

DEVELOPMENTS IN DIGITAL MARKETS AND THE RELEVANCE FOR AFRICAN MARKETS

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ABSTRACT

The digital economy is a rapidly evolving space, driven by developments in technology, changing consumer behavior and new business models. The use of data, platform-based business models and digital payments have played a significant role in Africa and globally. Using case studies and data analytics, this paper seeks to provide deeper insights into the digital ecosystem and its relevance to the African markets. First, we discuss the growing use of data as a strategic asset for businesses to gain insights into consumer behavior and preferences as they pursue economic efficiency. Second, we interrogate the significance of platform-based business models in the African markets their effects on traditional business models, and how this can benefit entrepreneurs and SMEs. Further, we examine the significance of digital payments in conjunction with the evolution of e-commerce as an enabler to market penetration and ultimately, enhancing inclusivity in the African markets, which have traditionally been underserved by traditional banking and financial systems. Finally, we address the challenges hindering the development of digital markets in Africa and propose workable solutions. In conclusion, the paper highlights the developments of digital markets and their significance in the African markets, and how African countries can drive economic growth and development by leveraging the opportunities presented by data, platform-based business models, digital payments, and e-commerce.

Introduction

Global Background and Evolution of Digital Markets

The rise of digital markets is reinforced by the convergence of the internet, technological advancements, and changing consumer behaviors. As the global economy transforms from traditional brick-and-mortar to digital platform markets, businesses are also adopting new ways of doing business.

The emergence of digital technology dates back to the early 1990s with the development of the Web 1.0 platform (Lischer-Katz, 2022). The widespread popularity and accessibility of the Internet encouraged businesses and consumers to use it as a market platform, hence laying a foundation for digital markets as we know them today.

Several factors facilitated the growth of digital markets. One of them includes the adoption of internet-connected devices, such as personal computers, smartphones, and tablets. Second, the improved internet infrastructure has promoted faster and more reliable internet connections. Third, the advent of secure online payment systems has also enhanced confidence and convenience for consumers when conducting financial transactions online. Lastly, the advent of digital payment solutions like PayPal, along with advancements in encryption and security technologies have also played a crucial role in building trust in online transactions.

Today, digital markets have evolved into a complex and multifaceted field with many different platforms, tools, and techniques as technology advances every day with the rise of artificial intelligence, algorithms, blockchain, and the Internet of Things (IoT). These technologies are driving innovations in areas such as personalized marketing, supply chain management, and customer experience enhancement, with big data insights at the heart of it all.

Digital Markets Explained

Digital markets/digital platform markets refer to markets where products, services, and information are exchanged through digital technologies and platforms (Magali Eben, 2022).

Digital platform markets can be broadly categorized into transactional and non-transactional digital markets based on the nature of interactions and their primary purpose. Transactional digital markets are online platforms where actual transactions take place and they facilitate the buying and selling of goods, services, or financial products directly between buyers and sellers. They typically earn revenue through transaction fees, commissions, or subscription charges from the users engaged in buying and selling on the platform. Examples of transactional digital markets include E-commerce Platforms, Online Travel Booking Platforms, Online Food Delivery Platforms, Taxi hauling platforms, and Financial Technology (FinTech) among others



Image Source: <https://kyanite360.com/digital-platforms>

On the other hand, non-transactional digital markets, are online platforms that do not primarily focus on facilitating direct buying and selling activities but instead, serve other purposes, such as content sharing, social networking, information dissemination, or knowledge exchange. While they may have aspects of user interaction, they don't center around commercial transactions. They generate revenue through advertising, subscription models, or partnerships, rather than directly from user transactions. Examples of non-transactional digital markets include Social Media Platforms, Content Sharing platforms, and Knowledge Sharing Platforms among others.

Notably, some digital platforms may have aspects of both transactional and non-transactional characteristics. For example, Facebook has a marketplace feature that allows users to buy products directly from ads or posts. However, the distinction between transactional and non-transactional digital markets lies in their primary focus and purpose.

