FIGHTING ANTICOMPETITIVE BUSINESS PRACTICES IN THE MALAWI SUGAR INDUSTRY

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Abstract

Sugar is an essential food commodity for households in Malawi. Illovo Sugar (Malawi) Limited is the sole producer of sugar through two sugar factories located at Dwangwa and Nchalo. The company's monopoly power is reinforced by a Government ban on importation of sugar in Malawi.

The domestic sugar market consists of a network of sugar depots located in strategic geographical areas and operated by Illovo. The depots supply sugar to wholesalers and retailers at ex-factory price. One of the depots located in Karonga, some 600 Km from the capital Lilongwe, was being managed by Simama General Dealers which also transported sugar from Illovo's sugar factory in Dwangwa to Karonga.

The Competition and Fair Trading Commission launched investigations against Simama for alleged monopolization of sugar distribution. Investigations revealed that Simama, had excessive control over sugar stocks, and prevented other wholesalers and retailers from buying sugar directly from Illovo. The wholesalers and retailers were forced to buy sugar from Simama at a price higher than Illovo's depot price.

The Commission faulted the Warehousing and Stock Management Agreement which gave Simama total control of the sugar distribution chain in Karonga and surrounding districts and led to manipulation of sugar availability. Ultimately this drove up the price of sugar in Karonga and surrounding areas.

Illovo was ordered to reform its sugar distribution system. In the new system, the role of warehouse managers has been limited to warehousing. Transportation of sugar is under a separate arrangement. This has allowed entry of new players in the sugar distribution chain.

1.0. Introduction

This paper seeks to present a case study on interventions made by the Competition and Fair Trading Commission (CFTC) in fighting the anticompetitive practices arising in the Sugar industry in Malawi. Sugar is an essential food commodity for domestic household needs and forms an integral part of diet. Sugar also has an economic importance as it contributes to national income worldwide. As such there is need to ensure competitiveness in the supply chain.

CFTC conducted investigations and engaged in various advocacy programmes to promote effective competition on the market. Among other things, the Commission aggressively engaged the Ministry of Industry and Trade on the requirement to review the sugar distribution system in the country. This advocacy programme was instituted following complaints the Commission received from the business community on the anticompetitive nature of the Warehouse Management System used by the Illovo Sugar Company.

2.0. Problem Statement

In August, 2012 the Commission filed a complaint from a representative of the Karonga Business Association. Karonga is a district situated in the Northern region of Malawi, some 600 Kilometres from the capital Lilongwe. The complaint alleged that Illovo Sugar Company Limited (Illovo) had granted a sole dealership of sugar distribution to Simama General Dealers (SGD) which included sugar transportation from Dwangwa, handling at the warehouse in Karonga, wholesaling and retailing.

It was further alleged that the arrangement had granted Simama General Dealers control over the whole sugar distribution chain in Karonga and neighbouring districts, thereby creating a monopoly in the sugar distribution and affecting access and wholesale prices of sugar in the District.

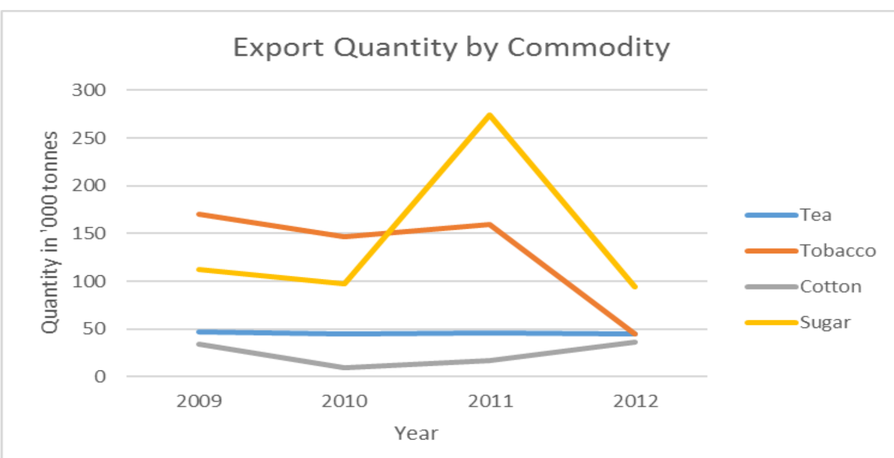
Furthermore, it was alleged that Simama General Dealers and its affiliated enterprises had been using their control of the distribution system to prevent other enterprises from buying sugar directly from Illovo by among other things delaying loading of sugar into trucks of competitors at the Illovo warehouse. This was allegedly done in order to force wholesalers to buy from their shops at a price which was higher than the ex-factory price but lower than the price charged by other wholesalers. This arrangement resulted in frequent sugar shortages but also increased costs associated with acquiring the product.

