with few market participants.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction? Namely, are there sectors within the economy that are prone to high market concentration? If yes, kindly name the sectors. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

Guyana's economy exhibits high concentration in sectors such as telecommunications, fuel distribution, and port operations. While formal market concentration indexes are not published, limited market participants and infrastructure constraints in these sectors raise concerns about contestability. The CFTA addresses these issues not by prohibiting dominance itself, but by prohibiting the abuse of dominance under Section 17. This approach enables the Commission to intervene where conduct restricts fair competition, without penalising efficiency or necessary scale in a small economy.

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy's size or geographic isolation?

In markets where only a few players exist due to economic scale or geographic limitations, the CCAC employs a strategy centered on advocacy, monitoring, and public education, as authorised under Section 5(2)(b) and (d) of the CFTA. Rather than initiating enforcement action in every instance, the Commission encourages voluntary compliance with the principles of fair competition. It conducts market studies, engages with stakeholders, and issues guidance to promote best practices. This approach supports the Act's objective of maintaining competitive markets without unnecessarily disrupting essential or structurally constrained industries.

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

While the CFTA does not provide automatic exemptions for sectors with limited competition, it offers flexibility in application. Under Section 5(2)(d), the Commission may consider economic conditions and public interest when performing its functions. In naturally monopolistic sectors – such as utilities or port operations – the CCAC focuses on conduct rather than structure. This means the Commission will only take enforcement action under Section 17 if a dominant firm's behaviour restricts competition, rather than merely holding a dominant position.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

The CFTA supports a balanced approach to promoting competition while recognising the importance of economies of scale in a small developing economy like Guyana. The law does not prohibit dominant firms, but it prohibits conduct that constitutes abuse of dominance under Section 17. In applying the Act, the CCAC considers whether business practices limit market access or distort competition. At the same time, the Commission remains mindful that fragmenting industries in pursuit of competition could undermine efficiency and national development. As such, enforcement is conducted in a way that supports competitive outcomes while allowing businesses to operate at a viable and sustainable scale.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy’s small size or isolation be a barrier to entry?

Yes. The small size and geographic characteristics of Guyana’s economy can act as natural barriers to market entry. Limited consumer demand, high fixed costs, and import dependency often reduce the commercial viability for new entrants in certain sectors. Additionally, the cost of transportation, infrastructure limitations, and the need to achieve economies of scale can deter new businesses from entering the market. These structural features are not necessarily the result of anti-competitive conduct but are important contextual factors considered by the CCAC when applying the CFTA. The Commission uses a case-by-case approach to determine whether market dominance arises from these structural barriers or from prohibited conduct, as outlined in Section 17 of the Act.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

Guyana’s small market size and geographic isolation reduce the commercial appeal for new firms, particularly in sectors requiring scale. Limited demand, high transport costs, and infrastructure gaps are key barriers to entry. These conditions often result in few dominant players, not from anti-competitive conduct but due to economic realities. The CCAC, under the CFTA, considers these structural barriers when assessing whether conduct constitutes abuse of dominance under Section 17.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

Sectors such as fuel importation and port operations in Guyana have experienced limited entry due to high infrastructure costs and small market size. These barriers have deterred potential entrants and contributed to market concentration, limiting consumer choice and competitive pricing. While the telecommunications sector was historically dominated by a single provider, it has recently been liberalized to encourage competition. The CCAC, under Section 17 of the CFTA, continues to monitor these sectors to ensure that dominance is not abused, even when structural constraints limit the number of participants.

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

Guyana’s small consumer base limits revenue potential, while high transport costs raise expenses. Without economies of scale, new firms face higher per-unit costs, making market entry risky and less attractive. These factors discourage competition in key sectors.

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

Regulatory frameworks like the CFTA play a key role in reducing entry barriers by promoting fair competition and preventing abuse of dominance. In Guyana, the CCAC applies the law with consideration for market realities in small or isolated sectors. However, local conditions – such as limited infrastructure and high operational costs – can still pose challenges. Where sector-specific regulations or enforcement mechanisms are still evolving, these barriers may persist despite the broader competition framework.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

The CCAC enforces the CFTA with attention to local market challenges, focusing on preventing abuse of dominance and promoting fair access. It also uses advocacy and market studies to support competition in concentrated sectors.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

The CCAC is established under Section 4 of the CFTA as a statutory body with powers to investigate and take action under Sections 5–7. While Commissioners are appointed by the Minister, the law provides the Commission with operational authority to act on matters of competition without requiring external approval. Enforcement decisions are based on the Act and guided by its legal mandate.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

While the legal framework allows ministerial appointments, the Commission maintains its integrity by ensuring that all enforcement actions and decisions are based strictly on the provisions of the Act. Internal procedures and adherence to the rule of law safeguard the agency's operational independence, even in the context of potential external or political pressures.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

The CCAC approaches all matters – regardless of the parties involved – within the framework of the CFTA. In instances where businesses with political affiliations are involved, the Commission follows its standard investigative procedures without deviation. All decisions are based on evidence, market analysis, and the provisions of the Act, particularly Sections 5 to 7, which outline the Commission's investigative and decision-making powers. While specific cases cannot be disclosed due to confidentiality obligations, the Commission ensures procedural fairness and maintains a clear record of its findings to support transparency and legal accountability.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

Transparency strengthens the CCAC's credibility and accountability. While investigations remain confidential, decisions are based solely on evidence and the CFTA. Public communication and adherence to legal procedures help prevent political influence and ensure objectivity.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers?

If you have answered yes, please answer the below questions (questions 21-25).

If you have answered no, kindly proceed to the following section of questions (section 6).

No. The CCAC is established under the CFTA, Cap. 90:07, as the authority responsible for enforcing competition law in Guyana. The CCAC does not have direct regulatory powers over specific sectors or utilities, which fall under the jurisdiction of separate, sector-specific regulatory agencies (e.g., Public Utilities Commission for Telecom and Electricity). The CCAC focuses on investigating anti-competitive conduct, promoting fair trade, and protecting consumer rights, but it does not perform economic or technical regulation of industries.

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

N/A

22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?

N/A

23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?

N/A

24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?

N/A

25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?

N/A

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?

Certain sectors in Guyana, including fuel importation, port operations, and segments of the telecommunications industry, tend to be highly concentrated, with a small number of firms operating in each. This is largely influenced by the economy's scale limitations, capital-intensive requirements, and logistical constraints.

The CCAC identifies and monitors these markets through market studies, stakeholder consultations, and complaint-based investigations, as provided under Section 5(2) of the CFTA. The Commission assesses whether observed market outcomes are the result of structural conditions or involve conduct that may constitute an abuse of dominance under Section 17.

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

The CCAC assesses competitive dynamics in concentrated markets by examining market share, barriers to entry, price behaviour, and the degree of interdependence among firms. In markets with few dominant players, the Commission evaluates whether their conduct limits competition or harms consumers. Where appropriate, the CCAC may conduct market studies, gather stakeholder feedback, or initiate investigations under Section 17 of the CFTA to assess potential abuse of dominance or coordinated behaviour.

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

The CCAC addresses anti-competitive concerns through investigations, advocacy, and stakeholder engagement. In markets where structural constraints limit competition, the Commission promotes compliance and fair practices using guidance and market analysis, in accordance with the CFTA.

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

In concentrated markets, there is an increased risk of coordinated behaviour, even without explicit agreements. While such conduct may not always breach the CFTA, it can limit competition over time. The CCAC monitors these markets and uses tools such as market studies, advocacy, and engagement to promote competitive behaviour. Where necessary, the Commission investigates potential breaches under Section 17 or Part III of the Act, while remaining sensitive to the structural conditions of the market.

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

The CCAC engages stakeholders – including smaller businesses and consumers – through consultations, surveys, complaints mechanisms, and public awareness sessions. These engagements help the Commission understand how market structures affect pricing, access, and choice. The insights gathered inform market studies and guide enforcement or advocacy actions in line with the CFTA.

Section 7: The number of firms within a jurisdiction that are vertically integrated

31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?

The CCAC monitors vertical integration through market studies and complaints, as outlined in Section 5(2) of the CFTA. While there is no formal registry, vertical structures are commonly observed in sectors involving importation and retail. The Commission assesses whether such arrangements restrict competition or constitute abuse of dominance under Section 17.

32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?

While the CCAC does not maintain a formal list, some of the largest firms in Guyana appear to be vertically integrated, particularly across importation and retail. This trend has grown gradually, often for efficiency. The Commission monitors these practices to ensure they do not restrict competition, in accordance with the CFTA.

33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?

Some firms in Guyana operate across importation, distribution, and retail. While this can improve efficiency, it may also restrict competition or limit access for smaller players. The CCAC monitors such structures under the CFTA to prevent anti-competitive outcomes.

34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?

Firms in Guyana may pursue vertical integration to reduce costs, secure supply chains, and improve distribution efficiency – especially in sectors reliant on imports. The CCAC evaluates these strategies by assessing whether they result in market foreclosure, restrict competitor access, or lead to abuse of dominance under Section 17 of the CFTA. The focus is on whether the integration harms competition or consumer welfare.

35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?

The CCAC assesses vertical mergers for risks such as market foreclosure or strengthened dominance. While the CFTA does not mandate formal merger control, the Commission may act if a transaction substantially lessens competition or leads to anti-competitive outcomes.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?

Conglomerates may gain advantages across sectors through scale and financial strength, but this can raise barriers to entry for smaller firms. The CCAC monitors such influence to prevent cross-market conduct that may harm competition, as guided by the CFTA.

37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?

While the CCAC does not publish case-specific findings on conglomerate conduct, it recognises that multi-sector business groups may influence pricing, distribution, and brand dynamics across markets. Their scale can benefit consumers through efficiencies, but may also pose risks by limiting entry or discouraging innovation. The Commission monitors market conditions to ensure they remain consistent with the goals of the CFTA.

38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?

Regulating conglomerates can be challenging due to their presence in multiple industries with varying market dynamics. These firms may leverage their position in one market to gain advantages in another, making it harder to assess the full impact on competition. The CCAC addresses this by focusing on conduct that may constitute abuse of dominance or

restrict market access, as outlined in the CFTA, and by applying a case-by-case approach when reviewing cross-sector practices.

39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?

Conglomerates can affect the competitive landscape by using their size and cross-sector presence to strengthen their market position through mergers or acquisitions. In such cases, the CCAC considers whether the transaction could lead to market foreclosure, reduce competitive entry, or result in cross-market advantages that distort competition. Although the CFTA does not include a formal merger control regime, the Commission may assess such conduct under its general powers if it leads to a substantial lessening of competition.

40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?

Conglomerates may enhance economic resilience by sustaining operations across sectors during downturns. However, their scale and cross-sector presence can limit market entry and affect economic diversification. The CCAC monitors these effects to ensure that market concentration does not undermine competition, consistent with the objectives of the CFTA.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

Small markets pose risks of regulatory capture due to close ties between firms and regulators and limited resources. The CCAC counters this through transparency, strict adherence to the CFTA, and strong governance to maintain independence.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

To mitigate the risk of regulatory capture in close-knit environments, the CCAC implements strict conflict-of-interest policies, maintains transparent decision-making processes, and fosters accountability through regular reporting. The Commission emphasises stakeholder engagement and promotes a culture of integrity to ensure that enforcement actions remain impartial and aligned with the CFTA.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

While the CCAC does not disclose specific cases of regulatory capture due to confidentiality, the agency proactively strengthens internal controls and governance to minimise such risks. Experiences highlight the need for transparency, rigorous conflict-of-interest management, and ongoing stakeholder engagement to uphold the integrity of competition enforcement in Guyana.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

The CCAC ensures transparency and accountability by following procedures in the CFTA, publishing reports, and engaging stakeholders. Internal policies and audits help prevent undue influence and maintain impartiality.

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

The risk of regulatory capture can challenge the CCAC's ability to enforce competition law impartially and protect consumers effectively. To mitigate this, the Commission emphasises transparency, strong governance, and stakeholder engagement to maintain public trust and ensure decisions align with the CFTA's objectives.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

The CCAC promotes competition through advocacy, market studies, and enforcement under the CFTA. Engagement with stakeholders helps address concentration and entry barriers.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

Competition policies should be flexible in small economies, using case-by-case enforcement and merger reviews. They must balance preventing anti-competitive conduct with allowing necessary scale in concentrated markets.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

International cooperation and regional agreements help strengthen competition enforcement by facilitating information sharing, capacity building, and harmonising legal frameworks. For Guyana, participation in CARICOM and collaboration with regional bodies enhance the CCAC's ability to address cross-border anti-competitive practices. These efforts can be improved through expanded joint investigations, training programmes, and greater alignment of competition policies across jurisdictions.

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

Competition policy in small economies should balance encouraging new market entry with supporting the sustainability of local businesses. This can be achieved by focusing enforcement on anti-competitive conduct rather than market structure, providing targeted advocacy and capacity building for local firms, and allowing flexibility in applying rules to reflect economic realities. Such an approach helps protect local businesses while promoting fair competition against larger external competitors.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

To enhance competition enforcement, the introduction of a formal merger control regime could improve oversight of market consolidations. Strengthening provisions for penalties and remedies would deter anti-competitive conduct more effectively. Additionally, increasing resources for market studies, advocacy, and training can build capacity. Legislative updates to better address digital markets and cross-border competition issues would further modernise the framework.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?

Cooperation between national and regional competition authorities helps small economies share information, build capacity, and coordinate enforcement. The CCAC's work with the CARICOM Competition Committee strengthens its ability to handle cross-border cases and apply competition laws effectively in Guyana.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?

The CCAC actively collaborates with regional competition authorities, including through participation in meetings with the CARICOM Competition Committee. These engagements facilitate information sharing, joint capacity building, and coordinated approaches to cross-border anti-competitive practices.

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

Participation in regional competition networks offers key benefits, including capacity building, knowledge sharing, and coordinated enforcement on cross-border issues. These collaborations enable the CCAC to access resources and expertise beyond local capabilities, improving enforcement outcomes. However, challenges include resource constraints, differing legal frameworks, and the need for effective communication. To leverage these benefits, the Commission focuses on strengthening partnerships, harmonising policies, and enhancing information exchange.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

Regional cooperation allows competition authorities to share expertise, conduct joint investigations, and access training resources that may be limited individually. For the CCAC, collaboration within frameworks like CARICOM enhances capacity building, promotes best practices, and supports enforcement of cross-border competition issues that small jurisdictions may struggle to handle alone.

- 55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?**

Regional agreements and cooperation frameworks, such as those within CARICOM, play a significant role in shaping competition policy by facilitating knowledge exchange, harmonising regulations, and providing technical support. These collaborations help the CCAC adapt policies to Guyana's unique economic characteristics, enhancing enforcement capacity and addressing cross-border competition challenges effectively.

Section 12: What is the impact or significance of being part of a regional competition network?

- 56. Does your competition enforcement agency participate in a regional competition authority body? If yes, please proceed in answering the below questions (questions 57-60). If no, kindly proceed to the following section of questions (section 13).**

Yes, the CCAC actively participates in regional competition bodies, notably the CARICOM Competition Committee.

- 57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?**

Participation in the regional competition network has enhanced the CCAC's capacity to tackle cross-border anti-competitive conduct through improved information sharing, joint training, and coordinated investigations. This collaboration enables more effective enforcement of competition laws that transcend national boundaries.

- 58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?**

The jurisdiction benefits from access to shared technical expertise, capacity-building initiatives, and opportunities for coordinated enforcement. These resources strengthen the CCAC's enforcement capabilities and improve consistency in competition policy across the region.

- 59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?**

While specific cases remain confidential, the CCAC's participation in CARICOM meetings and workshops has contributed to the development of harmonised policies and improved enforcement strategies, particularly in sectors with cross-border trade implications.

- 60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?**

Challenges include differences in legal frameworks, resource constraints, and varied market structures. The regional network facilitates dialogue, policy harmonisation, and capacity building, helping to overcome these challenges and promote more effective competition enforcement.

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?

The CCAC is equipped with a dedicated team of legal, economic, and investigative professionals supported by a legislative framework under the CFTA. However, limited financial and technical resources can constrain the scope and speed of enforcement actions, affecting the agency's ability to conduct extensive investigations or large-scale market studies.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

The agency's modest size and budget require prioritisation of cases with the greatest market impact. While resources limit the handling of complex or lengthy investigations, the CCAC focuses on strategic enforcement and advocacy to maximise impact within its means.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

The CCAC employs strategies such as targeted case selection, collaborations with regional bodies, and advocacy efforts to optimise resource use. Enforcement priorities favour cases affecting vulnerable consumers or essential markets, ensuring effective use of limited resources.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

The CCAC collaborates with regional organisations like CARICOM and international partners for training, technical assistance, and joint investigations. These partnerships enhance capacity and provide access to expertise beyond the agency's resources.

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

Resource limitations can delay responses to emerging issues and restrict comprehensive investigations. However, the agency mitigates this by focusing on high-priority cases and leveraging partnerships to supplement its capabilities.

Mauritius

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

In the context of Mauritian competition law, the primary objectives generally align with those of most competition regimes, but there are some specific considerations shaped by Mauritius' smaller economy and more concentrated market. The key objectives of competition law in Mauritius, as expatiated under the Explanatory Memorandum of the Competition Bill (Bill No.25 of 2007), are to:

- a) creating a comprehensive competition regime to be administered by an independent Competition Commission,
- b) prohibiting the most serious anti-competitive restrictive agreements,
- c) providing for the investigation and control, where necessary, of other types of restrictive agreements, and of monopoly and merger situations,
- d) promoting the role, and understanding, of competition in enhancing efficiency and adaptability in the economy.

While the role of competition is seen primarily as enhancing market efficiency and adaptability, the Mauritian competition law regime adopts a remedial as opposed to punitive approach for the control of market concentrations. The abuse of dominance as well as merger regimes are not prohibitive in nature and seek to redress the anti-competitive effects resulting from such conducts through remedies, as opposed to pecuniary sanctions (fines). The policy appears to have adopted a softer approach for obtaining business buy-in for competition culture by mitigating the compliance cost to businesses.