Methodology

This paper gives perspective on the developments in digital markets and examine the potential of African markets and the status of various digital markets' enablers and limitations. We sample and highlight the potential of African markets in comparison with other regions and how competition agencies in Africa have been handling digital market cases vis-à-vis other mature competition agencies such as the European Commission. The paper relies on literature review, qualitative and quantitative data analysis, comparative analysis, and the use of case studies. We then propose workable solutions for competition agencies in Africa

Big Data Analytics as a Strategic Tool

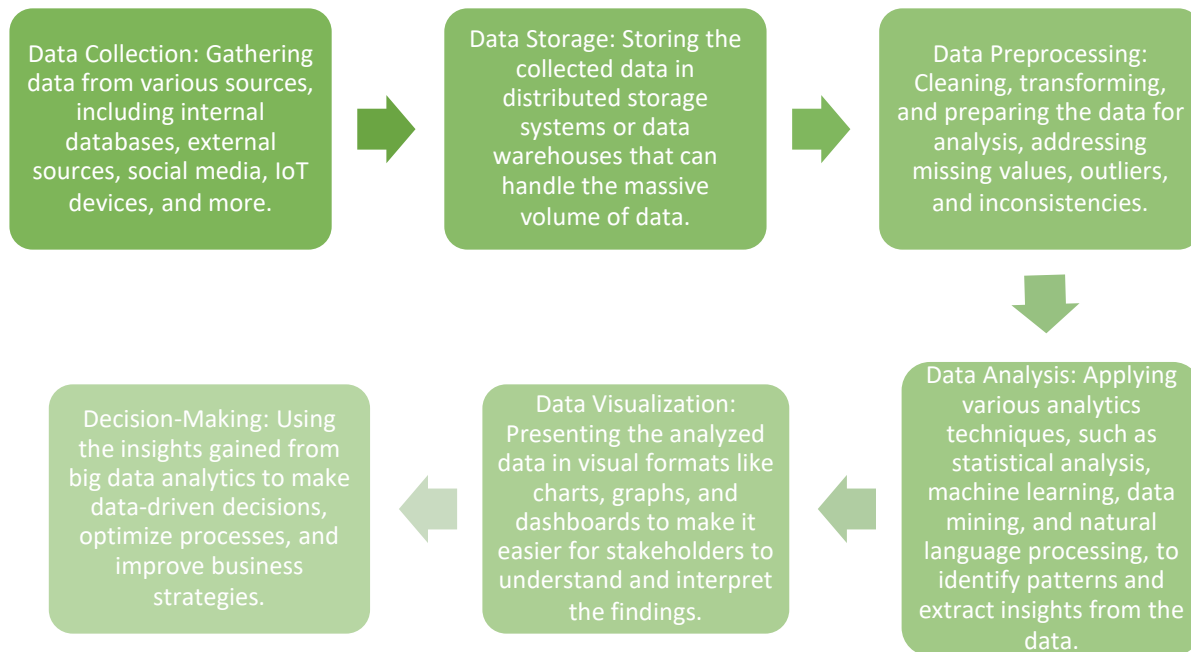
Digital markets and big data analytics are inseparable as businesses integrate the use of data analytics as a market strategic tool. Leveraging data has become a norm for most organizations with 59% of enterprises using data analytics in one way or another (Côte-Real, 2020). Big data analytics is basically a process of examining large and complex data sets to uncover hidden patterns, correlations, trends, and insights that can help organizations make informed decisions and gain a competitive advantage. It involves using advanced techniques and tools to process, store, and analyze vast amounts of data from various sources, including structured data (e.g., databases), semi-structured data (e.g., XML), and unstructured data (e.g., social media posts, emails, videos).

Big data analytics is characterized by five aspects (G. Kapil, 2016) as highlighted below:

- **Volume:** It involves handling volumes of data that go beyond the capabilities of databases and data management systems. These datasets can be as large as terabytes to petabytes and even more;
- **Velocity:** The speed at which data is generated collected and processed plays a role, in data analytics. Time or near real-time processing is often necessary to obtain insights;
- **Variety:** Big data encompasses types of data including structured and unstructured data. This includes information from sources like media, sensor readings, videos, images, and log files;
- **Veracity:** The veracity of data can vary significantly in terms of accuracy, quality, and reliability. Dealing with uncertainties in the data and ensuring its quality are core challenges in data analytics; and
- **Value:** The ultimate objective of big data analytics is to extract valuable insights and actionable information from the available datasets to drive business decisions effectively while optimizing processes, for overall performance improvement.