On 13th September 2012, a similar complaint was filed with the Ministry of Industry and Trade on the same factual issues related to the distribution system of sugar in the same district. After being referred to the Commission, the two complaints were handled together. Concerned that the allegations, if proved true, would adversely affect competition in the sugar distribution system in the relevant market, the Commission decided to launch full investigations.

3.0. Background to the Sugar Industry in Malawi

Malawi is predominantly agricultural and exports agricultural commodities to most neighboring and international countries. In Malawi, sugar has been largely identified as one of priority export commodities in the 2013-2018 Malawi National Export Strategy (NAS). Sugar is the second largest foreign exchange earner after tobacco and is a prioritized export for diversification and value addition in the NES. The majority of sugar produced in Malawi is sold on the domestic market and the remaining approximately 40 percent is exported as raw sugar for refining or direct consumption.

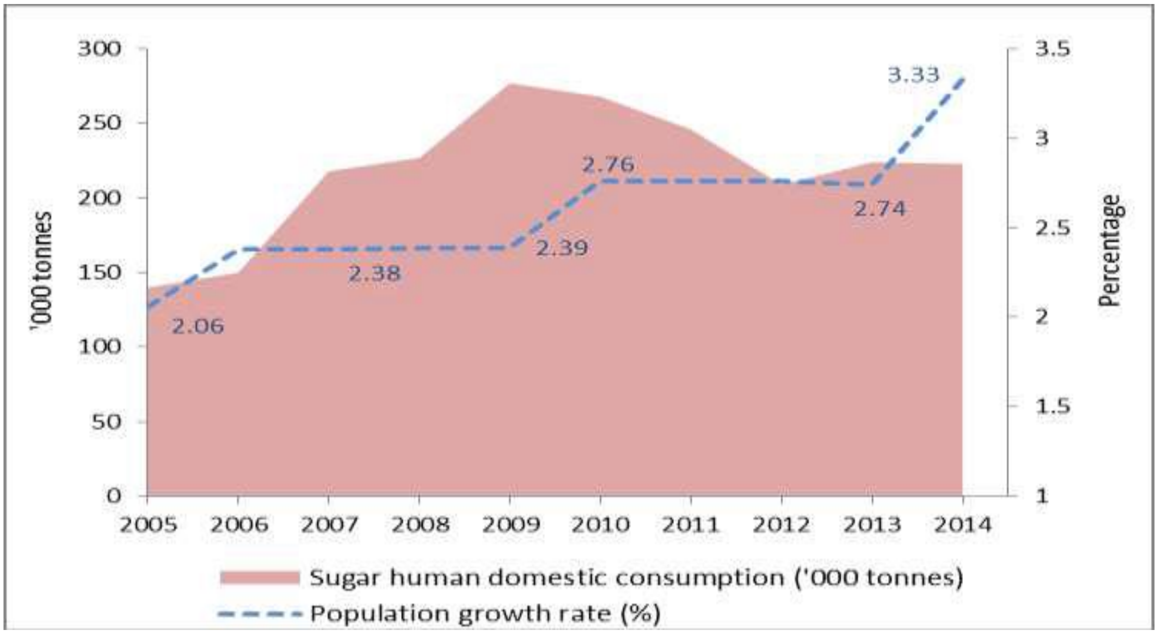
Figure 1. Quantity of exported Malawi tea, sugar, tobacco and cotton from 2009-2012



Source: National Statistical Office

Overall, the population in Malawi consumes sugar in high quantities and largely depends on sugar for most of the dietary needs. The figure depicts the human consumption of sugar against the growth rate of population.