2. How does your agency prioritise enforcement actions?

The approach of the Competition Commission to prioritisation ensures that it directs its limited resources to the most impactful and significant cases having regard to:

- Public and economic significance
- Impact on consumer welfare
- Key sectors based on the importance of that sector to consumers, the level of concentration, the number of complaints related to that sector and feedback from stakeholders on potential competition issues in that sector.
- Leniency applications – Suspected cartel cases that are made uncovered from leniency applications are treated as priority because the leniency process helps to uncover critical evidence that could lead to a broader crackdown on anti-competitive conduct. Cooperation from firms can also lead to faster investigations and resolutions, allowing the Commission to allocate resources more efficiently.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

The Competition Act 2007 has several provisions in place to limit political or external interventions in the activities of the Competition Commission (as will be further expatiated below) in view of assuring its independence and impartiality. There are no instances where its enforcement decisions/actions have been influenced by external forces or pressure – political or otherwise, where legislative amendments or exemptions were sought to be made to accommodate particular enforcement or market challenges.

On the contrary, the Act was successfully amended in 2023 to limit the blanket exclusion of the Act i.r.o LPG, mogas, and gas oil only insofar as they relate to the fixing of their prices and their importation (which are government-regulated). All other aspects in the supply and distribution of these products may now be scrutinised under the law.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

As mentioned above, the construct of the law reckons the relatively small size and concentrated nature of several of our markets in the approach adopted i.r.o the abuse of dominance and merger regimes. On the unilateral conduct front for example, the law stayed away from establishing statutory presumptions of dominance. Rather, the law created a safe harbour for enterprises having less than 30% market share wherewith such enterprises could not be viewed as being in a monopoly situation, which is a precondition for scrutinising their conduct.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction?

6.1. Namely, are there sectors within the economy that are prone to high market concentration?

6.2. If yes, kindly name the sectors.

6.3. Are these challenges of high concentration unique to your jurisdiction and why is that the case?

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy's size or geographic isolation?

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

Answers to questions 5-9:

Mauritius as an island economy, is characterised by small markets. By virtue of its colonial legacy, many key sectors of the economy are controlled by conglomerates. Additionally, other key sectors pertaining to utilities and infrastructure are controlled by the state. In this context, the main competition concern pertaining to concentrated markets is abuse of monopoly situation. This is reviewed by the Competition Act under section 46.

Although our competition law is similar to that of other jurisdictions (for abuse of monopoly situations/dominance), it is peculiar in that the safe harbour for the existence of a monopoly situation is 30% of market share. Enterprises with market shares below 30% cannot be considered to be in a monopoly situation and therefore cannot be investigated.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy’s small size or isolation be a barrier to entry?

The size of the economy is not in itself a barrier to entry, as it depends on the market; but it affects the size of the market, and thus the number of players in certain markets. Similarly, being isolated has implications on barriers to entry as it raises transportation cost and may limit entry of certain perishable goods.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

We have no study specific to this matter.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

N/A

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

The Competition Commission has not conducted any systematic research on the subject matter.

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

The Competition Commission does not have specific information on this subject matter.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

The Competition Commission is mandated to look at all restrictive business practices and these elements may be considered as part of the competition analysis and also with respect to advise to government on policy matters that may affect competition.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

Commissioners and the Executive Director have security of tenure as per the Competition Act and the Executive Director has independence under the Competition Act when investigating restrictive business practices.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

We have not encountered such situations.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

The Competition Commission does its work in all independence regardless of political affinity of enterprises. The processes set at the Commission makes it that political affinity of enterprises is not a factor we will consider when deciding on cases.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

Transparency is crucial in enforcement process. The competition act itself states that we need to have regards to natural justice and fairness in investigating and determining cases. Further, the Act stipulates that when the Minister wishes to direct the Commission on any matter, it has to do so in writing and the Commission shall respond to the Minister in writing and both the direction of the Minister and the response of the Commission has to be gazetted in the Government Gazette.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers?

No, the Competition Commission is solely vested with investigative, adjudicative, and advocacy mandates related to market competition. It does not have regulatory powers per se.

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

N/A

22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?

N/A

23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?

N/A

24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?
N/A

25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?
N/A

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

Answers to questions 26-30:

The sectors which exhibit characteristics of an oligopoly are namely the cement, telecommunications, sugar, banking services, and poultry. Our agency assesses the dynamics in those markets under the provision of section 46 of the Competition Act, that is, under the monopoly provisions. The indicators that are used to determine the exercise of market power/dominance by firms in oligopolistic markets are:

- Market shares above the safe harbour of 30%.
- The availability or non-availability of substitutable goods or services to consumers in the short term.
- The availability or non-availability of nearby competitors to whom consumers could turn in the short term.
- Countervailing buyer power.
- Barriers to entry.

Oligopolistic markets may also be prone to collusive behaviour. Collusive agreements are assessed under sections 41-43 of the Competition Act.

As provided under sections 60, 58 and 59 of the Competition Act, the Commission is mandated to impose directions to enterprises found to be in breach of the monopoly provisions of the Act and to impose directions and financial penalties on enterprises which have engaged in collusive agreements.

The Competition Commission conducts regular advocacy sessions with small and medium enterprises, industry associations and consumer protection associations to educate them on provisions of the Competition Act in terms of restrictive business practices as well as on the enforcement activities of the Competition Commission.

Section 7: The number of firms within a jurisdiction that are vertically integrated

- 31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?**

The Competition Commission does not track and assess the prevalence of vertical integration in any sector but does have a system which can monitor vertical integration.

- 32. What percentage of firms within your jurisdictions are vertically integrated, and how has this trend evolved over recent years?**

N/A

- 33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?**

N/A

- 34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?**

N/A

- 35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?**

Vertical integration may be considered in merger and abuse of monopoly cases. In mergers, vertical integration is taken into account in assessing possibility for input/output foreclosure. In abuse of monopoly also vertical restraints are considered, like margin squeeze.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

- 36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?**

The Competition Commission has not conducted such research.

- 37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?**

The Competition Commission has not conducted such research.

- 38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?**

Competition law is applied where appropriate in their conduct and they are not supposed to leverage their market power from one to the other if they may constitute abuse of monopoly situations.

- 39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?**

Conglomerate effects are considered in merger assessment – for instance portfolio effects/ bundling.

- 40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?**

No research on this subject matter has been done.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

- 41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?**
- 42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?**
- 43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?**
- 44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?**
- 45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare.**

Answers to questions 41-45:

We have not conducted any studies to assess the risk and impact of regulatory capture. So far, our agency has not faced any challenges or issues pertaining to regulatory capture in the economy.

It is worth noting that the Section 19 of the Competition Act 2007 provides that “the Commission may advise the Minister on any action taken or proposed to be taken by the State and any public body that may adversely affect competition in the supply of goods and services”. As such, any proposed or intended regulatory capture by regulators or state-owned enterprises will be reviewed for any adverse effect on competition, as per section 19.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

- 46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?**
- 47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?**
- 48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?**

- 49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?**
- 50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?**

Answers to questions 46-50:

The following policy measures are recommended to bring more competition in markets in Mauritius:

- The establishment of regimes which promote competition such as international exhaustion regime for intellectual property rights. Mauritius has a system of national exhaustion of intellectual property rights regime whereby owners of trademarks and designs can take action against parallel imported goods.
- Policies which ensure that market operators can get access to essential facilities at a fair price.
- There are some sectors in which the government plays a key role such as the energy and telecommunications sectors. Government business activities which compete with the private sector in those sectors may have a competitive advantage by virtue of their ownership and control. Competitive neutrality policy is therefore important to ensure that this advantage does not occur.
- The implementation of local loop unbundling to enhance competition in the telecommunications sector.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

- 51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?**

There are cases where smaller competition agencies do not have enough 'firepower', for example in digital markets involving the GAFAMs. The regional bodies may better look into those cases and bring meaningful enforcement action.

- 52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?**

One such case would be the Holcim/ Lafarge merger case whereby Mauritius sought a referral from the COMESA Competition Commission to look into the case for the local Mauritian market since they were the only two cement operators in Mauritius.

- 53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?**

Regional competition networks may assist small agencies in several ways such as capacity building and assistance in investigations.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

Regional competition agencies usually have more monetary resources due to their size and reach. They are also more able to network with bigger agencies.

55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?

Cooperation frameworks bring more synergy and predictability in the way competition agencies may cooperate on investigations. Being exposed to the work done by other agencies within the network, we are able to learn and adopt best practices in competition law enforcement.

Section 12: What is the impact or significance of being part of a regional competition network?

56. Does your competition enforcement agency participate in a regional competition authority body?

Yes. Considering that Mauritius is a member of COMESA, the Competition Commission collaborates with the COMESA Competition Commission.

56.1. If yes, please proceed in answering the below questions, if no, kindly proceed to the following section of questions.

57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?

The Competition Commission's participation in COMESA Competition Commission's (COMESA CC) activities has been particularly valuable in addressing regional merger transactions involving Mauritius. This is especially important because Mauritius does not have a mandatory merger control regime, unlike COMESA CC. While the Competition Commission would have been able to screen for large transactions because of the publicity surrounding them; this might not always be the case with smaller transactions.

COMESA CC notifies the Competition Commission of all regional transactions that may have implications for Mauritius. The Competition Commission's views and comments would be onboarded as part of COMESA CC's competition assessments or in case the transaction affects important interests of Mauritius, the assessment for Mauritius is carved out of COMESA CC's assessment and referred to the Competition Commission to be dealt with under Mauritius Competition Act.

58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?

The Competition Commission has benefitted in several ways from being part of COMESA CC's network. As noted earlier, the Competition Commission has been in a position to better detect regional anti-competitive conducts impacting Mauritius. The Competition Commission has consistently participated in regional capacity building initiatives

organised by the COMESA CC, which have contributed to developing the investigative and enforcement skills of our staff across various areas of competition law enforcement.

Over the years of collaboration, a strong mutual trust has developed between our authorities, wherewith our requests for both financial and non-financial support are consistently met with positive responses. For example, COMESA CC provided financial assistance for the Competition Commission's law review project and in the commissioning of a consultancy to establish the relevant legal and procedural framework to establish a functional cooperation mechanism between the Competition Commission and multinational competition authorities including the COMESA CC.

In October 2024, the Competition Commission and the COMESA CC jointly organised a Lawyers' Conference in Mauritius as part of the ongoing professional development of the legal community. COMESA CC was instrumental in bringing in worldclass competition law experts to Mauritius, creating an opportune forum for local legal practitioners to engage with reputed personalities in this specialised field of law and deepen their interest in latest developments in competition law.

59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?

N/A

60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?

Difference in legal systems may pose challenges. Regional networks are able to lobby with policy makers in make such decisions to aligning national competition policies with regional frameworks.

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?

The key resources available to the Competition Commission of Mauritius are:

- Necessary funding from the government: a cut in the government grant may severely hamper the ability of the Competition Commission of Mauritius to operate effectively, such as inadequate funding to recruit the desired number of staff; and
- Its human capital: competition enforcement is highly reliable on its human capital and a lack of the appropriate personnel with the required qualifications and skills set would significantly affect the agency's capacity to operate effectively.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

- The Competition Commission of Mauritius is a small agency with less than 25 staff members involved in competition enforcement. This lack of human resources is already impacting the agency's ability to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work, the more so that it has recently been experiencing a high labour turnover, due mainly to its capacity to match more competitive salary packages elsewhere.
- Insufficient budget, on the other hand, has hampered the agency's ability to grow and increase its personnel to conduct more cases.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

The strategies adopted includes, amongst others:

- Consultancy services to assist in complex cases
- Prioritisation of cases

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

Some of the partnerships and collaborations includes:

- Collaborations with the African Competition Forum to conduct market surveys
- Collaborations with the COMESA Competition Commission on cases
- Merger fees obtained from the COMESA Competition Commission are used to supplement the budget of the agency
- Support from international agencies such as USAID to provide facilities for capacity building

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

The inability to recruit adequate resources and retain them results in a vicious circle whereby the agency finds itself in recruitment and training mode on a continuous basis, and thus unable to grow and have adequate experienced staff to look into emerging issues or address a more anti-competitive practices; there is only a very small ratio of experienced staff.

New Caledonia

Note: The participating authority provided additional input as follows. For the actual survey responses, please proceed to the following page.

Introduction to the survey

Section 1: What are the roles and objectives of competition law in your economy?

Under Book IV of the Commercial Code applicable in New Caledonia, since 2 March 2018, the New Caledonia Competition Authority (ACNC) has been responsible for implementing all tools for competition control and regulation in the New Caledonian markets for the benefit of businesses and consumers through its four missions:

- Preventive mission concerning the authorisation of mergers and the opening of commercial spaces;
- Repressive mission addressing anti-competitive practices and restrictive competition practices (upon complaint or self-referral);
- Advisory mission (responses to requests for opinions and self-referral);
- Informative mission aimed at businesses and the public.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

High cost of living due to narrow and closed markets, market protections, existence of monopolies and duopolies, reliance on external imports, low exports, remoteness from Western markets, high customs clearance fees, and high production, wholesale, retail margins and more

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

As New Caledonia is a small island territory with a population of 260,000, the market is limited, which consequently reduces external competition, particularly in sectors such as fruits and vegetables, meat, rice, dairy products, confectionery, chocolate, sugary drinks, beer and more

Section 4: The extent to which competition regulation and enforcement is subject to political capture

Regulatory barriers to entry (customs duties, taxes, market protection measures) result from political decisions, some of which are influenced by lobbies (industrialists, importers, producers or distributors).

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers.

Yes

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

Several key sectors are oligopolistic, such as transport and port service provision.

Section 7: The number of firms within a jurisdiction that are vertically integrated

Some retailers (distributors) are vertically integrated, but not all.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

Conglomerates are likely to strengthen the market power of sectoral distributors and sellers.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

The risk is to compartmentalise certain economic sectors by limiting potential competition.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

Deregulate certain sectors by opening them up to competition, and create an independent sectoral regulator separate from political power

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories. This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both?

Cooperation between competition authorities allows for the sharing of experiences and continuous improvement of practices. The ACNC maintains close relationships with the French Competition Authority and the Polynesian Competition Authority.

Section 12: What is the impact or significance of being part of a regional competition network?

Comparing practices between authorities enables mutual improvements.

The network can provide a stronger voice on the international stage if needed.

Survey questions and responses

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

To combat anti-competitive and restrictive competition practices/limit the market power of certain companies during a merger or the establishment of a commercial facility/advise the government

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

The fight against high living costs and the development of a competitive dynamic.

2. How does your agency prioritise enforcement actions?

By a roadmap decided by the board.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

We requested a reform of market protection measures that benefitted the processing industry. However, some political parties, supported by lobbies, opposed it even though these rules substantially infringed upon competition regulations.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

We adapt the legal rules to the local economy and its practices, and we request amendments to the legislation if necessary in order to have better-suited tools.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

- 5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?**

Yes. Faced with oligopolies and tacit collusion, we want better-suited tools such as “market investigation” or new competition tools.

- 6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction?**

The retail sector.

- 6.1. Namely, are there sectors within the economy that are prone to high market concentration?**

Yes.

- 6.2. If yes, kindly name the sectors.**

The retail sector, maritime and air transport, regulated sectors (telecommunications, electricity, marketing and importation of meat and potatoes...).

- 6.3. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?**

Some yes, because they result from a legal monopoly.

- 7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy’s size or geographic isolation?**

The traditional tools.

- 8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?**

Exclusive import agreements (except in cases justified by economic progress) are prohibited in New Caledonia.

- 9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?**

Yes, it depends on the case

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

- 10. Can an economy’s small size or isolation be a barrier to entry?**

This does not encourage an operator to enter this market, but it does not in itself constitute a barrier in the behavioural sense.

- 11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?**

The absence of economies of scale influences the willingness to enter the market.

- 12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?**

The small size of the market has been circumvented by market protections for industrialists (import bans, quotas, taxes).

- 13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?**

With high purchasing power and indexed salaries, costs are passed on to consumer products.

- 14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?**

These regulatory frameworks create support for businesses and competitive advantages for locally producing companies.

- 15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?**

Through its advisory and advocacy powers aimed at deregulating certain markets.

The extent to which competition regulation and enforcement is subject to political capture.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

- 16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?**

The ACNC is an independent administrative authority, established by the local law of 24 April 2014, and led by independent figures. The President and the General Rapporteur hold a specific status and have the freedom to recruit staff, who are required to sign a code of ethics. The President acts as the authorising officer for expenditures and revenues. This ensures the implementation of an independent investigation policy.

- 17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?**

So far, our recommendations have been followed by the Congress.

- 18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?**

By applying the law.

- 19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?**

The ACNC operates like a court, with the President holding the status of a magistrate, which ensures the independence of its decisions.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

- 20. Does your authority possess both competition enforcement and regulatory powers?**

No.

20.1. If you have answered yes, please answer the below questions. If you have answered no, kindly proceed to the following section of questions.

- 21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?**

Regulation is necessary to strengthen the effectiveness of a competition authority in a small insular economy, especially when it is particularly regulated with segmented markets.

- 22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?**

N/A

- 23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?**

N/A

- 24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?**

N/A

- 25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?**

N/A

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

- 26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?**

The retail sector is monitored through merger control and commercial facility regulations, while the other sectors are not monitored and require investigations to assess their development.

- 27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?**

No, we are not at that stage. We do not have any indicators.

- 28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?**

We have not yet dealt with major oligopolies. A case in the transport sector is expected to be released this year. We have handled cases involving small monopolies under the guise

of abuse of dominant position, such as in the fireworks sector, where a vertically integrated company (supplying fireworks and selling to pyrotechnicians) refused to sell fireworks to its only competitor (Decision No. 2023-PAC-04 of September 27, 2023).

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

This is the core challenge for the Authority, as collusion is very difficult to detect. The only major oligopolistic case stems from a complaint for abrupt termination of commercial relations and unfair practices. The price-fixing agreement was acknowledged and led to a sanction (Decision No. 2022-PAC-01 of January 25, 2022). Reporting of cartels is quite rare in New Caledonia.