Big data analytics typically involves the following stages:

Figure 1: Stages of Big Data Analytics



Big data analytics enables organizations to gain a deeper understanding of their customers, improve operational efficiency, detect anomalies, predict future trends, and enhance overall business performance. As technology and data capabilities continue to advance, big data analytics is likely to play an increasingly critical role in shaping businesses and driving innovation.

Overview of African markets and their potential

Africa continent is considered to have great potential for emerging markets. This is due to the diverse economies, natural resources, growing population, and increasing consumer demand. However, the potential of African markets is bound to vary significantly across the 54 countries and regions due to differences in economic conditions, political dynamics, infrastructure development, and regulatory environments.

Africa is known for its richness in natural resources, including oil, gas, minerals, and agricultural products. Even as these resources present opportunities for investment and trade, they also expose the region to commodity price fluctuations and dependency on resource revenues. Looking at the African economic growth over the years, Africa has experienced positive economic growth in recent years. This is evident by the 4.1% GDP growth and 1.7% income per capita in 2022 (DESA, 2023). Narrowing down to Internet Gross Domestic Product (iGDP) in 2012 (Kende, 2017) Africa's Internet Economy was estimated to be tentatively 1.1% of the GDP this had increased exponentially to 4.5% iGDP as a percentage of GDP in 2020 (e-Conomy Africa, 2020).

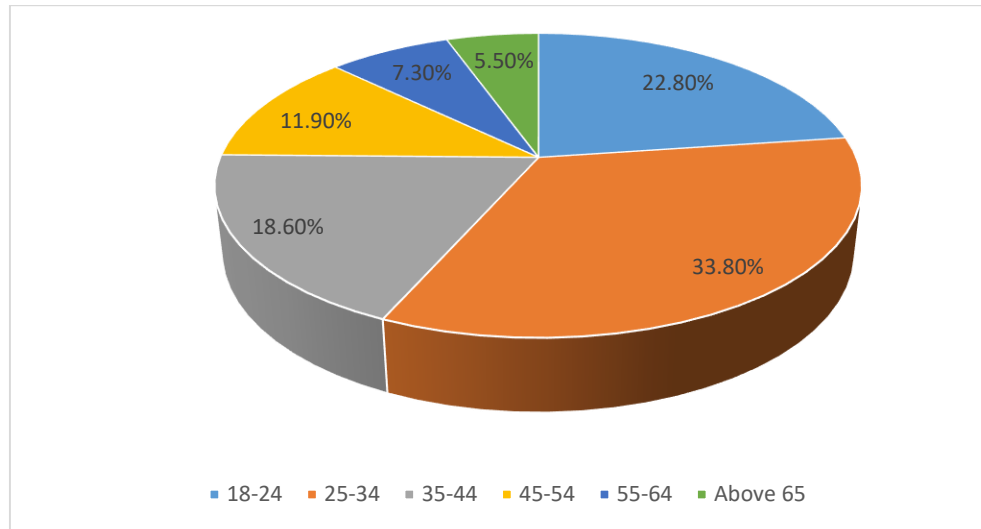
Even as the GDP shrunk by \$26 Billion between 2019 and 2020, the iGDP increased by \$15 Billion implying a potential for internet growth in Africa (e-Conomy Africa, 2020). The International Telecommunication Union (ITU) has predicted that a 10% increase in mobile internet penetration will lead to a 1.8% to 2.0% increase in GDP (ITU, 2019). Some of the factors that have contributed to the growth in GDP include urbanization, a growing middle class, and increasing domestic consumption.

Urbanization brings along some positive economic impacts such as sustainable growth through an increase in productivity and innovation if well managed since more than 80% of the global GDP is generated in cities (World Bank Group, 2023). Additionally, according to GSMA (Delaporte, 2023), 54% of the population in rural areas are less likely to use mobile internet compared to the urban population. In 2022, the World Bank estimates show that 42% of Sub-Saharan Africa's population lives in urban centers, and the middle-class growth rate has been more than 5% from 2009 to 2020 (World Bank, 2022). The rising middle class in many African countries is driving increased demand for consumer goods, technology, and services.