Figure 2. Human domestic consumption of sugar in Malawi and population growth rate, 2005-2014



Source: Index Mundi and A. Cameron (2015)

As a way to protect the market, the Government of Malawi imposed restrictions on the importation of sugar. At the time, there was only one sugar producing company in the country, Illovo Sugar (Malawi) Limited. The restrictions therefore gave Illovo monopoly powers in the sugar industry in Malawi.

A public company listed under the Malawi Stock Exchange, Illovo is a multinational company involved in sugar production and distribution. Apart from Malawi, Illovo has operations in six other countries namely Mauritius, Mozambique, South Africa, Swaziland, Tanzania and Zambia.

In Malawi, Illovo produces sugar from Nchalo Sugar Estate in Chikwawa district which is located some 80 kilometres south of the commercial city Blantyre and Dwangwa Sugar Estate in

Nkhotakota district, located some 306 kilometers north of the capital Lilongwe on the Northern Lake Shore in the mid-central region[1].

According to Illovo, over half of the sugar produced is sold into the local direct consumption market through the company's chain of distribution centres situated throughout Malawi and also into the local industrial market, 30% into markets in the European Union (EU) and the United States of America (USA) with the remainder sold into regional African markets as Kenya and Zimbabwe. Both of the Illovo factory operations produce molasses, a by-product of the sugar manufacturing process, which is currently sold as a fermentation raw material to fuel alcohol distilleries namely Ethanol Company (ETHCO) and Press Cane Limited for the manufacture of ethanol.

Illovo has its headquarters in Limbe, in the Malawi commercial city of Blantyre from where it coordinates its sugar production, distribution and export. Illovo has a network of distributor depots that sell sugar at factory prices through-out the country. There are five distribution centres namely Limbe, Balaka, Lilongwe, Mzuzu and Karonga. The company pays for the transportation of sugar from the estates to all the depots and, in this regard, ensures a national or depot-delivered price of sugar across the country. The Karonga distribution centre is managed by Simama General Dealers.

Figure 3. Map of Malawi with the production and distribution centres

[1] 2015 Illovo Sugar (Malawi) Limited Annual Report

Source: Illovo, 2015.

Whilst the production and manufacturing of sugar is highly monopolized, competition is present in the growing of sugarcane as the main raw material for the sugar product and in the distribution of the final product all the way to the consumer and to the export market. However, as already alluded to, Illovo coordinates all these activities and is involved at most of these stages.

Presently, the sugar industry has prospects for growth in terms of new entrants. According to various media research reports, there are other two smaller sugar mills currently under construction in Salima (central region) and Nkhatabay (northern region). However, the companies are yet to start producing sugar and start competing with Illovo on sugar production.

4.0. The Competition Legal and Regulatory Framework

The restrictions imposed by Government on the importation of sugar at a time when there is a single producer of sugar in the country created a monopoly situation in the sugar industry. However, there are a number of players involved in the supply, distribution, wholesale and retailing of the sugar product across the country. Owing to the economic and health importance that the commodity has both to the national income and to households, promoting access to the commodity for all generates efficiencies in the national economy. Furthermore, policy support to sugar through the National Adaptation Strategy (NAS) aims to enhance the competitiveness of the sugar and cane sector by increasing factory capacity and sugarcane production through efficiency improvements in both field and factory operations.

Malawi’s competition policy of 1997 is committed towards efforts to lower barriers to market entry, reduce restrictive business practices and protect the consumer[2]. In line with this, the Competition and Fair Trading Act passed by the Malawi Parliament in 1998 plays the role of regulating, monitoring, controlling and preventing acts or behaviors which are likely to of the adversely affect competition and fair trading in Malawi.