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

There is ongoing dialogue with the consumer association and businesses, for example, through informational breakfast meetings organised at the initiative of the ACNC. However, it is only through investigations that one can truly understand the impact of an oligopolistic structure on a market.

Section 7: The number of firms within a jurisdiction that are vertically integrated

31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?

It follows it indirectly in the retail sector through the control of the establishment of commercial facilities and also through the control of business mergers.

32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?

No.

33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?

The largest company in the retail sector has a purchasing centre. We are going to conduct a study on profit margins to determine the influence of this structure on prices, margins, and market practices.

34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?

Increasing their market power and diversifying their investments in the territory are the main motivations. The Authority monitors these vertical integrations through the control of commercial facility establishments and business mergers. It has not yet implemented specific indicators on this subject.

35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?

Vertical integration is carefully assessed within our merger control framework, particularly for its potential to create anti-competitive effects such as input or customer foreclosure.

We analyse whether the merged entity could restrict rivals' access to key inputs or markets, considering both the incentive and ability to do so, as well as the likely impact on competition.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?

Large, long-established family-owned conglomerates can limit competition by making it harder for smaller or newer firms to enter the market. Their strong local presence and influence across multiple sectors create high barriers to entry. This is especially true in our jurisdiction, where the small size and geographic isolation make it less attractive for outside companies to invest or compete. As a result, these dominant firms can hold significant market power, reducing opportunities for new entrants and limiting consumer choice.

37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?

Currently, the ACNC has not yet issued any decision regarding conglomerate practices that have influenced prices, reduced innovation, and limited consumer choice.

The only decision rendered so far concerns the establishment of commercial facilities, where the retail space of an organic food store was limited because it belonged to a leading group in the large-scale retail sector (Decision No. 2024-DEC-02 of June 12, 2024).

38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?

Traditional merger control tools don't always fully address the challenges posed by conglomerates in their diversification efforts. These companies can use their power in one market to gain advantages in another, or support one part of their business with resources from another in ways that may harm fair competition. This means we sometimes need new or more flexible tools to manage their impact effectively.

39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?

Because they are often active in many sectors and already hold strong market positions, a conglomerate's growth through mergers can reduce competition, limit consumer choice, or make it harder for smaller players to compete.

40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?

With the economic crisis in New Caledonia, it is the largest companies, particularly conglomerates, that have the capacity to reinvest in the country, sometimes by acquiring businesses in serious difficulty. This further strengthens their market power.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

Protectionist rules, legal monopolies, administrative regulations that hinder economic development and competition between businesses.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

Through advocacy and its advisory power to the government via the consultation procedure.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

The regulated profession of court-appointed liquidator had long been subject to a monopoly. In 2019, the ACNC issued an opinion highlighting the need to open up this profession. In 2020, a local law was adopted. In 2023, a commission was established to recruit a second court-appointed liquidator. In May 2025, this commission met and finally appointed the second liquidator. During this period, the ACNC's opinion was repeatedly cited, and the President of the ACNC consistently emphasised the necessity of opening up the profession.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

Mandatory consultation of the ACNC for certain regulations (price regulation, professional regulation, implementation of quantitative restrictions...).

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

For example, a market protection measure, such as a STOP on imports, prohibits the importation of a product and protects the company (monopoly) or companies (duopoly or oligopoly) in the relevant market. Competition is therefore reduced, the profits for the companies are ensured, consumer choice is limited, and prices are higher than the price of the imported product.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

Deregulate by adopting legislative and regulatory measures that have positive impacts on markets and competition. The advocacy of the president and the opinions of the ACNC specifically aim to convince policymakers of the need to adopt regulations compatible with competition law.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

By tailoring solutions case by case and taking into account both the consumer's interests and the efficiency gains for businesses.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

It can play a role in convincing policymakers and serving as a counterbalance to lobbies in favour of strong protectionism.

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

By finding a balance between competition policy and industrial policy, productivity, and support for strategic sectors within the framework of a specialised economy.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

The reform of market protections and protectionist rules; the definition and implementation of industrial and agricultural policies to support sectors; the regulation of sectoral public monopolies and public aid to businesses.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?

Our strongest cooperation is with the French Competition Authority (ADLC) and the Competition Authority in French Polynesia (APC) due to the proximity of our regulations and decision-making practices.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?

We have a framework agreement with the French Competition Authority, which includes videoconference training sessions for our staff (investigations, sanctions, etc.).

We also cooperate with the Polynesian Competition Authority on similar cases (Merger: Opinion).

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

The establishment of a common platform (hub) with agencies' decisions and training on certain topics would be beneficial and effective for all.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

It can help with a very specific area of expertise, thus avoiding the need to use a paid service provider or consultant.

55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?

For New Caledonia, these regional cooperations encourage a particular, closed, and protectionist Caledonian economy to open up and integrate into the Pacific region. This serves as an example of openness.

Section 12: What is the impact or significance of being part of a regional competition network?

56. Does your competition enforcement agency participate in a regional competition authority body? If yes, please proceed in answering the below questions, if no, kindly proceed to the following section of questions.

Yes, PINCCER.

57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?

Unlike Anglo-Saxon law (e.g. Australian or New Zealand), French law is not meant to influence New Caledonian law but to serve as a source of inspiration.

58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?

Exchange of best practices/expertise.

59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?

Our agency should become multifunctional, encompassing both competition and regulation. We are drawing inspiration from the multifunctional models of Australia (ACCC), New Zealand or Fiji.

60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?

Cooperation on extraterritorial anti-competitive practices is not currently possible. This would be an objective for the future.

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?

As the financial authorising officer, I manage my budget freely (186 million Pacific francs). However, the agency would need more case officers (currently seven) to enforce competition law more effectively.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

We have limited financial capacity to outsource certain matters, for example, when it comes to more in-depth financial analysis. Work related to regulation is often carried out in our spare time, frequently on weekends.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

Strong advocacy efforts directed at public authorities to encourage changes to regulations that limit competition. This can reduce the number of requests for opinions submitted to the Authority and allow more focus on cases that may lead to sanctions.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

- French Competition Authority: IT support/annual training
- ICN
- PINCCER (Pacific agencies): exchange of best practices, expertise

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

- Longer processing times for referrals and drafting of decisions.
- Fewer opportunities to investigate certain sectors.

Seychelles

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

Promote and maintain effective competition in the market.

1. Promote the provision of a wide variety of quality goods and services in Seychelles.
2. Prevent abuse of dominant position by an enterprise, anti-competitive practices and agreements and control of vergers.
3. Co-operate with other regulatory bodies, consumer interest groups, and relevant entities to enforce the fair competition act.
4. Make recommendations to the Government on actual or potential anti-competitive effects or consumer protection issues arising from policies and, where appropriate, suggest measures to avoid such outcomes.

2. How does your agency prioritise enforcement actions?

The Commission prioritises sectors and industries with a history of anti-competitive behaviour or those that are particularly vulnerable to such practices. By focusing on these high-risk areas, it can effectively identify, monitor, and address potential threats to fair competition and consumer interest.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

The Government provides certain exemptions and concessions to the Seychelles Trading Company (STC), such as fuel-related exemptions and the application of maximum retail prices on specific goods purchased by STC. These measures are intended to ease the financial burden on consumers by ensuring the affordability and stable supply of essential items across the islands.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

Given the size and dynamics of our market, it became necessary to amend our act, particularly in cases involving abuse of dominance. In many instances, a 40% market share is not consistently established, making it challenging to apply the original standard. As a result, the amendment now allows us to also assess and address cases based on market power, rather than relying solely on market share threshold.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

Small economy, small population and limited number of competition within certain sectors often leading to oligopolistic or monopolistic market structures which can cause abuse of

dominance or other anti-competitive practices. Competition laws are designed to prevent unfair business practices, but they need to be applied with some flexibility.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction? Namely, are there sectors within the economy that are prone to high market concentration?

If yes, kindly name the sectors. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

Telecommunication, funeral services, inter-island transportation, Tobacco manufacturer Petroleum distributor, public utilities and public transportation (parastatals).

Due to the relatively small size of the economy, it is often challenging for smaller businesses to enter and compete effectively in certain sectors. Limited demand, high entry barriers, and the dominance of established firms can create an environment where new or smaller firms struggle to gain a foothold. This dynamic can lead to reduced competition and innovation, ultimately impacting consumer choice and market efficiency.

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy's size or geographic isolation?

Market monitoring.

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

Case-by-case assessments.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

Yes, there is often a delicate balance between promoting competition and promoting scale to avoid fragmentation that could weaken businesses. The ease of market entry varies significantly across sectors. For example, in industries like telecommunications, the market tends to be highly concentrated with only a few dominant firms, resulting in oligopolies or even monopolies. While such concentration can lead to efficiencies of scale and stronger businesses capable of investing in infrastructure and innovation, it can also limit competition, reduce consumer choices, and create high barriers for new entrants.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

10. Can an economy's small size or isolation be a barrier to entry?

Yes.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

Establishing a business in Seychelles involves significant costs due to various factors. Given the small size of the country, most commodities must be imported, resulting in high importation expenses. Additionally, achieving economies of scale is challenging because of the limited population size. Regulatory requirements such as the Economic Needs Test (ENT) Committee, which evaluates applications from foreign entities seeking to invest in Seychelles

and decides on their approval or rejection. Furthermore, the market environment in certain sectors is often oversaturated, creating additional barriers to entry for new businesses.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

Grocery retail and public transportation are key areas influenced by local market conditions. The telecommunications industry, in particular, experiences higher operational costs compared to many other countries. For fast food chains, international brands often find that the costs of establishing themselves in Seychelles outweigh the potential gains. Additionally, consumers face limited choices across these sectors, which can impact market competition and growth.

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

Making sufficient profit to cover costs in Seychelles is challenging due to the small population size and the presence of established firms that already command substantial market shares and loyal consumer bases. Large or international companies may be reluctant to invest because of high production and importation costs combined with the limited consumer base. Additionally, shipping delays and associated expenses can disrupt product availability and drive up prices. As a result, new businesses often struggle to offer competitive pricing, given the significant expenses required to enter and operate in the market.

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

Enterprise Seychelles Agency plays a crucial role in supporting business development by providing access to finance and facilitating market entry. Other frameworks caters to grants and loan repayment assistance to help businesses grow, along with tax holidays for emerging enterprises operating within priority sectors. These frameworks are designed to foster entrepreneurship and stimulate economic growth in Seychelles.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

A tailored approach is adopted to address the unique policies and requirements of different sectors. Each sector is governed by regulatory framework, managed by specific oversight bodies. For example, the Utilities Regulatory Commission is responsible for supervising and regulating activities within the utilities sector, ensuring compliance with established standards and promoting fair practices.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

The Commission operates as an independent body despite being funded through Government budget. There are clear procedures in place for safeguarding of information for all cases. Disclosure of information in cases are not permitted to any individuals that are

not part of the investigations including politicians. All staff have to sign the confidentiality agreement upon their appointments and there is zero tolerance for unauthorised disclosure of case information.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

The CEO and Deputy CEO of the Commission are appointed by the President as recommended by the Minister (both political figures). The terms of appointment and dismissal are however covered under Section 7 of the FTA Act. The CEO then has the power to appoint staff of the Commission and is bound to comply with the Public Service Orders. There are therefore no political pressures in appointments and dismissals.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

The Commission handles all businesses and individuals in the same manner. There have been instances where politically connected individuals have tried to get other politicians to lobby for them, but the Commission has maintained its grounds in line with the Act.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

The Fair Trading Tribunal is independent to the Commission. They fall within the purview of the Judiciary (Chief Justice). We however ensure that we publish rulings of the Tribunal for the public. We have also in certain instances advised the public of certain investigations.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers?

If you have answered yes, please answer the below questions (questions 21-25).

If you have answered no, kindly proceed to the following section of questions (section 6).

Yes.

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

Advantages of combining competition and regulatory powers.

Due to the size of the country such approach facilitates oversight and monitoring on the market. Regulatory and enforcement actions are aligned with each other hence enhances efficiency.

Disadvantages of combining competition and regulatory powers:

Disadvantage of merging the two roles, may cause strain on the resources of the Commission. There is also risk of mandate conflicts and one example is the Maximum Retail Price Regulations (on essential commodities sold by STC which is a state-owned retail/wholesaler – the largest in its sector). The Consumer Protection Officers have to enforce the regulation but this creates certain conflict with our competition mandate.

22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?

Proper analysis of decision-making is crucial in managing conflicts of interest, especially when authorities hold both competition and regulatory powers. In Seychelles, this is addressed through the establishment of separate entities to reduce such conflicts. For example, the Seychelles Communications Regulatory Authority is responsible for enforcing regulations in the communications sector while also assessing potential anti-competitive conduct. Similarly, the Utilities Regulatory Commission oversees regulatory compliance in the utilities sector. By having distinct bodies handle sector-specific regulation, Seychelles ensures more objective and transparent decision-making, reducing the risk of conflicts of interest.

23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?

In the context of Seychelles, the Fair Trading Commission (FTC) has successfully balanced its dual roles in regulating certain sectors and enforcing competition laws through a proactive and consultative approach. One example is the issuance of opinion papers to ministries on existing policies that may affect market competition. For instance, the FTC has provided input on draft communications, pharmaceutical bills and the tourism vertical integration policy to ensure they align with competition principles. These practices have promoted transparency and consistency between regulatory and competition objectives. A key lesson learned is the importance of early engagement with policymakers and regulators, which helps prevent conflicts and ensures that competition concerns are addressed at the outset of legislative or regulatory reforms.

24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?

It allows for a holistic view of the market, ensuring that regulations support competitive outcomes. However, it also requires strong internal checks to avoid bias or conflicting objectives. When managed well, this integration helps prevent monopolistic practices, promotes fair pricing, and ensures better services for consumers in vital economic sectors.

25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?

Clear guidelines and procedures are in place to ensure objective decision-making. Additionally, stakeholder consultations and transparency in issuing opinions or recommendations – such as on draft laws or policy proposals – help maintain accountability.

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?

Telecommunications. In Seychelles, sectors that exhibit characteristics of an oligopoly include telecommunications. These markets are marked by high market concentration, with a few dominant players and significant barriers to entry. The Fair Trading Commission

identifies and monitors these markets through market studies and regular stakeholder engagement with authorities that regulate such sectors. Complaints, merger notifications, and routine assessments also help detect signs of anti-competitive behaviour or market dominance. Continuous monitoring allows the Commission to intervene where necessary to promote fair competition and protect consumer interests.

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

The Fair Trading Commission assesses competitive dynamics in markets with a few dominant players by monitoring shares to market share or change to services available. The Commission also examines barriers to entry, pricing behaviour, product differentiation, and the level of coordination or parallel conduct among firms. In addition, stakeholder consultations, complaints from consumers or businesses, and data from regulatory bodies help provide a clearer picture of market dynamics.

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

The Commission has addressed anti-competitive behaviour in sectors prone to oligopolistic practices through investigations, market studies, and policy recommendations. For example, in the telecommunications sector, the FTC conducted assessments on the corporate packages that they included lock in contract. Companies were not able to exit the contract over a long period of time. Additionally constant monitoring on pricing and service quality, identifying concerns related to limited competition and potential abuse of dominance. In response, the Commission engaged with the sector regulator and service providers to encourage pro-competitive reforms.

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

Promoting competition in markets dominated by a few powerful firms presents several challenges, including limited entry opportunities, high cost to establish, and the risk of tacit collusion. To mitigate these risks, the Fair Trading Commission conducts market assessments, monitors pricing and behaviour patterns, and investigates complaints that may signal anti-competitive conduct. The FTC also promotes transparency through stakeholder engagement and advocates for regulatory reforms that lower barriers to entry. Additionally, public awareness campaigns help empower consumers and encourage competitive practices.

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

The Fair Trading Commission engages with stakeholders through public consultations, surveys, workshops, and direct outreach to better understand the impact of oligopolistic structures and other market structures. Smaller businesses are often invited to share their challenges related to market entry, pricing, and supplier dominance, while consumers provide feedback on service quality and affordability. This input helps the FTC identify market distortions and assess whether dominant firms are engaging in unfair practices. The Commission also collaborates with industry or sector specific regulators to gather

broader insights. These engagements play a crucial role in shaping regulatory actions, policy recommendations, and targeted investigations.

Section 7: The number of firms within a jurisdiction that are vertically integrated

31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?

The grocery retail sector is the sector where vertical integration is more prevalent, most wholesalers are also retailers. Construction companies are also vertically integrated. We track this conduct through the number of licenses they possess.

32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?

From our knowledge, not all of the 20 largest firms in Seychelles are vertically integrated, but some have adopted or are moving towards vertical integration, particularly in sectors like construction and grocery retail. This trend allows firms to control multiple stages of the supply chain, which can strengthen their market position and limit competition. In some cases, these firms already hold monopolistic or dominant positions, increasing the risk of market foreclosure or discriminatory practices.

33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?

Though the Commission is unable to list information on the firms itself, below is a list of sectors where major vertically integrated firms operate in:

- Distilling, rectifying and blending of spirits
- Banks and credit unions
- Construction of buildings
- Fuel importation and distribution
- Other retail sale in non-specialised stores
- Quarrying of stone, sand and clay
- Hotels
- Wholesale of goods to hotel/restaurant industry
- Interisland passenger transport (ferry)

34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?

- Profit maximisation
- Economies of scale
- Supply chain coordination
- Improve market control and increase profit margins

The Commission evaluates the competitive implications of such strategies by assessing potential foreclosure effects, barriers to entry for competitors, and impacts on consumer choice and pricing. This includes examining whether the integration limits access to essential inputs or markets for rivals, and whether it strengthens an already dominant market position. Where risks are identified, the Commission may issue recommendations, initiate investigations, or advocate for policy or regulatory adjustments.

35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?

When assessing such transactions, the Commission not only examines horizontal overlaps but also closely evaluates the vertical relationships between the merging entities. The Commission considers how the integration could strengthen a dominant position, limit market entry, or reduce consumer choice. This analysis involves reviewing supply chain dependencies, market share at each level, and the likelihood of anti-competitive conduct post-merger. If risks are identified, the FTC may impose conditions, recommend remedies, or block the merger to preserve fair competition.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?