Africa is also characterized by a young and rapidly growing population. While this presents challenges in terms of providing education, healthcare, and employment opportunities, it also represents a significant consumer market with increasing demand for goods and services. According to the United Nations Population Division, Demographic indicators by region 1950-2021, the African population is upward trending with a stable growth rate of above 2% compared to the other regions (UN, 2022)

Additionally, as at 1st July 2021, the medium age in Africa is the lowest compared to other continents (Africa 18.6, Asia 31.2, South America 31.3, Australia 36.9, Northern America 37.9 and Europe 41.7). According to Statista as of 2021, 56% of internet users globally are below 34 years which is higher than the age groups above 34 years. This therefore points to a greater potential for growth in digital markets in Africa compared to other regions (See Fig. 2 below).

Figure 2: Internet Users Per Age Group



The demographic dividend and increasing urbanization are expected to drive demand for goods and services in the digital economy. Structurally, according to the Economic Commission for Africa (ECA) 80% of African business entities are SMEs, with 70% of them in the informal sector (Kitenge, 2021). Further, The International Finance Corporation estimates that 40% of formal micro, small, and medium enterprises (MSMEs) in developing countries, have an unmet financing need of \$5.2 trillion every year, which is equivalent to 1.4 times the current level of the global MSME lending.

According to Geopoll’s Africa MSME Pulse Survey Report 2023, over half of MSMEs (53%) indicated to be conducting online advertisement activities. Forty-five percent sell products or services online and 24% use online channels to stock up (Geopoll, 2023). Infrastructure development is a critical area of potential growth for African markets. Investments in transportation, energy, telecommunications, and other key infrastructure sectors can facilitate economic development and attract foreign investment. Specifically, on logistics infrastructure the performance of the African continent is averagely performing with an average of 2.45 from 2007 to 2022. However, some of the challenges that hinder economic development and investment in Africa include political and economic instability, varying regulatory environments and bureaucratic hurdles, and poverty and inequality.

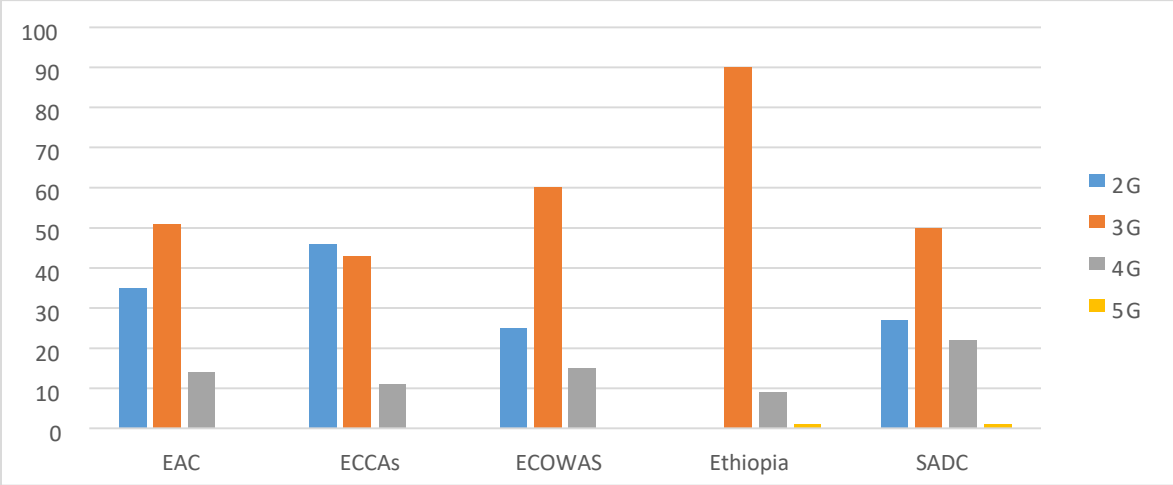
Lastly, initiatives like the African Continental Free Trade Area (AfCFTA) which seeks to promote regional economic integration and increase intra-African trade are instrumental for Africa’s economic growth potential. Additionally, there are other economic blocs integrating the sub-regions such as The West African Economic and Monetary Union (WAEMU), Economic and Monetary Community of Central African States (CEMAC), Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Southern African Development

Community (SADC), Southern African Customs Union (SACU) and Economic Community of West African States (ECOWAS). Overall, driven by economic expansion, a young population, and increasing consumer demand, African markets offer considerable potential for growth and investment in the digital era. However, realizing this potential requires addressing challenges related to infrastructure, governance, access to finance, and socioeconomic disparities.