The Act was enacted to encourage competition in the economy by prohibiting anti-competitive trade practices; to establish the Competition and Fair Trading Commission; to regulate and monitor monopolies and concentrations of economic power; to protect consumer welfare; to strengthen the efficiency of production and distribution of goods and services; to secure the best possible conditions for the freedom of trade; to facilitate the expansion of the base of entrepreneurship and to provide for matters incidental thereto or connected therewith[3].

According to the Competition and Fair Trading Act, Sub-section 32(1) states that:

> ***Any category of agreements, decisions, and concerted practices which are likely to result in prevention, restriction or distortion of competition to an appreciable extent in***

[2] Competition Policy for Malawi, 1997.
[3] Competition and Fair Trading Act, Cap 48:01 of Laws of Malawi.

Malawi or in any substantial part of it are declared anti-competitive trade practices and are hereby prohibited.

Sub-section 32(2) of the Act enumerate specific conducts that enterprises should refrain from engaging in. Specifically the sub-section states that:

Subject to sub-section:

(1)enterprises shall refrain from the following acts or behaviour if they limit access to markets or otherwise unduly restrain competition, or have or are likely to have adverse effect on trade or the economy in general

–a predatory behaviour towards competitors including the use of cost pricing to damage, hinder or eliminate competition;

imposing restrictions where or to whom or in what form or quantity goods supplied or other goods may be sold or exported.

(a) Section 41 which regulates abuse of market power. The sub-section 41(1) states that:

Any person that has dominant position of market power shall not use that power for purpose of –

- ***(a) Eliminating or damaging a competitor in that or any other market;***
- ***(b) Prevent the entry of a person into that or any other market; or***
- ***(c) Deterring or preventing any person from engaging in competitive conduct in that or any other market.***

(d) Section 43 which prohibits enterprises from engaging in unfair trade practices. Specifically, sub-section 43(1)(g) states that:

Any person shall not, in relation to a consumer - ……………… (g) engage in unconscionable conduct in carrying out trade in goods and services.

5.0. Objectives of the Intervention

Following the review of the complaints against the provisions of the Law, the Commission decided to launch investigations into the alleged conducts. The Commission sought to eliminate the alleged conducts in order to promote effective competition in the sugar industry.

Specifically, the investigations was undertaken to achieve the following objectives:

- Ensure adequate supply and accessibility of sugar;
- Promote competition to allow effective entry into the sugar distribution market;
- Increase efficiency and effectiveness in the relevant market.
- Increase awareness and uptake of competition principles by the Ministry of the Ministry and Trade and other public institutions plus all the stakeholders in the sugar industry.

6.0. Methodology

In order to achieve the objectives above, the Commission brought a case against the sugar manufacturing company, Illovo and the distributor in question, Simama. The Commission conducted investigations into the case through letters of correspondence, face to face interviews, and desk research. Illovo and Simama were asked to respond to the allegations levelled against them by the business community in Karonga

In order to achieve positive and tangible results, CFTC employed an advocacy strategy through face-to-face engagement by means of meetings which bought together Government officials, Illovo and other stakeholders. Through this initiative, the concerned parties plus other stakeholders were sensitized on the benefits of promoting competition in the relevant market. CFTC also initiated advocacy with the relevant stakeholders.

In the advocacy, the Commission mainly involved stakeholders in this industry who included sector regulators, the parties and other stakeholders. These included: the Ministry of Industry and Trade, as the sector regulator; Illovo Sugar Company, as the sole manufacturer of sugar in Malawi; the distribution companies across the country and many other stakeholders and consumers.

The Commission interviewed employees of both Simama General Dealers and Illovo Sugar Company stationed at the sugar distribution centre in Karonga. Karonga based sugar wholesalers were also interviewed. Further, the Commission visited the sugar Distribution Centre in Lilongwe to check the system that is in used with regard to movement of sugar from the warehouse and record keeping.