N/A

37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?

N/A

38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?

N/A

39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?

N/A

40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?

N/A

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

In Seychelles, several specific challenges increase the risk of regulatory capture, particularly in markets with limited competition:

- Small market size and close networks: The limited size of the economy means regulators, industry players, and policymakers often operate within close-knit circles. This increases the risk of conflicts of interest and undue influence from dominant market players.
- Limited institutional capacity: Resource and staffing constraints can weaken oversight, making it harder to resist pressure from powerful firms or vested interests, especially in complex sectors like telecommunications, utilities, or finance.
- High market concentration: In several key sectors, a small number of firms dominate. Their influence can lead to lobbying or exert pressure on regulators to shape policies or enforcement in their favour.

To mitigate these risks, strengthening institutional independence, promoting transparency, enforcing clear conflict-of-interest rules, and increasing public participation are critical.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

We strive to maintain the highest level of transparency by documenting and recording all our actions, ensuring that every decision is made impartially. This commitment extends to our use of fixed-term appointments and clear policies on asset declaration, as well as maintaining open and honest communication throughout.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

To date, no concrete instances of regulatory capture have been identified within our territory. However, it would be premature to definitively assert that such influence does not exist at all. Regulatory capture can be subtle and difficult to detect, often emerging through indirect or informal channels. As such, we remain vigilant and proactive in our oversight mechanisms.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

The Government emphasises the importance of all government authority including us to be as transparent as possible. The government has also set up an anti-corruption commission dedicated to investigating corruption or potential corruption cases in governmental entities.

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

It does not affect our ability, as we refrain from entering in any political/corruption issues or discussion and all our decision are fact based and endorsed by the tribunal.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

- Government subsidies and loan support: The government has introduced subsidies and grace periods for start-up loans, which help reduce the financial burden on new businesses. These measures are further supported by lower interest rates offered through partnerships with local banks.
- Reduction of entry barriers: By streamlining administrative procedures and simplifying the business registration process, Seychelles has made it easier for new entities to enter the market.
- Tax incentives for key sectors: The government offers a five-year tax holiday for new entities operating in the manufacturing, blue economy, and digital economy sectors. These incentives have been effective in motivating investment and attracting new players into these underdeveloped areas, thereby promoting competition and diversification of the economy.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

Thresholds and guidelines should be amended to adapt to the country's dynamics.

Seychelles being the smallest country in Africa by size and population makes that some of our policies are reasonably different than other larger countries/competition authorities.

Notifiable merger thresholds are reasonably lower than other countries, currently at SCR10 million equivalent to \$703,400.

Determination of market power should vary per sector therefore our law does not state a specific percentage for market power but it states "holds a substantial share of the market; or it does not hold a substantial share of that market but has market power.

Targeted market liberalisation: Gradually open up sectors to competition, especially where public monopolies or dominant firms exist, while safeguarding essential services.

Support for market entry: Offer incentives such as tax breaks, start-up grants, or technical support to attract new entrants and SMEs, especially in sectors with high entry costs.

Enhanced regional cooperation: Leverage regional trade and competition frameworks (like AfCFTA) to enable cross-border competition and access to a larger market base.

Regulation of natural monopolies: Where competition is not feasible (e.g., utilities), ensure strong regulatory oversight to prevent abuse of market power and protect consumers.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

International cooperation and regional agreements play a vital role in promoting knowledge sharing, maintaining standards, and facilitating enforcement across borders. Through regional platforms such as COMESA, ACF, OECD the Fair Trading Commission benefits from technical expertise, policy guidance, and best practices. These collaborations help build institutional capacity and address challenges in cross-border cases, especially with multinational firms.

Such cooperation can be further enhanced through increased technical assistance and training, stronger investigative support, improved cross-border enforcement mechanisms, and formal agreements like MoUs with regional competition bodies. These steps would bolster the Commission's ability to manage complex competition issues and align Seychelles' framework with international standards.

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

A balance between encouraging market entry and protecting the sustainability of local businesses. Seychelles has some protectionist policies and incentives for smaller local entities with agencies such as ESA Enterprise Seychelles Agency which supports and facilitate some primary needs for smaller entities. Some policies support local businesses through exemptions. Strategic use of merger control (smaller companies are not captured by our threshold), fair trade practices, and safeguards against predatory pricing can also help. Additionally, promoting innovation, access to finance, and capacity building for local firms enables them to compete more effectively, ensuring that open markets do not come at the expense of domestic economic resilience.

From external competitors, the ENT Economic Needs Test by the Ministry of Investment, Entrepreneurship and Industries acts as control mechanism. They analyse and evaluate the economic needs for any external investors and limit foreign/ external competitors from entering the local market.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

- Increased independence of competition authorities: Statutory guarantees for budget, staffing, and decision-making autonomy.
- Penalties and remedies: Strengthening the sanctions regime to make violations financially and reputationally costly.
- Whistleblower and leniency programmes: Encouraging insider reporting of cartels or abuse through legal protections.
- Simplified complaint mechanisms: Making it easier for businesses and consumers to report anti-competitive conduct.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency, enhance your ability to enforce competition laws effectively in your territory?

We have a strong relationship with COMESA and frequently liaise with them to discuss ongoing cases and seek advice. They also organise regular training sessions and workshops for advocacy and skill development. These training opportunities provide our staff with the essential tools needed for investigating cases.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country's markets?

Our competition authority has actively collaborated with regional and international bodies to address cross-border anti-competitive practices impacting our markets. Through the COMESA Competition Commission, we have jointly assessed mergers with cross-border implications, ensuring local market interests are protected. Under the AfCFTA framework, we've contributed to shaping continental competition policy and aligning enforcement practices. Our engagement with the OECD and ICN has provided valuable platforms for sharing best practices, peer learning, and capacity building. Additionally, within the SADC we attend conferences and trainings to achieve economic development, peace and growth.

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

These networks promote collaboration in enforcing competition laws, sharing intelligence, and enhancing enforcement capacity. Small or developing economies can collectively gain a stronger voice in international forums, which allows them to influence regional policies

more effectively. However, there are challenges within these networks; larger or more powerful jurisdictions may dominate decision-making processes. Additionally, developing countries may lack the resources or expertise needed to fully engage in or benefit equally from these collaborations.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

Our main regional body, COMESA, provides annual training for our staff on various topics, equipping them with essential knowledge and experience. Additionally, COMESA offers a merger fee after we assess the potential impact of a cross-border merger on our local economy. This merger fee is then reinvested to support further training and development for our staff and the department.

55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?

These regional agreements and cooperation frameworks act as catalysts and encouragement for our government to recognise the importance of developing our competition policy to meet regional standards. When used strategically, these frameworks allow a country to seek external support while also protecting its national interests.

Section 12: What is the impact or significance of being part of a regional competition network?

56. Does your competition enforcement agency participate in a regional competition authority body? If yes, please proceed in answering the below questions (questions 57-60). If no, kindly proceed to the following section of questions (section 13).

Yes.

57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications? If you are not participating, how would you envisage a regional competition network influencing your agency's ability to address these anti-competitive practices?

We have not assessed any cross-border mergers or investigations. However, as stated in the previous questions, regional networks such as COMESA encourage the promotion and collaboration in enforcing competition laws, sharing intelligence, and enhancing enforcement capacity.

58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?

We anticipate gaining advantages from shared resources and expert insights, which will assist us in investigating complex cases, as well as in training opportunities and conferences.

59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?

Regional cooperation encourages the promotion and collaboration in enforcing competition laws, sharing intelligence, and enhancing enforcement capacity.

60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?

Variations in size and population among countries within the same region create distinct challenges. For example, when establishing a merger threshold, it is crucial to consider the average business sizes and their respective revenue levels. Consequently, creating regional frameworks can be quite complex.

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws? Required to answer.

Our key resources would be human, our financial budget from the government, our legal team and collaboration with our stakeholders that we liaise with such as the Seychelles licensing authority and the registrar.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

The budget of our agency presents a significant challenge for our operations, as it is not flexible. Additionally, the fines and penalties imposed go directly to the government rather than to our own budget, which would be very helpful for our day-to-day operations.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

Our agency uses targeted strategies, whereby we prioritise investigative cases or enquiry depending on its importance due to its limited resources.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency's resources and enhance its capabilities?

Our competition agency actively collaborates with regional bodies such as COMESA and SADC, as well as the continental body AfCFTA, to supplement our limited resources and enhance our enforcement capabilities. Our engagement with these authorities supports our alignment with broader African competition objectives, enabling us to participate in the creation of a harmonised legal and enforcement framework across the continent.

65. How do limitations in resources affect your agency's ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdictions?

It poses a significant limitation as the Commission cannot respond as quickly as desired if there are other cases with higher priority that need to be addressed first.

Trinidad and Tobago

Note: The participating authority provided additional input as follows. For the actual survey responses, please proceed to the following page.

Introduction to the survey

Section 1: What are the roles and objectives of competition law in your economy?

The primary role of competition law in Trinidad and Tobago is to promote and maintain competition in the market, prevent anti-competitive practices, and protect the interests of consumers. The objective is to ensure that businesses operate in a fair and transparent manner, free from monopolistic or anti-competitive behaviours that could lead to higher prices, reduced innovation and poorer service quality. The Trinidad and Tobago Fair Trading Commission (TTFTC) seeks to foster a competitive environment that drives economic growth, encourages market entry and ensures consumer choice.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

Small economies like Trinidad and Tobago face several unique competition concerns, such as limited market size and a small number of competitors in key sectors. This can result in market concentration and reduced consumer choice. There are also challenges related to high barriers to entry, such as limited access to capital and infrastructure, which can discourage new businesses from entering the market. Additionally, small economies may face difficulties in enforcing competition law effectively due to limited resources or expertise.

Section 3: The extent to which the “smallness” and/or isolation of a territory is, itself a barrier to entry

The small size and isolation of Trinidad and Tobago can indeed create significant barriers to entry. The limited size of the domestic market can deter potential entrants due to reduced economies of scale. In addition, geographical isolation means limited access to regional or international markets, which makes it difficult for new businesses to expand beyond the local market. This leads to fewer competitors, which in turn may foster monopolistic or oligopolistic behaviours.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

Competition regulation and enforcement in Trinidad and Tobago can be subject to political influence, especially given the small size of the economy and the close relationships between major firms and government entities. However, the TTFTC strives to maintain independence and transparency in its decision-making processes. Moreover, the TTFTC operates with clear guidelines and regulatory frameworks to ensure that enforcement is based on sound economic principles rather than political pressures with there being appropriate provisions in the Fair Trading Act that seeks to preserve and protect the TTFTC's independence.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

In small economies and insular territories, it is advantageous for competition authorities to possess both competition enforcement and regulatory powers. This dual role allows authorities to address both anti-competitive practices and the broader regulatory environment that may inhibit competition. In particular, in sectors such as utilities and telecommunications, a comprehensive regulatory approach is essential for ensuring fair pricing, access to services, and the elimination of market abuses.

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

Many sectors in Trinidad and Tobago can be characterised as oligopolistic, particularly in industries such as telecommunications, energy and retail. A few dominant players often control significant portions of these markets, which can result in limited consumer choice and the potential for coordinated behaviour that stifles competition. The TTFTC closely monitors these industries to ensure that they do not engage in practices that harm competition or consumers.

Section 7: The number of firms within a jurisdiction that are vertically integrated

In Trinidad and Tobago, vertical integration is quite common, particularly in the energy, telecommunications and retail sectors. A significant number of firms operate across multiple stages of the supply chain, from production to distribution, which can create barriers to entry for smaller competitors. Vertical integration can also lead to concerns regarding anti-competitive practices, such as predatory pricing or preferential access to key resources, which the TTFTC monitors closely.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

Conglomerate entities can have both positive and negative effects on the Trinidad and Tobago economy. On the positive side, conglomerates can bring economies of scale and diversification, which can reduce risks and create efficiencies. However, there are also potential downsides, including the concentration of economic power in a few entities, which can stifle innovation, reduce competition and harm consumer welfare. The TTFTC keeps a close watch on conglomerates to ensure that they do not engage in anti-competitive practices.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

Regulatory capture is a significant risk in small economies like Trinidad and Tobago due to the close-knit nature of the business and political communities. Regulatory capture occurs when regulators act in the interests of the businesses they are supposed to regulate rather than in the public interest. This can result in reduced enforcement of competition laws, anti-competitive behaviour going unchecked and harm to consumers. The TTFTC takes steps to mitigate this risk through transparent procedures, independent decision-making and public accountability.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

To address competition concerns in small economies, several policy measures can be implemented:

- Encouraging market diversification and the entry of new businesses through access to capital and reducing regulatory barriers.
- Strengthening regional cooperation with other competition authorities to pool resources and enhance enforcement capacity.
- Promoting public education on the benefits of competition to increase consumer awareness and demand for fair practices.
- Creating targeted incentives to encourage innovation and new market entrants in critical sectors such as health care and pharmaceuticals, energy and energy services, agriculture (food).

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

Cooperation among competition authorities is crucial in promoting effective competition enforcement in small economies like Trinidad and Tobago. Regional collaboration with organisations such as the Barbados Fair Trading Commission, Jamaica Fair Trading Commission, Guyana Competition and Consumer Affairs Commission and the CARICOM Competition Commission allows for sharing resources, expertise, and information especially in the areas of investigations, merger reviews and market/sectoral studies, which strengthens enforcement efforts. It also helps address cross-border anti-competitive practices and harmonises regulations, ensuring that firms cannot bypass local regulations by moving operations to neighbouring jurisdictions.

Section 12: What is the impact or significance of being part of a regional competition network?

Being part of a regional competition network enhances the TTFTC's ability to enforce competition law effectively, especially in cross-border cases involving regional firms. It facilitates the sharing of best practices and provides access to a broader pool of expertise and resources. Additionally, a regional network allows for coordinated action against anti-competitive behaviour that spans multiple jurisdictions, thereby ensuring that businesses cannot escape scrutiny by operating in different territories within the region.

Survey responses

Section 1: What are the roles and objectives of competition law in your economy?

The extent to which this may be reflected in the law as well as in the enforcement considerations such as prioritisation, or political, or other, interventions to amend/exempt/circumvent the stated objectives of competition law in light of actual/perceived small/insular economies issues.

1. What are the primary objectives of competition law in your economy, and do these objectives differ from those in larger or more interconnected markets?

The primary objectives of competition law in Trinidad and Tobago are to:

- Ensure that all legitimate business enterprises have an equal opportunity to participate in the economy.
- Prevent anti-competitive conduct while at the same time complementing other policies that promote competition.
- Maintain and encourage free and fair competition.
- Raise awareness of the benefits of competition through advocacy.
- Provide guidance on how to comply with the law.

These objectives aim to prevent anti-competitive practices such as cartels, anti-competitive monopolies, and abuses of dominant market positions, which can hinder economic growth and harm consumers. In comparison to larger or more interconnected markets, the objectives in smaller economies like Trinidad and Tobago may have an added emphasis on promoting market access for new entrants and preventing the undue concentration of economic power due to the limited number of competitors. While larger economies may have more robust mechanisms for competition enforcement, the TTFTC faces unique challenges in smaller markets, such as the high risk of monopolistic behaviours and the impact of vertical integration. This often requires tailored enforcement and regulatory measures to ensure that small market dynamics do not lead to reduced competition or consumer harm.

2. How does your agency prioritise enforcement actions?

The TTFTC prioritises enforcement actions based on several key factors:

- Consumer harm: The potential impact on consumers, including price increases, reduced choice, or lowered quality of goods and services, is a primary consideration.
- Market impact: The scale of anti-competitive conduct and the extent to which it affects market competition, particularly in critical sectors like healthcare, construction, energy, and food retailing, is closely considered.
- Ease of enforcement: The resources required to address specific cases and the likelihood of successful enforcement play a role in prioritisation.
- Public interest and economic growth: The TTFTC takes into account the long-term effects of enforcement on the overall economic health of the country and seeks to promote sustainable growth and encourage market entry.
- Priorities are mainly set based on issues that were initially strategically identified by the TTFTC's Five Year Strategic Plan as well its Annual Work Plan, etc.
- Market analysis: Conduct thorough market studies to understand the competitive landscape (pharmaceutical, cement and flour).
- Stakeholder consultation: Engage with businesses, consumers, and other stakeholders to gather insights and identify priorities (legal counsel in the private and public sector, MSMEs, business and service associations, pharmaceutical and health care, construction, energy and energy services, port, shipping and maritime sectors etc).
- Assessment of resources: The TTFTC has to consider its limited resources, availability of tools and data in identifying what are the prevailing or emerging sector issues that need to be addressed, and which will be as a matter of priority.

In smaller economies like Trinidad and Tobago, enforcement priorities may also be shaped by the need to prevent or address practices that could significantly stifle economic growth, such as monopolistic behaviours or cartel activities in key industries.

3. Can you discuss any instances where political or other external interventions have influenced the enforcement of competition law, particularly in cases where exemptions or amendments were made to accommodate the unique challenges faced by your economy?

While the TTFTC strives to remain independent and objective, there have been instances where external interventions or political considerations have influenced the enforcement of competition law, particularly in sectors vital to national development. For example, there may be pressure to grant exemptions or extensions to certain firms in strategic industries (e.g., energy and energy services) to protect national interests, preserve jobs or ensure the stability of essential services.

However, the TTFTC balances these considerations with its mandate to promote competition and protect consumers. The TTFTC's primary goal remains to foster a competitive environment while recognising the unique challenges faced by small, insular economies.

4. To what extent are the specific challenges of your economy reflected in your jurisdictions' competition laws, and how do these considerations impact the flexibility or rigidity of enforcement practices?

The competition laws of Trinidad and Tobago, particularly the Fair Trading Act, take into account the specific challenges of operating within a small, insular economy. These challenges include limited market size, high barriers to entry and the potential for market concentration due to a small number of dominant players in key sectors. The law is designed to be flexible enough to address these issues while still ensuring that competition principles are upheld.

For instance, the TTFTC has the ability to apply more tailored and sector-specific approaches to enforcement, especially in industries like health and pharmaceuticals and energy and energy services, where market dynamics can lead to higher risks of anti-competitive behaviour.