7.0. Findings and Analysis

7.1. Findings from Illovo and Simama General Dealers

7.1.1. Submissions by Illovo Sugar Company

In its response to the allegations, Illovo Sugar Company submitted that they opened Distribution Centres in Lilongwe, Balaka, Limbe, Mzuzu and Karonga. The company rented warehouses and hired companies (Warehouse Administrators) to manage the warehouses and transport sugar from the factory. It was further reported that selling is done through the Limbe Office in liaison with their employees stationed at Distribution Centres (Distribution Centre Supervisors). The sugar at the distribution centres is sold at ex-factory price in this arrangement, Warehouse Administrators were not allowed to sell sugar from the Illovo Distribution Centre but were allowed buy and sell sugar at any place of their choice just like any other buyer.

It was emphasised that Simama General Dealers is not allowed to sell sugar at the Warehouse or to make any profit from the relationship otherwise than by means of rental and handling fees and transport payment. Illovo submitted that the arrangement is not an exclusive dealership or a dealership of any kind. In so doing, Illovo refuted all allegations on blocking or restricting other buyers to buy from Illovo and that they were undercutting. All in all, Illovo concluded that they were not in violation of the Competition and Fair Trading Act since SGD is not their agent but a mere Warehouse Administrator.

7.1.2. Submissions by Simama General Dealers

SGD submitted that they do not distribute sugar on behalf of Illovo. The company buys sugar from Illovo at the same price as everyone else and sells to retails through its wholesale outlets. SGD also submitted that they use their vehicles to transport the sugar which they buy from Illovo. They observed that those making the allegation may be motivated by jealousy.

7.2. Analysis

7.2.1. General Findings

The information gathered showed that Illovo entered into an agreement with companies/business persons to provide warehousing for sugar and manage the warehouses. Under the arrangement, the Warehouse Administrators (as they are called) do not own the sugar kept in their warehouses neither are they supposed to sell the sugar on behalf of Illovo.

The sugar was being sold by Illovo through a system that involves buyers depositing money into an Illovo Bank Account and upon verification of the deposit, the Illovo Head Office would issue a Loading Authority (LAs) allowing the buyer to collect sugar from the Distribution Centre of their choice. The buyers could also buy directly from Illovo mills in Nchalo and Dwangwa but at the same ex-factory price.

In addition to managing the warehouse, Warehouse Administrators were also responsible for transporting the sugar from Illovo mills to the Warehouses. This was done to ensure that the sugar is not deviated as Warehouse Administrators were responsible for any loss of sugar along the way as well as in the Warehouse.

This arrangement was governed by a Contract (Warehouse Management and Stock Handling Agreement) between Illovo and the respective Warehouse Administrators. The Agreement set out terms and conditions of engagement between the two parties. Under the terms of the Agreement, Warehouse Administrators were not allowed to sell sugar from the Warehouses rented to Illovo. Rather, they were allowed to buy sugar from the Warehouse, transport it and sell from their own outlets off the premises.

7.2.2. Competition Analysis of the Warehouse Management and Stock Handling Agreement

(a) Agreements or decisions or concerted practices likely to prevent, restrict and distort competition (Section 32[1])

The information gathered by the Commission revealed a number of irregularities some of which had a bearing on the provisions of the Competition and Fair Trading Act.

The Commission established that there was an agreement between Illovo and Simama which governed sugar distribution in Karonga. The Administrators who signed the agreement with Illovo were Illovo sugar distributors before the new system was introduced. The Agreement did not bestow on Simama the status of an agent or dealer for Illovo. However, it gave Simama control of the sugar from the mill in Dwangwa Sugar Estate until the sugar is dispatched to a buyer at the warehouse. Illovo only deployed one employee stationed at the warehouse, the rest of the employees were for the warehouse administrator.

The Agreement also allowed Simama General Dealers to buy sugar from Illovo and sell from their own premises other than the Illovo rented warehouse. The fact that Warehouse Administrators had full and total control over the sugar movement out of the warehouse including receiving the Loading Authorities receipts loading on to trucks of buyers, their conduct had significant influence on decisions of sugar buyers in terms of whether they would buy from Illovo or elsewhere. Considering that these buyers were potential customers to anyone who could have offered lower prices than prevailing whole sale prices, there was a great possibility that the Warehouse Administrators would discourage others from buying directly from Illovo.

Furthermore, they had the capability to manipulate the system so that it looked unattractive to other wholesalers; in the process establishing themselves as intermediaries between Illovo and other wholesalers. Simama sold sugar in Karonga at a price which was slightly above the ex-factory price and lower than the price charged by other wholesalers. In addition, the company allowed those who bought from them to collect sugar from Illovo Warehouses immediately after depositing money in the Simama General Dealers’s account or that of its affiliated company under the name Pezani General Dealers as long as they brought the deposit slips. The company also claimed that they offered credit facility to some of their customers. This assertion was not corroborated in Karonga.

On the other hand, those that were buying from Illovo were not collecting the sugar instantly although the money was directly deposited into Illovo's account. They had to wait for confirmation and Loading Authority from Illovo Headquarters which, it had been established, took not less than a day. This was reported by wholesalers as a disincentive for them to be buying sugar from Illovo. This problem was not unique to Karonga. Wholesalers in Lilongwe complained of the same problem.

However, wholesalers in Karonga said that if they tried to buy directly from Illovo, they were openly told by staff at the Distribution Centre that they could not buy from Illovo direct, but rather they can only buy from Simama General Dealers.

Warehouse Administrators had a strong motivation to discourage other buyers to source sugar directly from Illovo. Since they were in-charge of stock control, they could sell the sugar to other wholesalers before they paid for it to Illovo. They could, therefore, use the money collected from the buyers to pay Illovo and pocket the difference between their selling price and the Illovo ex-factory price. They could make profit without investing any capital or incurring handling costs.

(b) Predatory Conduct (Section 32[2][a])

The Commission also established that Illovo was renting another warehouse Simama General Dealers in Lilongwe where it was keeping stocks that could not be kept at the Warehouse rented from Nationwide[4]. This was confirmed by the management of Illovo.

It was said that the arrangement (the renting of warehouse) was under the same '*terms and conditions as per existing warehouse contract agreement for Karonga Distribution Centre*'. This effectively meant that Illovo appointed Simama as another Warehouse Administrator for Lilongwe for the period 1st December to 31st March 2013. Illovo confirmed that Simama General Dealers had at times been instructed by Illovo Headquarters to sell/dispatch sugar from the warehouse rented from the company.

[4] Nationwide is the appointed warehouse Manager in Lilongwe District

However, Simama General Dealers used the same warehouse for selling his sugar and the information gathered by the Commission showed that Simama General Dealers had been selling sugar at a price lower than the ex-factory price. Simama General Dealers's explanation was that the sugar was bought in bulk using bank overdraft and sometimes the sugar was sold at a price lower than the ex-factory price to attract customers so that the company was able to service its overdraft. Illovo confirmed that it was possible for those that buy from Illovo to sell at a price lower than prevailing ex-factory price particularly when there is a price adjustment. Companies could sell sugar stock at a price lower than the new ex-factory price even despite having bought the stock at the initial price before the adjustment; or sometimes Illovo could allow buyers to buy sugar at the initial price soon after the price adjustment.

While this assertion appeared to make logical sense, it did not make economic sense. Economically, one could only sell sugar at a price lower than ex-factory price if he was willing to reduce the quantity of sugar to be bought after current stock finishes. This went beyond the objective of business growth. It was therefore, possible that the sugar that Simama General Dealers sold in Lilongwe was obtained under a special arrangement with Illovo. Such an arrangement would include diverting sugar meant for Karonga Distribution Centre to the Lilongwe Simama General Dealers Warehouse. Simama General Dealers's motivation in this arrangement would be that they would be paid cost of transport to Karonga for the consignments diverted to Lilongwe. Simama General Dealers was, therefore, in violation of sub-section 32(2)(a) of the Competition and Fair Trading Act.

(c) Exclusive Dealing Arrangement (Section 32[2][c])

The Commission examined the Provisions of the Agreement and found that sub-section 14.1.2 requires Simama General Dealers

'*not to use the Warehouse for the sale or purchase of sugar from a source other than Illovo and that so long as this agreement subsists Simama or its associated companies shall not whether indirectly or directly sell sugar belonging to other suppliers'*.