This balance between flexibility and rigidity ensures that the TTFTC can effectively enforce competition law while considering the peculiarities of the local economy, thereby supporting long-term economic growth and consumer welfare.

Section 2: Specific competition concerns experienced in small economies and/or insular territories

5. Does the nature of your economy impact your approach to enforcing competition laws? If so, how?

Yes, the nature of Trinidad and Tobago's economy significantly impacts the TTFTC's approach to enforcing competition laws. As a small, insular economy with limited market size, there are fewer competitors in many sectors, which can lead to the risk of market concentration and anti-competitive behaviour. This means that while the TTFTC must strictly uphold competition laws, there is a need for a more nuanced approach in sectors with limited competition.

For example, in sectors such as energy, telecommunications, and retail, where high barriers to entry and a small number of dominant players exist, the TTFTC focuses on regulating and preventing monopolistic or oligopolistic practices more actively. The TTFTC also looks at the broader economic impact of enforcement decisions, ensuring that interventions do not inadvertently disrupt sectors vital to national development or the provision of essential services. Consequently, while enforcing competition law, the TTFTC must carefully consider the trade-offs between promoting competition and ensuring stability in key sectors.

6. Are there specific challenges relating to market concentration that you think are unique to your jurisdiction?

Yes, market concentration is a significant challenge in Trinidad and Tobago, and certain aspects of this challenge are indeed unique to the jurisdiction. The small size of the economy and limited number of competitors in key industries often result in highly concentrated markets. In such situations, competition authorities face the delicate task of preventing the negative impacts of monopolies or oligopolies while also balancing the need for efficient service provision.

In a small economy, firms with substantial market power can exert considerable influence over pricing, service quality, and innovation. This situation can stifle consumer choice and lead to reduced economic efficiency.

6.1. Namely, are there sectors within the economy that are prone to high market concentration?

Yes, there are several sectors in Trinidad and Tobago that are prone to high market concentration.

6.2. If yes, kindly name the sectors.

As mentioned previously, the following sectors are particularly prone to high market concentration. Key sectors include:

- Energy (oil and gas): Given the country's reliance on energy exports, the energy sector, particularly the production and refining of petroleum, is highly concentrated

with large state-owned and private companies holding dominant market shares.

- Retail (grocery and supermarket chains): The retail sector, particularly the grocery and supermarket chains, is also dominated by a few large players, which makes it difficult for smaller businesses to gain market share.
- Public utilities (water, electricity): These sectors tend to be natural monopolies due to the high cost and infrastructure requirements, leading to high market concentration with a limited number of providers.

6.3. Are these challenges of high concentration unique to your jurisdiction or not, and why is that the case?

While market concentration is a common issue in many small economies, it is particularly pronounced in Trinidad and Tobago due to the country's size and economic structure. The small population size and limited domestic market make it difficult for multiple firms to establish themselves in certain sectors, particularly those requiring significant infrastructure investment, such as telecommunications, energy and utilities.

Additionally, the country's heavy reliance on the energy sector, which is naturally concentrated due to the scale of investments and the capital-intensive nature of the industry, exacerbates this issue. These challenges are not unique to Trinidad and Tobago but are more pronounced due to the small size of the domestic market, the high level of vertical integration in key sectors, and the limited number of market players. Other insular or small economies face similar problems, but the scale and structure of Trinidad and Tobago's economy amplify these challenges.

7. What strategies do you employ to prevent and address anti-competitive practices in markets where there may be only a few players due to your economy's size or geographic isolation?

The TTFTC employs several strategies to prevent and address anti-competitive practices in markets with limited competition:

- Monitoring and investigation: The TTFTC closely monitors industries with high market concentration, using both proactive and reactive approaches to detect anti-competitive behaviours such as price-fixing, market sharing, or abuse of dominance.
- Sector-specific regulations: For sectors such as telecommunications and banking, where market concentration is high, the TTFTC collaborates with sector regulators (e.g., the Telecommunications Authority of Trinidad and Tobago and the Central Bank of Trinidad and Tobago) to ensure fair practices and the prevention of monopolistic and/or oligopolistic behaviour.
- Merger control: The TTFTC carefully reviews mergers and acquisitions to ensure that they do not reduce competition or lead to a significant lessening of market rivalry. This is particularly important in industries where a few large players dominate.
- Public awareness and advocacy: Educating consumers and businesses about the benefits of competition helps encourage self-regulation and reduces the incidence of anti-competitive practices. This approach is particularly important in small economies where market behaviours are often shaped by a small group of powerful players.
- Collaboration with regional bodies: The TTFTC works closely with regional competition authorities, such as the Barbados Fair Trading Commission, Jamaica Fair Trading Commission, Guyana Competition and Consumer Affairs Commission and the CARICOM Competition Commission, to address anti-competitive practices that cross borders and affect multiple jurisdictions.

8. Can you provide examples of how your regulatory framework adapts to the unique economic structures, particularly in sectors that may be naturally monopolistic or oligopolistic?

In sectors such as energy and energy services, where monopolies or oligopolies are often a natural consequence of the high capital and infrastructure requirements, the TTFTC's regulatory framework is designed to balance the promotion of competition with the need to ensure stable and efficient service delivery.

The TTFTC works in conjunction with the Ministry of Energy and Energy Industries and state entities to regulate and monitor market behaviour, ensuring that state-owned or private energy firms do not exploit their dominant position to the detriment of consumers. Price regulations, for example, are often in place to prevent price gouging while allowing the firm to remain profitable.

In this sector, the TTFTC recognises that a strict "one-size-fits-all" approach to competition law is not always feasible, and therefore it allows for a certain level of market concentration, provided that the companies act in ways that are fair to consumers and do not stifle innovation or market entry.

9. Is there a balance between the need to promote competition versus the need to promote scale and avoid fragmentation that could potentially weaken businesses?

Yes, the TTFTC actively seeks to strike a balance between promoting competition and allowing firms to achieve sufficient scale to remain viable in the market. In smaller economies, businesses often need to grow in size to achieve efficiencies, particularly in industries such as energy, telecommunications, and retail. The TTFTC recognises that excessive fragmentation could lead to inefficiencies, higher operational costs, and ultimately harm consumers.

At the same time, the TTFTC remains vigilant to ensure that companies do not use their size to harm competition. For example, while allowing firms to scale up, the TTFTC monitors for predatory pricing, exclusive supply agreements, and other anti-competitive practices that could harm consumer welfare. The goal is to maintain a competitive market where businesses can grow and scale while keeping anti-competitive practices in check.

Section 3: The extent to which the "smallness" and/or isolation of a territory is, itself a barrier to entry

10. Can an economy's small size or isolation be a barrier to entry?

Yes, the small size and geographic isolation of Trinidad and Tobago can create significant barriers to entry for new firms. In a small economy with a limited consumer base, the potential for profitability may be constrained, especially in industries where economies of scale are important for success. Moreover, the small size of the market means that firms may have limited opportunities to diversify their products or services, and the cost of expanding operations can be higher compared to larger, more interconnected markets. Additionally, geographic isolation limits access to regional or international markets, making it harder for new entrants to achieve sufficient scale or competitiveness.

11. How does the small size and/or geographic isolation of your jurisdiction impact the willingness of new firms to enter the market, and what specific barriers to entry are most significant in these contexts?

The small size and isolation of Trinidad and Tobago significantly impact the willingness of new firms to enter the market. Several key barriers to entry arise:

- Limited market demand: The relatively small consumer base means that many potential entrants may struggle to achieve the volume necessary for profitability. Firms in sectors such as retail, telecommunications, and energy often need large markets to justify investment, and the limited size of the local market reduces incentives for new businesses to enter.
- High initial investment: In many sectors, such as energy or telecommunications, the capital required to set up operations is high, and the smaller market size makes it harder for new firms to recover these costs or compete against incumbent players who benefit from economies of scale.
- Logistical and transportation costs: The geographic location of Trinidad and Tobago also means that the cost of importing goods or services, as well as the cost of distribution, is higher. This reduces the competitiveness of potential new entrants compared to established firms that have already optimised their supply chains.
- Regulatory barriers: While the regulatory environment is designed to protect consumers and ensure fair competition, the administrative costs and complexity of meeting regulatory requirements can also deter new entrants, especially those with limited resources.
- Access to foreign exchange: Access to foreign exchange in Trinidad and Tobago is a critical barrier for new market entrants. The consistent shortage of foreign currency severely impacts the ability to import essential goods and services, stalling business operations. For newcomers, acquiring foreign exchange can be an arduous process, often taking several months. This delay complicates payment to international suppliers and affects cash flow. The scarcity also pushes new businesses toward unregulated markets, increasing risk and uncertainty. Resolving this issue is vital for creating a more attractive investment climate for new entrants.

12. Can you provide examples of industries or sectors within your jurisdiction where the small market size or isolation has deterred potential entrants, and what were the consequences for competition?

Several sectors in Trinidad and Tobago have been significantly impacted by small market size and isolation, deterring potential new entrants. Examples include:

- Telecommunications: The telecommunications sector in Trinidad and Tobago is dominated by a few large players. The high capital investment required to build infrastructure, coupled with a small consumer base, has deterred many potential new entrants. Consequently, competition is limited, and this can result in higher prices for consumers and less innovation in services offered.
- Energy: Given the dominance of state-owned and major private energy firms in the oil and gas sector, the barriers to entry are extremely high. New entrants are discouraged by the capital-intensive nature of the industry, along with limited opportunities for smaller companies to compete with larger firms that benefit from economies of scale and established infrastructure. This has contributed to a lack of competition in certain sub-sectors, such as electricity generation and distribution, which can impact prices and service delivery.

- Retail sector: The retail market in Trinidad and Tobago is concentrated among a few large chains. Smaller potential entrants face challenges due to the high cost of establishing supply chains, distribution networks, and retail outlets, as well as the limited consumer base. This lack of competition can lead to higher prices and reduced options for consumers.

13. In what ways do factors such as limited consumer base, higher transportation costs, and reduced economies of scale contribute to entry barriers in your small and/or insular economy?

In Trinidad and Tobago's small and insular economy, the following factors contribute significantly to barriers to entry:

- Limited consumer base: The small population of the country means that new firms may not be able to generate the revenue necessary to sustain operations or to justify the investment needed to compete effectively. Without a large enough market, companies may not achieve sufficient economies of scale, which limits their ability to offer competitive prices or services.
- Higher transportation costs: Geographic isolation increases the costs of importing goods and services, particularly in industries reliant on international trade. Additionally, local logistics can become more expensive, which adds to the cost of doing business. This is particularly challenging for new entrants who may not have the established supply chains or purchasing power of larger, incumbent players.
- Reduced economies of scale: Smaller firms entering the market are unable to benefit from the same economies of scale as larger competitors, making their products or services more expensive. As a result, potential entrants may struggle to compete on price or service, which can discourage market entry.

14. What role do regulatory frameworks and local market conditions play in either mitigating or exacerbating the challenges posed by smallness and/or isolation for new market entrants?

From the perspective of the Trinidad and Tobago Fair Trading Commission (TTFTC), regulatory frameworks and local market conditions play a crucial role in shaping the business environment for new market entrants.

- Regulatory frameworks: The Fair Trading Act aims to promote fair competition and prevent anti-competitive practices. By addressing issues such as monopoly power, price-fixing, and collusion, the Act helps create a level playing field for new entrants. However, the Act has exceptions for certain sectors, which may limit its effectiveness in some areas. Additionally, the complexity and red tape within the regulatory framework can pose challenges for new businesses.
- Local market conditions: Trinidad and Tobago's market conditions, including access to foreign exchange, government bureaucracy, and crime, can exacerbate the challenges faced by new entrants. The persistent shortage of foreign currency, for example, hampers the ability to import goods and services, affecting business operations. Slow government processes and security concerns add to the cost and complexity of doing business.
- In summary, while regulatory frameworks like the Fair Trading Act aim to mitigate challenges by promoting fair competition, local market conditions can still pose significant barriers for new market entrants. Addressing these issues is essential for fostering a more conducive investment environment.

15. How does your agency address these unique barriers to entry in its competition policy and enforcement practices to promote a more competitive market environment in your economy?

The TTFTC addresses these unique barriers to entry through several strategic approaches in its competition policy and enforcement practices:

- Promoting fair access to markets: The TTFTC ensures that dominant firms do not engage in anti-competitive practices, such as predatory pricing, exclusive supply agreements, or market foreclosure, that could harm potential new entrants. By preventing anti-competitive conduct, the TTFTC helps to keep markets open and encourages a more competitive environment.
- Merger and acquisition review and scrutiny: The TTFTC carefully reviews mergers and acquisitions in concentrated industries to ensure that they do not further reduce competition or create additional barriers to entry. This prevents the further entrenchment of dominant players and helps maintain market dynamics that allow for new businesses to enter.
- Collaboration with other regulators: In industries where there are natural monopolies, such as utilities, the TTFTC works alongside other regulatory bodies to ensure that market conditions remain conducive to competition. In these industries, the TTFTC encourages the introduction of regulations that balance the need for efficiency and competition while recognising the challenges posed by high capital requirements.

These strategies help to address the unique challenges of Trinidad and Tobago's small and insular economy while promoting a competitive and dynamic market environment for new firms. The TTFTC is committed to fostering a regulatory climate that encourages entrepreneurship and innovation, despite the challenges posed by the country's size and geographic isolation.

Section 4: The extent to which competition regulation and enforcement is subject to political capture

16. What measures are in place to ensure the independence of your agency from political influence, particularly in high-profile cases that may affect powerful interests?

The independence of the TTFTC is safeguarded through a combination of institutional and legal measures:

- Legislative mandate: The TTFTC is established under the Fair Trading Act, which outlines its functions and powers. The legal framework ensures that the TTFTC operates independently from political interference in its decision-making process. The TTFTC's decisions are based solely on competition law, without regard for political considerations.
- Board structure: The TTFTC is governed by a Board of Commissioners, and its decisions are made collectively, with each member expected to act impartially. Commissioners are selected based on their expertise and qualifications, rather than political connections. This helps mitigate the risk of political interference in the Commission's operations.
- Transparency in decision-making: To maintain independence, the TTFTC ensures transparency in its enforcement actions and decisions. Public consultations, published reports, and press releases provide insight into the Commission's rationale for its actions, reducing the scope for undue political influence.
- Accountability to the public: The TTFTC's decisions are publicly available, and the TTFTC is held accountable by the Government of the Republic of Trinidad and Tobago (via Public Accounts and Joint Select Committees), the public, media, consumers and businesses alike and other stakeholders at the macro and micro level.

17. How do you manage the potential for political pressure in the appointment or dismissal of key officials within your agency?

To manage potential political pressures, the TTFTC follows strict procedures and guidelines in the appointment and dismissal of key officials:

- Merit-based appointments: The appointment of key officials, including the Executive Director and other senior staff, is based on merit, qualifications, and experience. While political authorities may play a role in formal nominations for the members of the TTFTC's Board of Commissioners, the process emphasises the professional competence and impartiality of candidates, and the focus is on expertise in competition law and economics rather than political alignment.
- Fixed terms and conditions: The terms of service for key officials are defined in a manner that ensures job security and independence. Key officials are appointed for fixed terms, which protect them from arbitrary dismissal, thus reducing the potential for political interference. Removal from office typically requires clear, justifiable reasons and adherence to due process.
- Oversight and reporting: The TTFTC is accountable to Parliament through regular reports and presentations. This helps provide an additional layer of oversight, reducing the likelihood of political pressures influencing key appointments or dismissals.

18. Giving examples, can you describe how your agency handles situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals?

The Fair Trading Act is of general application. There are, however, certain sectors where the Act does not apply, including:

- the securities industry;
- telecoms;
- banking industry;
- intellectual property;
- professional associations and collective bargaining situations;
- activities expressly authorised or required under any treaty or agreement to which Trinidad and Tobago is a party.

In situations where there is a potential conflict between regulatory decisions and the interests of politically connected businesses or individuals, the TTFTC follows a process grounded in the rule of law and transparency:

- Objective analysis and evidence-based decisions: The TTFTC bases its decisions on thorough investigations, data, and objective analysis of the competitive effects of business practices. All decisions are made following the principles of competition law, regardless of political pressures. In cases where politically connected businesses are involved, the agency ensures that decisions are based solely on the merits of the case.
- Public and stakeholder engagement: To mitigate the risk of perceived political interference, the TTFTC ensures that its processes are transparent. Stakeholders, including political entities, business interests, and the public, are invited to comment on proposed actions, ensuring that decisions are subject to public scrutiny. This helps prevent the perception of bias in favour of politically connected businesses.

19. What role does transparency play in your enforcement processes, and how do you prevent political considerations from undermining the objectivity of competition rulings?

Transparency plays a critical role in maintaining the objectivity and credibility of the TTFTC's enforcement processes:

- Publicly available information: The TTFTC publishes media releases on its opinions regarding live issues affecting the local market, including:
 - price increases on cement;
 - the anti-competitive conduct of associations in Trinidad and Tobago;
 - the role of competition in promoting Economic Growth;
 - rising prices of food items including that of wheat flour;
 - cautioning businesses against unfair price increases;
 - fuel prices and competition.
- Consultation and stakeholder input: Before making decisions, the TTFTC often conducts public consultations. This allows stakeholders, including businesses, regulators, and the public, to provide input. By considering diverse viewpoints, the TTFTC ensures that decisions are made based on a balanced assessment of all factors, minimising the influence of political considerations. Previous stakeholder sessions included sessions with representatives from the following sectors: energy and energy services, food and beverage, health and pharmaceuticals, real estate (commercial), corporate counsel (public and private sectors), MSMEs, supply chain, maritime, port and logistics, poultry, construction, etc.
- Adherence to legal and regulatory frameworks: All rulings and enforcement actions are strictly in line with the competition laws and regulations. The TTFTC's independence is further reinforced by the clear legal framework that governs its operations, ensuring that decisions cannot be swayed by external political pressures.
- Transparency in the decision-making process: When the TTFTC investigates and enforces actions in markets, it follows established procedures that ensure transparency at each stage of the process, from investigation through to decision-making. Regular updates are provided to the public on the progress of investigations, which helps to build confidence in the agency's impartiality.