This clause meant that Simama General Dealers was barred from selling sugar from the Illovo rented Warehouse. But the Commission established that wholesalers who bought sugar from Simama collected the sugar from the Illovo Warehouse directly. In this case, Simama General

Dealers run his business parallel to Illovo. The clause also meant that Simama General Dealers could not sell sugar from any other source other than Illovo. It also meant that Simama could not only sell from the Illovo rented warehouse but also in Karonga and other parts of the country where Simama General Dealers has business outlets. The Commission established that for all intent and purposes, this was an exclusive dealership arrangement which was not permitted under section 32(2) (c) of the Competition and Fair Trading Act.

(d) Restrictions on where, or what form/quantity or to whom sales should be made (Section 32[2][e])

The Agreement that Illovo and Simama General Dealers signed did not assign Simama General Dealers as a sales agent for any specified area since the selling of sugar was done by Illovo. Therefore, the issue of geographical restriction did not apply. However, Illovo required that anyone who wanted to buy sugar through its Distribution centres should buy not less than one tonne. Although this was a quantitative restriction, it was a normal business practice for manufacturers to sell to wholesalers in bulk.

(e) Unfair trade practices (Section 43[1][g])

Illovo enjoyed a monopoly in sugar production and distribution. The company's monopoly was protected by government restrictions on sugar imports. Under the Import Licensing Act, sugar was a controlled commodity whose importation requires an import licensing. Government suspended issuance of import license for sugar. Therefore, Illovo had all the latitude to act as a monopoly.

Illovo used its monopolistic powers to allow Simama General Dealers to become a wholesaler to wholesalers. Since the wholesalers who bought sugar from Simama General Dealers had to make profits, they were forced to sell to retailers at a price which was higher than the price they would have sold had they bought the sugar directly from Illovo.

Simama General Dealers had, therefore, brought a price-build-up which affected consumers. If Illovo were facing effective competition, the company would have been worried about the price that a consumer would buy its product at. But since there was no competition Illovo let Simama reap middleman's margins by allowing it to operate as a wholesaler to wholesalers.

Therefore, both Illovo and Simama General Dealers engaged in unconscionable conduct to consumers.

(f) Abuse of market power (Section 41)

The Agreement that Simama General Dealers signed with Illovo gave the company control over sugar distribution in Karonga. The company used this control to block other wholesalers from buying sugar directly from Illovo. Simama General Dealers was, therefore, in violation of section 41of the Competition and Fair Trading Act.

7.3. The Decision of the Commission

Based on the findings of the investigations which established that the warehouse management system was anti-competitive, the Commission issued the following orders; to both Illovo and Simama General Dealers

- Warehouse Administrators or their associates should not be allowed to engage in sugar wholesaling or retailing by Illovo;
- Illovo should suspend its Warehouse Agreement and design a new Agreement which was consistent with the provisions of the Competition and Fair Trading Act. The new agreement was to be notified within 30 days to the Commission, to give Illovo an opportunity to provide justification to the Commission why the anti-competitive provisions in the agreement should be operational.
- That Illovo should clearly mark Distribution Centres with their branding within 30 days.
- That Illovo should ensure they have sufficient physical presence in the Distribution Centre.
- Illovo should provide information related to pricing to be published within 30 days, both on sight and in local press to ensure that wholesalers have adequate information to make informed decisions.
- Illovo should outline procedures on how wholesalers can access sugar. The information should be clearly communicated through various forms of informative ways and not be the sole responsibility of depot agents, within 30 days. Illovo should

publish the addresses, contacts and physical location of their warehouses, appropriate information should be given that these are Illovo warehouses and not the warehouse operators, within 30 days.

- That Illovo should address the delay in confirming cash deposits into its account and that Load Authorities should be expeditious issued to buyers.
- That Simama General Dealers should stop with immediate effect charging wholesalers a loading fee from the warehouse, since Simama General Dealers is already paid for the same by Illovo.
- That Simama General DealersSimama General Dealers should be issued with a Cease and Desist order to stop predatory conduct and abusing its market power.

7.4. Advocacy initiatives by the Commission

In order to ensure that the decisions and recommendations of the Commission were implemented to eliminate anticompetitive practices in the sugar distribution industry, the Commission had to cooperate with other stakeholders involved in the sugar industry, particularly in the distribution of sugar across the country. Through this initiative, the concerned parties plus other stakeholders were sensitized on the benefits of promoting competition in the sugar market.

In line with recommendations of the Commission, Illovo restructured its sugar distribution system to isolate warehouse management from the actual transportation. In the current arrangement whose implementation commenced on 1st July 2014, the distributors undertake primary distribution only while warehouses area managed by Illovo. All the distributors (secondary distributors) purchase from the distribution centre and distribute to wholesalers and retailers.

Table 1. Comparisons between the old and new sugar distribution systems

Description	Old System	New System
Warehousing administration at the	Outsourced and run by 3rd parties who were sugar traders	In-house management of distribution centre

distribution centre	Dependent on traders who were administering distribution centres	
Transportation	Determined and controlled by transporters	Allocation and schedules determined and controlled by Illovo
Sugar prices	Standard price of sugar. Ex-Mill price enforced to maintain a uniform price through transport subsidy	Removal of transport subsidy and cost pricing adopted Two price points introduced: Ex-Mill price and distribution Centre price
Eligibility, access and terms	Access to sugar purchases was open to all without any restrictions	Access to sugar purchases is open to all without any restrictions or license Trade promotions available to all.

Source: Illovo Sugar Company

8.0. Results and Effects

Through this enquiry, there are many other institutions that were made aware of the benefits of competition principles. Other than the concerned parties, the Government Ministries, parastatals, the private sector, the civil society and many other stakeholders were appreciated the need to incorporate competition principles in their strategic orientation.

8.1. Effective Distribution

The first benefit observed is the effective distribution of sugar to all territories in the country. As a result of the Commission’s advocacy programme, the warehouses (distribution centres) were no longer run by the distributors, but rather by Illovo itself. As such there is no restriction on the accessibility to sugar. This has ensured free flow and availability of the product across the country.

8.2. Market Entry

The other benefit of this change was the entry of several distribution companies and wholesalers in the secondary distribution of the product. With these new entrants, there was vigorous competition among secondary distributors. This has resulted in maximising efficiency in the distribution of sugar with the distributors devising innovative ways to minimize their distribution costs. This has increased accessibility of sugar in the relevant market and reduced the price build up of sugar.

8.3. Effective Monitoring

Implementation of the revised distribution system commenced in July 2014 hence the commission is actively monitoring the market to have a comprehensive understanding of this change. However, market research to track recent trends indicates have indicated that on the overall, there is a slight increase in the accessibility to the product in all areas of the country. Incidences of sugar shortages have not been reported so far and it is the Commissions belief that the resolution has been very effective in solving the problem.

In conclusion, the advocated market competition has substantial benefits to the market because it has improved efficiency and effectiveness of the market. This is vital for: the development of the product market; ensuring sufficient consumer welfare; but also fostering economic development of the country.

9.0. Conclusions and Recommendations

Despite market liberalization that was endorsed as part of the structural adjustment programmes (SAPs), the sugar market, just like many other product markets in the country, are not run on perfect competition principles. There were a number of issues for the Commission to take up in order to ensure competition in all markets as below

- There is need for regular market assessment and monitoring exercises to check such occurrences which have adverse effects on consumer welfare as well as the economy as a whole. There is as such need for the Commission to undertake Competition Analysis studies in most sectors of the economy.

- The individual private companies usually contravene competition principles to due to lack of awareness. This is aggravated by the fact that most public institutions which regulate these markets are themselves are not compliant with competition requirements. These public institutions either are not aware of the competition principles or have their institutional interests which are deemed prime to competition regulations.

- Additionally, the general public also lacks awareness of the competition principles. There is therefore need for intensive awareness campaigns to enlighten the general public about competition issues and the associated benefits.

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