Section 5: Whether competition authorities in small economies and/or insular territories should possess both competition enforcement and regulatory powers

20. Does your authority possess both competition enforcement and regulatory powers?

Yes, the TTFTC holds both competition enforcement and regulatory powers. As the national authority responsible for overseeing and promoting competition, the TTFTC is tasked with investigating anti-competitive conduct (such as cartels, monopolistic practices and abuses of dominant position), as well as regulating specific industries to ensure fair competition.

The TTFTC can, pursuant to the Fair Trading Act, take to court any business or individual who has been found to have been carrying on anti-competitive practices and has failed to take corrective measures. The courts can then:

- Prohibit the offending conduct.
- Prohibit an agreement from being made or carried out.
- Order that an agreement be modified or terminated.
- Prohibit any specific conditions being attached to transactions.
- Prohibit the acquisition of another company or impose appropriate conditions.
- Impose fines (limited to 10% of annual turnover).

21. What would the advantages and challenges be of combining competition and regulatory powers within a single authority in your territories? How does this impact the effectiveness of competition enforcement?

Advantages:

- Streamlined decision-making: Combining competition enforcement and regulatory functions in a single authority allows for a more holistic and integrated approach to market oversight. The TTFTC can assess both regulatory compliance and anti-competitive practices in tandem, ensuring that industry regulations are not being used to hinder competition or harm consumers.
- Efficiency in resource use: Having one authority manage both functions reduces duplication of efforts, leading to more efficient resource allocation. The TTFTC can leverage its expertise in both regulatory and competition issues, ensuring that its actions are well-coordinated and effective.
- Coherent policy development: By holding both powers, the TTFTC can create consistent and complementary policies that foster competitive markets. The agency can ensure that regulations promote fairness and market entry while preventing anti-competitive behaviours that undermine competition.

Challenges:

- Potential conflicts of interest: There may be instances where the regulatory function may appear to conflict with competition enforcement. For example, regulation in certain sectors may provide preferential treatment to certain firms, while competition enforcement seeks to prevent market dominance or unfair advantage.
- Resource allocation: Balancing the time and resources dedicated to regulatory duties with competition enforcement can be challenging. The TTFTC may face situations where its attention is divided, which could affect its responsiveness in either area.
- Complex decision-making: In sectors with limited players, the authority may face difficulties in ensuring that regulatory practices do not inadvertently stifle competition. Managing these dual roles requires nuanced judgment and a clear understanding of both the regulatory needs and the competitive dynamics of the industry.

22. Giving examples, how do you manage potential conflicts of interest that may arise when an authority holds both competition and regulatory powers, particularly in a market with a limited number of players?

To manage potential conflicts of interest, the TTFTC ensures that both its competition and regulatory functions are clearly defined and operate under a transparent framework:

- Clear guidelines and boundaries: The TTFTC establishes distinct guidelines for both its regulatory and enforcement roles. It hosts an Annual Regulators Meeting to discuss inter alia: possible overlapping areas of interest, the duality of roles and minimising duplicity of efforts. This helps to ensure that the regulatory and enforcement functions complement, rather than conflict with each other.

The TTFTC will (where relevant) write to the respective regulatory agency to ensure that each other's jurisdiction is clearly defined especially in the area of merger review. Examples of these agencies include the Central Bank, Regulated Industries Commission and the Telecommunications Authority of Trinidad and Tobago.

- Independent decision-making: When a potential conflict arises, the TTFTC relies on objective, evidence-based decision-making to ensure that regulations do not unduly restrict competition. For example, in cases where there may be regulatory price-setting

or market share allocations in a concentrated sector (such as energy or utilities), the Commission examines the competitive effects of these regulatory actions to ensure they align with competition goals and then provides its' views to the relevant agency with oversight.

- Stakeholder consultations: The TTFTC often engages with stakeholders, including industry participants, policymakers, and consumer groups, to solicit feedback on proposed regulatory measures. This ensures that all perspectives are considered, and potential conflicts are addressed transparently.
- Case example: In the energy sector, where there are a few dominant players, the TTFTC ensures that regulatory pricing decisions are carefully balanced with competition principles. For instance, while regulating tariffs for state-owned electricity providers, the TTFTC closely monitors the potential impact on market entry and competition and shares its' views (where applicable) to the Regulated Industries Commission.

23. Can you share examples of how your agency has successfully balanced its dual roles in both regulating industries and enforcing competition laws? What lessons have been learned?

While the TTFTC may not have a prominent success story to showcase, we have consistently provided valuable advice and guidance where relevant. Our dual roles in regulating industries and enforcing competition laws have allowed us to address various market challenges and promote fair competition.

The TTFTC has actively engaged with stakeholders across different sectors to ensure compliance with the Fair Trading Act. Through our advocacy work, the conducting of market studies and providing recommendations, we have helped industries understand and adhere to competition laws. For example, our advisory role in the telecommunications sector has led to improved market practices and increased consumer protection.

Lessons learned:

- Collaboration is key: Balancing competition enforcement with regulatory functions requires close collaboration with sector-specific regulatory bodies. Clear communication and defined roles ensure that each body's objectives are met without overlap or conflict.
- Ongoing monitoring: Continuous monitoring and adjustments to regulatory policies are necessary. Even after regulations are implemented, the TTFTC regularly reviews their impact on market competition to ensure that unintended anti-competitive effects do not emerge over time.
- Transparency and public trust: Clear, transparent processes help to mitigate concerns about potential conflicts of interest. Openly communicating how the TTFTC balances its regulatory and enforcement roles builds trust among stakeholders, including businesses, policymakers and consumers.

24. In what ways does the integration of competition and regulatory functions within a single authority impact market outcomes, especially in sectors that are critical to your economy?

The integration of competition and regulatory functions within the TTFTC has had several positive impacts on market outcomes:

- Balanced regulation and competition: The integration allows for a balanced approach to regulation, ensuring that firms do not engage in anti-competitive practices while also ensuring that the regulatory measures are conducive to fostering market entry and growth. In sectors critical to the economy, such as energy, this balance ensures that prices remain competitive and service standards improve.
- Improved market dynamics: In regulated sectors the TTFTC's ability to enforce

competition while simultaneously overseeing regulatory compliance ensures that firms do not abuse their power. This leads to a more dynamic and competitive market, which benefits consumers with lower prices, better service quality and more innovation.

- Promoting consumer welfare: By combining both roles, the TTFTC ensures that the regulation of essential services does not undermine competition. This results in a fairer environment where consumers have access to both affordable services and competitive market conditions.

25. What mechanisms are in place to ensure that the dual functions of competition and regulation do not compromise the authority's ability to remain impartial and effective?

- Adherence to legal frameworks: All decisions made by the TTFTC, whether related to regulation or competition enforcement, must align with the legal and policy frameworks established under the Fair Trading Act and other relevant legislation. The TTFTC is also guided by the principles of fairness, transparency and impartiality, ensuring that decisions are made solely on the basis of evidence.
- Stakeholder oversight: Regular stakeholder engagement, public consultations and feedback mechanisms ensure that the TTFTC remains accountable to the public and other regulatory bodies. This transparency ensures that the TTFTC's dual roles do not compromise its effectiveness or impartiality.
- Independent board oversight: The TTFTC operates under the governance of a Board of Commissioners, which oversees its actions and ensures that the TTFTC remains independent from political influence. The Board ensures that the authority's decisions are in line with its statutory mandate and that both competition enforcement and regulatory functions are carried out impartially.

Section 6: The extent to which your different sectors in the economy can be identified as oligopolistic in nature

26. What sectors within your jurisdiction exhibit characteristics of an oligopoly, such as high market concentration and limited competition? How do you identify and monitor these markets?

Several sectors in Trinidad and Tobago exhibit oligopolistic characteristics, where a few dominant firms control a significant portion of the market, and competition is limited. These sectors include:

- Telecommunications: The telecommunications market in Trinidad and Tobago is primarily dominated by a few players, such as Digicel and Telecommunications Services of Trinidad and Tobago (TSTT). These companies control the majority of market share in mobile communications, internet, and broadband services.
- Energy (oil and gas): The oil and gas sector, particularly the downstream market (e.g., refining, distribution of fuels), is dominated by a few large firms. Furthermore, the structure of the market is such that there are high barriers to entry for new competitors.
- Grocery retail: The grocery retail sector, particularly in larger supermarkets, is dominated by a handful of major chains, making it difficult for smaller retailers to compete at scale.

The TTFTC identifies and monitors oligopolistic markets through:

- Market share analysis: The TTFTC conducts regular assessments of market share concentration in various sectors. High concentration ratios (e.g., the Herfindahl-Hirschman Index) help identify markets where a few firms dominate.
- Merger and acquisition review: The TTFTC reviews mergers, acquisitions and monitors other business consolidations that could exacerbate oligopolistic tendencies, ensuring that such activities do not harm competition.
- Market behaviour monitoring: The Commission tracks pricing behaviour, service offerings and product differentiation with the objective being to identify anti-competitive practices like price fixing or collusion.

27. How does your agency assess the competitive dynamics in markets with a few dominant players? Are there specific indicators you use to determine the presence and impact of an oligopolistic market structure?

The TTFTC uses various tools and indicators to assess the competitive dynamics in markets with a few dominant players:

- Market concentration: We analyse market concentration ratios, such as the Herfindahl-Hirschman Index and concentration ratios (CR4, CR3), to measure the level of market dominance. High concentration levels indicate the likelihood of oligopolistic behaviour.
- Price trends and behaviour: Monitoring price trends is crucial in assessing competitive dynamics. If prices remain high and stable despite fluctuations in costs or changes in demand, it could be a sign of coordinated behaviour or tacit collusion.
- Entry barriers: The TTFTC evaluates the barriers to entry for new firms, such as high capital investment, exclusive access to essential infrastructure or government regulation. In oligopolistic markets, high barriers to entry limit competition and maintain the dominance of a few firms.
- Profit margins: Unreasonably high profit margins relative to market averages can indicate a lack of competition, which is often a feature of oligopolistic markets.
- Price parallelism and market behaviour: We look for signs of price parallelism, where firms with similar market shares engage in coordinated pricing behaviour, even in the absence of formal collusion.

28. Can you provide examples of how your agency has addressed anti-competitive behaviour or market failures in industries that are prone to oligopolistic practices?

The TTFTC has addressed anti-competitive behaviour in several industries where oligopolistic practices have been observed:

- Fuel pricing in the energy sector: The TTFTC has previously examined the retail fuel market's pricing practices with the objective of identifying whether these could be considered as price-fixing or collusive behaviour. In such cases, the TTFTC closely monitors price-setting behaviour and has worked with regulatory bodies like the Ministry of Energy and Energy Industries, the Petroleum Dealers Association and gas stations to ensure that pricing practices align with competitive principles.
- Grocery retail: In the retail sector, the TTFTC has looked into practices where large supermarket chains may have engaged in anti-competitive behaviour, such as predatory pricing or exclusionary tactics that disadvantage smaller businesses. The TTFTC's investigation has focused on ensuring that larger players do not undermine competition by engaging in anti-competitive conduct.

29. What challenges do you face, if any, in promoting competition in markets where a few firms hold significant market power, and how do you mitigate the risks of collusion or coordinated behaviour among these firms?

Promoting competition in markets dominated by a few firms presents several challenges:

- **Barriers to entry:** In oligopolistic markets, new firms may struggle to enter due to high entry barriers, such as significant capital investment requirements, control over key infrastructure or regulatory hurdles. This limits the scope for competition and reinforces the dominance of incumbent firms.
- **Risk of tacit collusion:** With a few dominant players, there is an increased risk of tacit collusion, where firms may indirectly coordinate pricing or market strategies without explicit agreements. This behaviour while it undermines competition can be difficult to detect.
- **Regulatory challenges:** In some sectors, there may be regulatory frameworks that unintentionally favour dominant firms, creating a difficult environment for smaller competitors. For example, in the energy sector, long-standing relationships between major firms and the government may influence market dynamics.

To mitigate these risks, the TTFTC employs several strategies:

- **Close monitoring and market investigations:** The TTFTC closely monitors market behaviour and conducts investigations when suspicious activity is detected. In cases where tacit collusion or other anti-competitive practices are suspected, the TTFTC works to identify the impact on consumers and take corrective action.
- **Promoting market entry:** The TTFTC works to identify and reduce entry barriers in oligopolistic markets, such as facilitating access to essential facilities or advocating for regulatory reforms that allow for greater market entry.
- **Encouraging transparency:** The TTFTC advocates for greater transparency in pricing and market practices to reduce the likelihood of collusion. Transparency encourages firms to compete on the merits of their products and services, rather than relying on coordinated behaviour.
- **Collaboration with regulators:** The TTFTC collaborates with other sector-specific regulators to ensure that sectoral regulations support competition rather than entrench oligopolistic market structures.

30. How do you engage with stakeholders, including smaller businesses and consumers, to understand the impact of oligopolistic structures on market outcomes and to inform your regulatory actions?

Engaging with stakeholders is a critical part of the TTFTC's work to understand and address the impact of oligopolistic structures. The TTFTC employs several methods to ensure that it hears the perspectives of smaller businesses and consumers:

- **Public consultations:** The TTFTC conducts public consultations, particularly when reviewing market dynamics in sectors with high concentration. These consultations provide a platform for consumers, small businesses and other stakeholders to voice concerns and provide feedback on the impact of oligopolies.
- **Surveys and feedback mechanisms:** The TTFTC regularly conducts surveys (cement, flour, pharmaceuticals) and gathers feedback from consumers and small businesses to gauge their experience with market competition. This helps the TTFTC understand how market structures are impacting consumer choice, prices and service quality.
- **Engagement with industry associations:** The TTFTC engages with industry associations that represent smaller businesses to better understand the challenges they face in

oligopolistic markets. This engagement allows the Commission to gain insights into how these market structures affect competition and innovation.

- Educational outreach: The TTFTC also undertakes educational outreach to raise awareness among consumers and businesses about the effects of oligopolies and the importance of competition. This helps to inform the public and gather input on regulatory actions.

By incorporating the views of stakeholders, the TTFTC ensures that its regulatory actions are informed by the real-world impact of market structures and that the interests of smaller players and consumers are considered in competition enforcement.

Section 7: The number of firms within a jurisdiction that are vertically integrated

31. How does your agency track and assess the prevalence of vertical integration within key industries in your jurisdiction? Are there particular sectors where this practice is more common?

The TTFTC tracks and assesses vertical integration by conducting regular market analyses and monitoring changes within key sectors. We assess vertical integration through:

- Market investigations: The TTFTC regularly conducts inquiries and reviews of industries to understand the structure of firms operating within them, paying close attention to the supply chains and ownership structures that may indicate vertical integration.
- Merger notifications: Firms involved in vertical integration often notify the TTFTC, especially when they propose mergers, acquisitions or joint ventures that would result in a more integrated structure. These notifications are assessed for potential anti-competitive effects.
- Public reports and surveys: The TTFTC engages in discussions with industry associations and uses reports from regulators in other sectors to monitor vertical integration trends.

Certain sectors in Trinidad and Tobago are particularly prone to vertical integration:

- Energy sector (oil and gas): Vertical integration is common in the energy sector, where firms are involved in various stages of production, from exploration and extraction to refining, distribution and retail.
- Telecommunications: In this sector, dominant firms often control both the infrastructure (e.g., towers, cables) and services (e.g., mobile, internet), resulting in vertical integration to reduce costs and gain competitive advantages.
- Retail and grocery: Large supermarket chains often engage in vertical integration by controlling supply chains and wholesale distribution to maximise profitability and ensure control over the pricing of products.

32. Are the 20 largest firms within your jurisdiction vertically integrated, and how has this trend evolved over recent years?

While not all of the 20 largest firms in Trinidad and Tobago are vertically integrated, many of the key players in sectors like energy, telecommunications and retail do exhibit vertical integration.

- Telecommunications: Firms like TSTT and Digicel are vertically integrated, providing services from infrastructure to retail products (mobile, internet, cable TV). Over recent years, this trend has remained steady, with firms seeking greater control over their networks to improve service quality and profitability.
- Retail sector: Retail chains, such as Massy Stores and PriceSmart, have been increasingly vertically integrated, often managing their supply chains from procurement to final retail

sales. This trend has evolved as these firms seek to reduce costs and improve market positioning.

Over the past decade, vertical integration has grown in Trinidad and Tobago as firms attempt to mitigate operational risks, reduce costs and achieve greater control over the production and distribution of goods and services.

33. Can you provide examples of major vertically integrated firms in your jurisdiction, and how their structure impacts market competition and consumer outcomes?

Examples of major vertically integrated firms in Trinidad and Tobago include:

- Petrotrin (now restructured): Petrotrin, historically one of the largest state-owned enterprises in Trinidad and Tobago, was a prime example of vertical integration in the oil and gas industry. The company controlled every aspect of the energy sector, from extraction to refining to distribution. This structure allowed Petrotrin to dominate the local market, sometimes leading to limited competition and high prices for consumers. However, the company's restructuring has led to the opening of opportunities for other market players.

These vertical structures have both positive and negative effects:

- Positive: Vertical integration can lead to cost savings, greater efficiency and more stable supply chains for firms. This often translates into lower prices or more reliable services for consumers in the short term.
- Negative: When firms have significant control over multiple stages of the market, there is a risk of reduced competition. For example, dominant vertically integrated firms may raise barriers to entry for new competitors or engage in anti-competitive practices, such as predatory pricing or exclusive supply agreements, which can harm consumers and the overall competitive environment.

34. What are the main motivations for firms in your jurisdiction to pursue vertical integration, and how does your agency evaluate the competitive implications of such strategies?

Firms in Trinidad and Tobago pursue vertical integration for several reasons:

- Cost reduction: By controlling multiple stages of the supply chain, firms can reduce costs associated with intermediaries, such as suppliers, distributors and retailers. This allows them to achieve economies of scale and improve profitability.
- Improved control and stability: Vertical integration provides firms with greater control over their production processes, supply chains and pricing, allowing them to manage risks more effectively and ensure consistency in quality and supply.
- Barriers to entry: Vertical integration can create significant barriers to entry for potential competitors. For example, a vertically integrated firm may control key distribution networks or access to raw materials, making it difficult for smaller firms to compete effectively.
- Market power and pricing: Firms may pursue vertical integration to increase their market power. By consolidating their position in the supply chain, they can influence prices at multiple levels of the market and reduce the threat of competition.

The TTFTC evaluates the competitive implications of vertical integration through:

- Market impact assessments: We assess whether vertical integration reduces competition by examining the level of control that firms exert over the supply chain and the barriers they create for new entrants. If a firm's integration leads to anti-competitive effects, such as the foreclosure of competition or price manipulation, the TTFTC may intervene.

- Economic analysis: The TTFTC conducts economic analyses to determine whether vertical integration is likely to harm consumers by raising prices or reducing service quality. This includes evaluating how the integration affects market structure, pricing behaviour and consumer welfare.
- Merger review: When firms propose mergers or acquisitions that involve vertical integration, the TTFTC closely scrutinises the transaction to ensure that it does not reduce competition in a way that harms consumers or reduces market entry opportunities.

35. How does vertical integration influence your regulatory approach to mergers and acquisitions, particularly when assessing potential anti-competitive effects?

Vertical integration significantly influences the TTFTC’s approach to regulating mergers and acquisitions particularly when assessing potential anti-competitive effects. Our regulatory approach includes:

- Examining barriers to entry: In cases of vertical mergers or acquisitions, the TTFTC closely examines whether the deal will create barriers to entry for potential competitors. If a merger results in a firm gaining control over essential infrastructure or distribution channels, it could prevent new competitors from entering the market, reducing overall competition.
- Assessing foreclosure effects: We evaluate the risk of foreclosure, which occurs when a vertically integrated firm denies competitors access to critical resources (e.g., distribution networks, supply inputs).
- Market power analysis: The TTFTC analyses whether the vertical integration would increase the merged entity’s market power, enabling the firm to engage in anti-competitive conduct such as raising prices, reducing quality or engaging in exclusionary practices.
- Consumer impact: A key factor in our merger assessments is the potential impact on consumers. We evaluate whether vertical integration would result in higher prices, fewer choices, or lower service quality for consumers. If the integration is likely to harm consumer welfare, the TTFTC may require behavioural or structural remedies or prohibit the merger.
- Commitments and remedies: In some cases, the TTFTC may allow vertical mergers or acquisitions to proceed with commitments from the firms to mitigate anti-competitive effects. This could include commitments to maintain access to essential infrastructure or reduce the risk of exclusionary practices.

Section 8: What are the effects of conglomerate entities within a jurisdiction?

36. How does the presence of conglomerate entities in your jurisdiction impact competition across different sectors, particularly in terms of market power and barriers to entry for smaller firms?

Conglomerates, by definition, operate across multiple sectors, often wielding significant market power in each industry they participate in. The presence of such entities in Trinidad and Tobago can have both positive and negative impacts on competition:

- Market power: Conglomerates tend to have considerable influence over pricing and market dynamics due to their size and financial resources. Their ability to leverage resources across different sectors can enable them to set prices, determine supply chain structures and influence consumer choice, sometimes to the disadvantage of smaller competitors who may struggle to compete at scale.

- **Barriers to entry:** The market power of conglomerates often results in increased barriers to entry for smaller firms. New entrants may find it difficult to access the necessary resources, infrastructure and distribution channels that conglomerates control. For instance, if a conglomerate controls a significant share of the supply chain (such as retail, logistics or access to essential services), this makes it harder for smaller firms to gain market access and develop competitive pricing strategies.
- **Cross-sector synergies:** On the other hand, conglomerates might create efficiencies and synergies that could benefit consumers, such as reducing costs by sharing resources across different sectors. These synergies might contribute to lower prices and improved services in some cases, but they can still disadvantage smaller, specialised firms that lack similar resources.

37. Can you provide examples of how conglomerates in your jurisdiction have influenced pricing, innovation, or consumer choice in the markets they operate in?

Conglomerates in Trinidad and Tobago have influenced various markets, particularly through pricing strategies, innovation and consumer choice:

- **Pricing:** A prime example would be Massy Group, which operates in retail, energy, and other sectors. As a major player in the retail sector, Massy has significant leverage over the pricing of goods sold in supermarkets. Due to its large market share, Massy has the ability to dictate pricing within its network of stores, which can influence the overall price structure in the retail market. While consumers may benefit from lower prices due to economies of scale, smaller retailers may find it difficult to compete on price.
- **Innovation:** In the telecommunications sector, TSTT, a subsidiary of the state-owned entity, has used its position as a conglomerate to introduce bundled services, combining internet, TV, and mobile offerings. This type of bundling benefits consumers by providing convenience and often better pricing, but it can also limit consumer choice if smaller competitors are unable to offer similar packages due to resource constraints.
- **Consumer choice:** Conglomerates often reduce consumer choice if they dominate a sector and make it difficult for smaller, specialised firms to enter. For example, in the retail sector, large conglomerates like Massy can lead to a consolidation of product offerings, limiting variety and potentially reducing the diversity of goods available to consumers.

38. What challenges does your agency face in regulating conglomerates, especially when they operate across diverse industries with varying levels of competition?

The TTFTC faces several challenges in regulating conglomerates that operate across diverse industries:

- **Complexity of market structures:** Conglomerates typically operate in multiple sectors, each with its own set of competitive dynamics. This makes it challenging for the TTFTC to conduct comprehensive market reviews, as the competitive impacts of conglomerates can vary widely across industries. For example, pricing strategies that work in one sector might not be applicable in another, and the Commission must tailor its approach to each specific market.
- **Cross-sector market power:** Conglomerates can leverage their dominance in one sector to exert influence over others. For instance, a conglomerate that dominates retail could use its bargaining power to secure better terms from suppliers, which might create an uneven playing field in the broader economy. The TTFTC must assess whether such practices distort competition in sectors where the conglomerate does not have direct involvement.

- Increased barriers to entry: The TTFTC faces difficulty in assessing whether conglomerates are creating barriers to entry across industries. Conglomerates that operate in multiple sectors may cross-subsidise or engage in bundling practices that make it difficult for new entrants to compete effectively. Identifying and rectifying these anti-competitive practices requires in-depth investigations and market analyses.
- Coordination across agencies: Conglomerates that operate in various sectors may be regulated by different authorities (e.g., telecommunications, energy, financial services). This creates coordination challenges for the TTFTC, as it must work with other regulatory bodies to ensure that conglomerates are not engaging in anti-competitive practices across sectors.

39. How do conglomerates in your jurisdictions affect the competitive landscape during mergers and acquisitions, and what considerations are taken into account during regulatory reviews?

Conglomerates can significantly influence the competitive landscape during mergers and acquisitions because of their cross-sector presence and substantial market power. The TTFTC takes the following factors into consideration during regulatory reviews:

- Impact on market concentration: The TTFTC carefully assesses how a merger transaction involving a conglomerate will impact the overall market concentration in each affected sector. If a merger would result in a firm gaining excessive market share or power across multiple sectors, it could lead to anti-competitive effects, such as higher prices or reduced choices for consumers.
- Vertical and horizontal integration: In evaluating mergers, the TTFTC considers whether the transaction leads to more vertical integration (e.g., when a firm acquires businesses at different stages of the supply chain) or horizontal integration (e.g., when firms in the same industry merge). Vertical integration can create barriers to entry or reduce competition in upstream or downstream markets, while horizontal integration may reduce competitive rivalry.
- Potential for anti-competitive effects: The TTFTC investigates the potential for anti-competitive practices that could result from the merger, such as price-fixing, exclusionary conduct or the creation of unfair advantages for the new entity. If the merger reduces competition and harms consumer welfare, the TTFTC may block or impose conditions to prevent anti-competitive outcomes.
- Cross-sector effects: Given that conglomerates operate in multiple sectors, the TTFTC evaluates how a merger could affect competition in each relevant market, even in sectors where the conglomerate is not directly involved. For instance, a merger in one sector may affect the pricing or availability of products in another sector where the conglomerate holds significant market power.

40. In what ways do conglomerate entities contribute or hinder economic resilience and diversification within your jurisdiction, particularly in times of economic downturns or crises?

Conglomerates can both contribute to and hinder economic resilience and diversification in Trinidad and Tobago, particularly during economic downturns or crises:

- Contributions to economic resilience:
 - Diversified income streams: Conglomerates provide economic resilience by diversifying their investments across different sectors. This diversification helps stabilise the conglomerate during periods of economic volatility, as losses in one sector may be offset by gains in another. For example, a conglomerate with holdings

- in both retail and energy sectors may be less vulnerable to downturns in either sector.
- Stability in key industries: Large conglomerates are often able to weather economic downturns better than smaller firms due to their size, access to capital and economies of scale. This stability can help maintain jobs and contribute to the broader economy, especially in critical sectors like retail, telecommunications and energy.
 - Hindrances to economic resilience:
 - Market dominance and reduced competition: If conglomerates dominate key sectors of the economy, they may reduce competition and limit innovation, which can hinder economic diversification. When a few large firms control multiple sectors, they may prioritise their own interests over broader economic development, creating inefficiencies and restricting new business formation.
 - Dependency on large players: The economy may become overly reliant on large conglomerates, which can create vulnerabilities if these firms face financial difficulties or fail to adapt to changing market conditions. In times of crisis, such firms may prioritise their own survival rather than invest in innovation or diversification, limiting overall economic flexibility.
 - Limited support for small businesses: Conglomerates that control supply chains or retail markets may limit opportunities for smaller businesses to enter the market. This can slow down the process of diversification, as new firms struggle to compete with the entrenched market power of conglomerates.

Section 9: What is the risk and impact of regulatory capture in small economies and/or insular territories?

41. What are the specific challenges your agency faces in your economy that increase the risk of regulatory capture, especially in markets with limited competition?

In Trinidad and Tobago, the following challenges contribute to the risk of regulatory capture, particularly in markets with limited competition:

- Concentrated market power: Many sectors in the Trinidad and Tobago economy, such as telecommunications, energy, and retail, are dominated by a few large players or conglomerates. In such concentrated markets, these entities have significant influence over the regulatory environment, which increases the risk of regulatory capture.
- Close-knit networks: The small size of the economy and its close-knit business and political networks can lead to situations where regulators may be influenced by individuals or firms with significant economic or political power. In a relatively small country, regulators may have longstanding relationships with business leaders or politicians, which could complicate their independence.
- Resource constraints: The TTFTC, like many regulatory agencies in small economies, faces resource constraints, both in terms of funding and staffing. This can make it more difficult to conduct thorough investigations or enforce competition law effectively, leaving the agency more vulnerable to influence from powerful business interests that can outmatch it in terms of resources.

42. How does your agency mitigate the risk of regulatory capture in jurisdictions where close-knit relationships between individuals, regulators, businesses, and political figures might be more prevalent?

The TTFTC takes several steps to mitigate the risk of regulatory capture in an environment with close-knit relationships:

- **Transparency and public accountability:** One of the most effective tools for mitigating regulatory capture is transparency. The TTFTC ensures that its processes, decisions and investigations are as open and transparent as possible. This includes publishing decisions, reports and the rationale behind regulatory actions, which serves as a check on undue influence and ensures that the agency's actions are scrutinised by the public and other stakeholders.
- **Independent oversight:** The TTFTC operates independently from political and commercial interests. In addition to having a legal mandate to enforce competition law, the Commission is also subject to external oversight by the public and stakeholders. This ensures that its actions are not unduly influenced by political or business interests.
- **Clear conflict-of-interest policies:** To prevent the risk of regulatory capture, the TTFTC enforces strict conflict-of-interest policies for all employees, including mechanisms to disclose any potential conflicts of interest in their roles. This helps ensure that the Commission's decisions are made with integrity and based on the merits of the case rather than personal or business relationships.
- **Public consultations:** Engaging with a broad spectrum of stakeholders, including businesses, consumer groups and civil society, helps to ensure that the views of all relevant parties are considered when making regulatory decisions. Public consultations also provide an opportunity for transparency and minimise the risk of undue influence from any single entity.

43. Can you provide examples of how potential or actual regulatory capture has been identified and addressed in your territory, and what lessons have been learned from these experiences?

While the TTFTC works diligently to maintain independence, there have been instances where concerns about regulatory capture have arisen:

- **Energy sector:** The energy sector has also faced regulatory concerns regarding monopolistic behaviours, with some entities exerting considerable political influence due to their size and importance to the national economy. In such cases, the TTFTC has taken a careful, data-driven approach to ensure that no undue influence has been exerted on regulatory decisions.
 - **Lessons learned:** These instances reinforced the importance of maintaining robust investigative mechanisms and independent legal frameworks. The key lesson learned is that ongoing vigilance and the capacity to conduct independent reviews are essential to protecting competition, even in sectors where political or economic influence is prevalent.

44. What measures are in place to ensure transparency and accountability in regulatory decisions within your economy, where the risk of undue influence might be higher?

The TTFTC has implemented a number of measures to ensure transparency and accountability in its decision-making processes:

- **Publicly available decisions:** The TTFTC publishes its decisions and reports, which include detailed explanations of the rationale behind each decision. This ensures that the public, businesses and other stakeholders can review the agency's actions and hold it accountable.
- **Consultations and hearings:** In certain cases, the TTFTC holds public consultations and hearings, particularly when addressing significant matters that affect consumers or large sectors of the economy. These engagements allow stakeholders to provide input and raise concerns, which can then be addressed in the final decision.

- Independent review mechanisms: The TTFTC is subject to independent judicial review, allowing its decisions to be challenged in court if there are concerns regarding fairness or legality. This judicial oversight adds an additional layer of accountability to the TTFTC's actions.
- Annual reports and audits: The TTFTC submits annual reports to Parliament that include updates on its activities, including enforcement actions and investigations. These reports are publicly accessible, and the agency is subject to external audits to ensure compliance with best practices in governance and financial management.

45. How does the risk of regulatory capture in these territories impact your agency's ability to effectively promote competition and protect consumer welfare?

The risk of regulatory capture in Trinidad and Tobago, particularly in markets with limited competition, can create significant challenges for the TTFTC:

- Undue influence on market dynamics: If regulatory capture were to occur, it could result in the protection of powerful business interests at the expense of consumers, leading to higher prices, lower quality of services and reduced innovation. This would undermine the primary objectives of competition law, which are to promote fair competition, protect consumer welfare and prevent monopolistic behaviour.
- Ineffective enforcement: The TTFTC's ability to enforce competition law could be weakened if political or economic pressures influence its actions. For example, regulatory capture could lead to the under-enforcement of anti-competitive practices or result in lenient penalties for firms engaging in anti-competitive conduct, which would create an uneven playing field for smaller businesses.
- Erosion of public trust: If the public perceives that the TTFTC is susceptible to influence or bias, it may erode trust in the regulatory system. This could discourage businesses from competing fairly and undermine confidence in the agency's ability to effectively regulate markets.

To mitigate these risks, the TTFTC continually emphasises the importance of transparency, external oversight, and robust investigative practices to ensure that regulatory decisions are made in the public interest and not influenced by political or business interests.

Section 10: What can be done, from a policy perspective, to address some of the concerns experienced in small economies and/or insular territories?

46. What policy measures have proven effective in your jurisdiction to promote competition where market concentration and entry barriers are common challenges?

In Trinidad and Tobago, several policy measures have been effective in promoting competition despite challenges related to market concentration and entry barriers:

- Strict antitrust enforcement: The TTFTC has actively enforced competition laws, including those related to anti-competitive agreements, abuses of dominance and mergers that might reduce market competition. By investigating and prosecuting anti-competitive behaviour, the agency ensures that dominant firms do not exploit their market position to the detriment of smaller competitors or consumers.
- Market monitoring: The TTFTC has worked to establish mechanisms to monitor sectors prone to high market concentration. This includes regular assessments of sectors such as retail and energy, where competition is often limited. The TTFTC ensures that such markets remain competitive and that no single player can dominate to the extent of stifling new entrants or limiting consumer choice.

- Promoting regulatory transparency and accountability: By ensuring that regulations are clear, fair and consistently enforced, the TTFTC has helped foster an environment in which smaller firms can better understand the market dynamics and are less vulnerable to the unfair practices of larger incumbents. Transparency also encourages compliance and discourages anti-competitive practices.
- Encouraging innovation: Supporting programmes that encourage innovation, particularly within SMEs, has proven to be an effective way to level the playing field. For example, the TTFTC works with local businesses to create incentives for innovation and to help them compete with larger players by fostering the development of new products and services.

47. How can competition policies be tailored to address the unique economic and geographic constraints of small or insular economies, particularly in sectors that are prone to monopolistic or oligopolistic practices?

In small or insular economies like Trinidad and Tobago, competition policies need to be tailored in the following ways:

- Sector-specific flexibility: In industries prone to natural monopolies or oligopolies, such as utilities, energy or telecommunications, policies should allow for sector-specific regulations. For instance, in these sectors, the state can regulate prices and ensure that firms do not abuse their dominant positions while still encouraging private sector participation to meet local demand.
- Encouraging collaboration and regional integration: Given the geographic isolation of small economies, regional integration with other Caribbean nations can help small economies better compete on a broader scale. Policies that encourage cross-border partnerships and competition are essential to overcoming the limits imposed by a small domestic market.
- Supporting market entry via incentives: To overcome entry barriers in isolated markets, competition policies can include provisions for targeted subsidies, tax incentives or infrastructure development projects that lower the cost for new entrants. For example, support for new entrants in the telecommunications or energy sectors could help diversify market offerings and enhance competition.
- Fostering a level playing field for SMEs: Policies should encourage the growth of SMEs by providing access to financing, simplifying regulatory requirements and supporting market access. This can help mitigate the challenges posed by large, dominant players in smaller economies.

48. What role do international cooperation and regional agreements play in strengthening competition frameworks in your territory? How can these be enhanced?

International cooperation and regional agreements play a critical role in strengthening competition frameworks in Trinidad and Tobago, particularly in a small, open economy like ours:

- Regional integration through CARICOM: As a member of CARICOM, Trinidad and Tobago benefits from regional agreements that promote competition across member states. CARICOM's commitment to establishing a single market and economy enhances cooperation in enforcing competition law, particularly in industries that span multiple jurisdictions.
- Information sharing and capacity building: International cooperation allows for the sharing of information and best practices in competition policy. Regional collaboration also supports capacity building for TTFTC staff, ensuring that they are well-equipped to

handle increasingly complex market dynamics and competition issues. The TTFTC staff has benefitted from training from the IDB, RCC/INDECOPI, OECD, UNCTAD, ICN, etc.

- Enhancing regional cooperation: To enhance these benefits, Trinidad and Tobago could work to deepen regional cooperation by harmonising competition laws with other Caribbean nations. This would improve enforcement mechanisms across the region, making it more difficult for firms to exploit jurisdictional differences to avoid competition laws.

49. How can competition policy in small economies be designed to balance the need for market entry with the sustainability of local businesses, which might struggle against larger, external competitors?

Balancing market entry with the sustainability of local businesses in small economies like Trinidad and Tobago can be achieved through a combination of strategic policies:

- Gradual liberalisation and support: Policies that support gradual liberalisation can help local businesses adjust to increased competition. For instance, providing transitional periods for market entrants and established firms to adapt to new regulations and competition can help local businesses survive the entry of large external competitors.
- Supporting local entrepreneurship and innovation: Local businesses often struggle to compete against larger firms with greater resources. Competition policy can focus on fostering innovation and entrepreneurship by offering grants, low-interest loans and technical assistance to support the creation and scaling of local businesses.
- Differentiated regulatory requirements: Small businesses may struggle with compliance due to limited resources. Offering a tiered approach to regulation, where small businesses are subject to lighter regulatory burdens compared to larger firms, can help maintain the competitiveness of local businesses while still promoting entry from larger players.
- Trade and export support: Promoting exports for local businesses allows them to expand their markets beyond the limited domestic one. Export facilitation programmes and support for local firms in entering regional and international markets can create opportunities for growth without sacrificing competitiveness.

50. What specific regulatory or legislative changes would you recommend to improve the effectiveness of competition enforcement in your jurisdictions?

To improve the effectiveness of competition enforcement in Trinidad and Tobago, several regulatory and legislative changes could be considered:

- Strengthening penalties for anti-competitive behaviour: Increasing penalties for firms engaging in anti-competitive conduct would provide a stronger deterrent against monopolistic practices, price-fixing and abuse of dominant positions.
- Enhancing market monitoring and data collection: The TTFTC would benefit from stronger tools and resources for monitoring market conditions. Creating a centralised database of market structures and business conduct across key sectors would improve the agency's ability to identify potential anti-competitive behaviour early.
- Expanding the scope of merger control: Expanding the scope of merger control to include more industries and thresholds for merger notifications would allow the TTFTC to better scrutinise transactions that could potentially reduce competition. Currently, there are sectors where mergers and acquisitions may not be sufficiently reviewed due to size or market thresholds.
- Introducing proactive investigative powers: Empowering the TTFTC with more proactive investigative powers, such as the ability to initiate investigations without complaints or

conduct “dawn raids,” would enhance its ability to detect anti-competitive behaviour before it becomes pervasive.

- Legislative updates for digital markets: As digital markets grow, competition law must adapt to address challenges such as online monopolies and digital platforms’ anti-competitive practices. Updates to existing laws should include provisions that specifically address issues like data-driven market power and digital platform dominance.

Section 11: What is the role of co-operation amongst competition authorities in promoting effective competition enforcement in small economies and/or insular territories?

This may be cooperation among national competition authorities or cooperation with regional competition authorities, (e.g., regional competition agencies such as the COMESA Competition Commission) or both.

51. If you have a relationship with a regional competition agency, how does cooperation with this regional competition agency enhance your ability to enforce competition laws effectively in your territory?

Cooperation with regional competition agencies, such as the CARICOM Competition Commission, significantly enhances the TTFTC’s ability to enforce competition laws by enabling:

- Information sharing: By exchanging information and best practices with regional agencies, the TTFTC gains insights into the competitive dynamics of the broader Caribbean region. This helps identify trends, anti-competitive behaviour and market practices that might cross borders and impact our local markets.
- Joint investigations: Through coordinated enforcement actions with regional partners, the TTFTC can pursue cases that involve regional or international players, ensuring more effective market oversight.
- Harmonised policy development: Through regional cooperation, the TTFTC helps align its competition policy with broader regional standards. This ensures that both local and foreign businesses in Trinidad and Tobago are subject to a consistent set of competition rules, reducing legal uncertainties.

52. Can you provide examples of successful collaboration between your agency and other competition authorities in addressing cross-border anti-competitive practices that impact your country’s markets?

While the TTFTC has not yet conducted joint investigations or mergers, we have actively collaborated with other competition authorities through consultations and data-gathering exercises. These efforts have been instrumental in addressing cross-border anti-competitive practices that impact our markets.

Examples of collaboration:

1. Data sharing: We have exchanged information with regional competition authorities to identify and address anti-competitive behaviours that span multiple jurisdictions. This collaboration has helped us better understand market dynamics and develop effective strategies.
2. Workshops and training: The TTFTC has participated in workshops and training sessions organised by international competition bodies. These events have facilitated knowledge sharing and capacity building, enabling us to enhance our enforcement capabilities.
3. Consultations: We have engaged in regular consultations with other competition authorities to discuss emerging trends and best practices. These discussions have

informed our approach to tackling cross-border anti-competitive practices and ensuring fair competition in our markets.

53. What are the key benefits and challenges of participating in regional competition networks for your economy/territory, and how can these be leveraged to improve enforcement outcomes?

Key benefits:

- Stronger enforcement: Regional cooperation enhances enforcement capabilities, as TTFTC can jointly address anti-competitive practices that cross borders. This is especially important given the interconnectedness of economies in the region, where businesses often operate in multiple jurisdictions.
- Capacity building: Regional networks provide valuable opportunities for capacity building and knowledge exchange. The TTFTC benefits from workshops, conferences and training sessions organised by regional bodies, improving the skills and expertise of our officials in competition law enforcement.
- Enhanced monitoring and reporting: Through regional cooperation, the TTFTC can receive updates on market trends and competitive risks that may affect local industries, enabling proactive rather than reactive regulation.

Key challenges:

- Resource constraints: As a small economy with limited resources, Trinidad and Tobago may struggle to keep up with the pace of investigations in large, complex cross-border cases. Coordination among multiple jurisdictions requires significant manpower and financial resources, which can strain local agencies.
- Legal and jurisdictional differences: While regional cooperation is beneficial, differences in legal frameworks, enforcement approaches and policies between countries can pose challenges. Harmonising competition laws across jurisdictions requires continuous dialogue and adjustment.

To improve enforcement outcomes, the TTFTC can leverage regional networks by:

- Advocating for policy harmonisation: Actively participating in regional dialogues to align competition policies and legal frameworks across the Caribbean.
- Building collaborative partnerships: Strengthening relationships with regional agencies and sharing resources to help ensure that enforcement actions are carried out effectively.

54. In what ways does regional cooperation help address the limited resources and expertise that may be available to competition authorities in other jurisdictions?

Regional cooperation significantly helps smaller jurisdictions like Trinidad and Tobago by:

- Pooling resources and expertise: Smaller agencies can share resources, such as expert personnel, research and data, to collectively tackle complex cases that would be otherwise impossible to manage alone. Through regional cooperation, the TTFTC can tap into the expertise and knowledge of other competition authorities, reducing the burden on local resources.
- Capacity building and training: Regional bodies often organise capacity-building programmes, workshops and technical assistance to strengthen the capabilities of smaller economies. This provides TTFTC staff with access to specialised training in emerging areas of competition law, such as digital markets or cross-border cartels.
- Joint investigations: When competition authorities face resource constraints, joint investigations across regional boundaries allow them to pool their efforts in tackling

significant cross-border issues, ensuring that no market actor can exploit the jurisdictional divide.

55. How do regional agreements and cooperation frameworks influence the development of competition policy in your jurisdiction, particularly in adapting to the unique needs of your economy?

Regional agreements and cooperation frameworks play a crucial role in adapting the TTFTC's competition policies to the unique needs of Trinidad and Tobago's economy:

- **Policy alignment:** Through regional bodies such as the CARICOM Competition Commission, the TTFTC is able to align its policies with regional standards and commitments. This ensures that Trinidad and Tobago is adhering to international norms in competition policy, particularly with respect to the handling of mergers, anti-competitive agreements and monopolies.
- **Adapting to local realities:** Regional frameworks provide opportunities for Trinidad and Tobago to adapt competition laws to account for local realities. For example, through regional cooperation, the TTFTC can address issues of market concentration in industries like energy and energy services, which are crucial to the local economy but have the potential to be dominated by only a few players. These frameworks allow for special regulations or interventions tailored to the specific challenges faced in small economies.
- **Sustainable development and regional integration:** By participating in regional cooperation, the TTFTC helps shape policies that promote regional economic integration and sustainable development. These policies ensure that local firms have access to regional markets and that competition within those markets is fair and dynamic, which benefits consumers and businesses alike.
- **Adapting to new market realities:** As new market dynamics emerge, particularly in digital and e-commerce sectors, the TTFTC benefits from regional cooperation in adapting competition policies that address these issues, ensuring that the country remains responsive to technological advancements and global trends.

Section 12: What is the impact or significance of being part of a regional competition network?

56. Does your competition enforcement agency participate in a regional competition authority body?

While the TTFTC is separate and apart from the CARICOM Competition Commission pursuant to section 48(1) of the Fair Trading Act, in instances where an inquiry or investigation by the TTFTC identifies anti-competitive conduct in another Member State that has the effect of lessening competition in Trinidad and Tobago, it is our duty to refer such matters to the CARICOM Competition Commission. Additionally, we actively participate in and support the CARICOM Competition Commission and our regional counterparts in conducting regional market studies, policy development and other collaborative efforts aimed at fostering a competitive and fair market environment within the CARICOM region. Our cooperation ensures that we address cross-border competition issues effectively and uphold the principles of fair trading throughout the region.

57. If you are participating in a regional competition authority, how has participation in a regional competition network influenced your agency's ability to address anti-competitive practices, particularly those with cross-border implications?

Participation in regional networks has greatly enhanced the TTFTC's ability to tackle cross-

border anti-competitive practices in the following ways:

- Shared intelligence and best practices: Regional cooperation has provided the TTFTC with a platform to share and receive intelligence about market practices that span across national borders. This helps the TTFTC identify anti-competitive behaviour, such as price-fixing and market-sharing agreements, that could be affecting multiple jurisdictions.
- Streamlined legal processes: Regional networks, such as the CARICOM Competition Commission, provide frameworks that facilitate easier collaboration across jurisdictions when tackling practices that violate competition laws. This cooperation ensures that businesses cannot exploit jurisdictional differences to evade enforcement actions, thus improving the TTFTC's ability to address competition issues comprehensively.

58. If you are participating in a regional competition authority, what specific benefits has your jurisdiction experienced from being part of this network, such as access to shared resources, expertise, or coordinated enforcement actions?

- Access to expertise: The TTFTC gains access to the collective expertise of regional agencies all of whom were established before the TTFTC. These collaborations allow TTFTC staff to attend regional workshops and training programmes on emerging issues such as digital markets, anti-competitive behaviour and cartel detection. This capacity-building has improved TTFTC's ability to handle complex cases.
- Access to information: Through regional bodies, the TTFTC has access to market intelligence, trends and enforcement actions from other jurisdictions, which help identify emerging anti-competitive practices and address them before they impact the local market.

59. Can you provide examples of how regional cooperation has led to more effective competition enforcement or policy development in your jurisdiction?

- In the area of mergers and acquisitions: Regional cooperation has also played a role in assessing mergers and acquisitions that could reduce competition in regional markets. The TTFTC has consulted with regional agencies to ensure that large cross-border mergers, particularly in the fast-moving consumer goods, food and beverage, health and pharmaceuticals, do not lead to monopolies that would harm local consumers.

60. What challenges do you face in aligning your national competition policies with regional frameworks, and how does the regional network help to mitigate these challenges?

While participation in regional networks provides many benefits, there are several challenges in aligning Trinidad and Tobago's national competition policies with regional frameworks:

- Legal and regulatory differences: The legal frameworks governing competition laws in Trinidad and Tobago might differ from those of other regional jurisdictions, which can create challenges when harmonising policies. For example, certain practices considered anti-competitive in some jurisdictions might not be explicitly prohibited under local law. However, regional bodies help mitigate this challenge by fostering ongoing dialogues that work towards aligning national policies with regional norms.
- Resource constraints: As a small economy, Trinidad and Tobago may face resource limitations, making it difficult to fully implement all regional policy recommendations without additional support. Regional competition agencies can provide technical assistance and resources to ensure that smaller jurisdictions can implement these policies effectively.

- Market-specific concerns: Some market concerns in Trinidad and Tobago are unique to the local economy, such as the small size of certain markets or the dominance of certain key industries (e.g., energy or telecommunication). These unique challenges require tailored solutions, which can sometimes conflict with broader regional frameworks. The regional network helps mitigate these challenges by allowing for flexibility and context-specific adaptations to regional policies.

Section 13: What resources does your agency have, and does this have a direct bearing on their capacity, capabilities and choices?

61. What are the key resources available to your agency, and how do these resources impact your ability to effectively enforce competition laws?

The TTFTC has several key resources that are instrumental in its ability to enforce competition laws effectively:

- Human resources: The TTFTC is staffed with experienced professionals, including economists, lawyers and investigators, who specialise in competition law and market regulation. This expertise is critical in evaluating complex cases and conducting thorough investigations into potential anti-competitive practices, such as monopolies, cartels and abuse of market power.
- Financial resources: While the TTFTC has an operational budget that supports its day-to-day activities, there is still a need for additional funding which will allow the TTFTC to commission detailed economic analyses, market studies and investigative support when necessary.

Data and analytical tools: The agency also has limited access to market data, economic models and investigative tools that assist in assessing market conditions and detecting anti-competitive behaviour.

62. How does the size and budget of your agency influence its capacity to conduct in-depth investigations, manage complex cases, and engage in proactive competition policy work?

The TTFTC's size and budget significantly impact its capacity in various ways:

- Capacity constraints: As a relatively small agency with limited financial and human resources, the TTFTC faces challenges in conducting large-scale, in-depth investigations especially during merger transactions and market studies.
- Proactive policy work: Due to resource limitations, the TTFTC may focus on a select number of priority issues rather than being able to proactively address all potential competition issues. This means the TTFTC is often reactive rather than proactive in dealing with emerging trends, which could affect its ability to engage in continuous market surveillance.

However, despite these limitations, the TTFTC strives to maximise its impact through efficient prioritisation, focusing on cases that have significant consequences for consumer welfare or market integrity, while maintaining its role in long-term policy advocacy and market regulation.

63. What strategies does your agency use to maximise its effectiveness despite potential resource constraints, and how do these strategies influence your enforcement priorities and decisions?

Given resource constraints, the TTFTC employs several strategies to maximise its effectiveness:

- **Prioritisation of key cases:** The TTFTC focuses its efforts on high-priority cases that have the most significant impact on competition and consumer welfare.
- **Regional and International Cooperation:** By collaborating with regional and international competition authorities, the TTFTC benefits from shared resources and expertise. This cooperation helps overcome resource constraints and allows for a broader reach when addressing cross-border anti-competitive behaviour.
- **Data-driven decision-making:** The TTFTC uses data analytics and market intelligence to direct resources more efficiently. By identifying sectors with potential competition issues early, the TTFTC can deploy its limited resources more strategically to investigate and mitigate anti-competitive practices before they escalate.
- **Public awareness and advocacy:** Another strategy is engaging in public education and advocacy. By raising awareness about the importance of competition and informing businesses and consumers about anti-competitive behaviours, the TTFTC can create a self-regulating market environment, which reduces the need for direct intervention in every case.

64. Can you describe any partnerships or collaborations with international or regional bodies that help supplement your agency’s resources and enhance its capabilities?

The TTFTC has several key partnerships that supplement its resources and enhance its enforcement capabilities:

- **CARICOM Competition Commission:** As part of its regional cooperation, the TTFTC collaborates with the CARICOM Competition Commission on policy development.
- **OECD:** The TTFTC benefits from its relationship with the OECD, where it receives guidance on best practices and policy development. OECD’s capacity-building programmes and technical assistance support the TTFTC’s efforts to improve enforcement practices and develop more robust competition policies.
- **The TTFTC in collaboration with the IDB,** developed a guide to the Fair Trading Act.

These partnerships are essential in supplementing the TTFTC’s limited resources, providing the agency with access to greater expertise, research and enforcement capabilities.

65. How do limitations in resources affect your agency’s ability to address emerging competition issues or respond to significant anti-competitive practices in your jurisdiction?

Resource limitations pose several challenges for the TTFTC:

- **Delayed response to emerging issues:** Limited resources can result in delays when responding to emerging competition issues. For example, in fast-evolving sectors like digital markets or e-commerce, it can be difficult for the TTFTC to stay ahead of the curve and address anti-competitive practices before they take hold.
- **Difficulty in handling complex cases:** Investigations into complex anti-competitive practices, such as those involving multinational corporations, require substantial resources in terms of data collection, expert testimony and legal expertise. Given its limited budget, the TTFTC must be selective in the cases it pursues, which can result in the agency missing out on addressing significant anti-competitive behaviour.
- **Limited market surveillance:** While the TTFTC does conduct market surveillance, resource constraints limit its ability to monitor all sectors continuously. This can result in missed opportunities to detect emerging anti-competitive practices in new or previously unexamined sectors.

In conclusion, the TTFTC's ability to respond to emerging competition issues and address significant anti-competitive practices is constrained by resource limitations. However, through strategic prioritisation, partnerships and a focus on high-impact cases, the agency works to mitigate these challenges and fulfil its mission of ensuring effective competition in Trinidad and Tobago.

About the International Chamber of Commerce

The International Chamber of Commerce (ICC) is the institutional representative of more than 45 million companies in over 170 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce.



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