Adoption and utilization of mobile technology and internet penetration in Africa

Mobile and internet penetration are some of the enablers of the digital ecosystem. Africa has seen significant advancements in technology and innovation, particularly in the mobile and FinTech sectors. This has presented opportunities for tech startups and businesses to address local challenges and promote economies of scale. According to GSMA, by the end of 2021, there were approximately 515 million mobile service subscribers (GSMA, 2022). This represents 46% of the Sub-Saharan African population and an increase of approximately 20 million subscribers between 2020 and 2021. Since the majority of the population in the African region is under 18, GSMA predicts that subscriber growth will steadily increase as young consumers who are more tech-savvy, utilize mobile services as they cross the bridge to adulthood. Using the various economic blocs, the mobile subscriber and connectivity overview of sub-Saharan Africa as of 2021, as provided by GSMA is presented in the figure below.

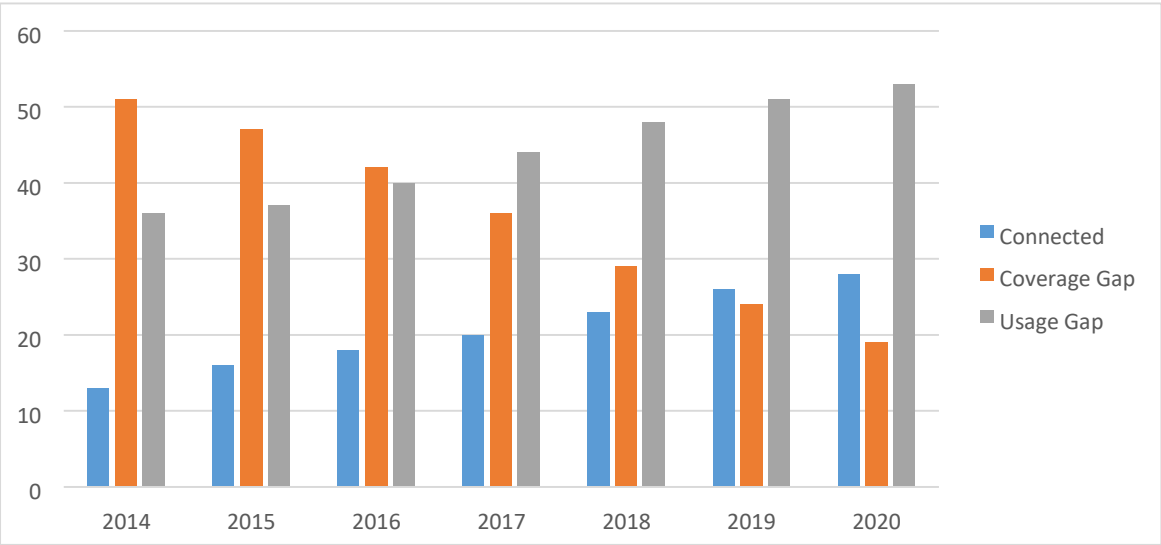
Figure 3: Technology Mix Overview as at 2021



Observably, 5G technology in Sub-Saharan Africa is less adopted with 3G and 2G maintaining high popularity. However, in late 2021 and early 2022 5G adoption activities were recorded in countries such as Botswana, Cote d’Ivoire, Ethiopia, Kenya, South Africa, Tanzania, Zimbabwe, and Nigeria.

Internet usage in African has been on an upward growing over the last years. This is due to significant boost in internet infrastructure and accessibility which has resulted to internet penetration and usage. However, the trends differ across various African territories due to the different levels of development and socio-economic factors. Even so, at least, 28% of the sub-Saharan Africa population is online (GSMA, 2022), as Figure 4 below on internet usage depicts.

Figure 4: Internet Usage Trend in Sub-Saharan Africa, 2014 - 2020



Note: Usage Gap refers to a population that lives within the footprint of a mobile broadband network but are not using Internet. Coverage Gap refers to the population that does not live within the footprint of a mobile broadband network (3G and above)

As the population that recedes within the footprint of mobile broadband network increases, the connected population increases along with it, while the coverage gap declines over the years. The African region is taking the lead in terms of mobile internet usage with 13% above the global average as of 2021 (GSMA, 2022).

Digital Markets in Africa and Supporting Infrastructure

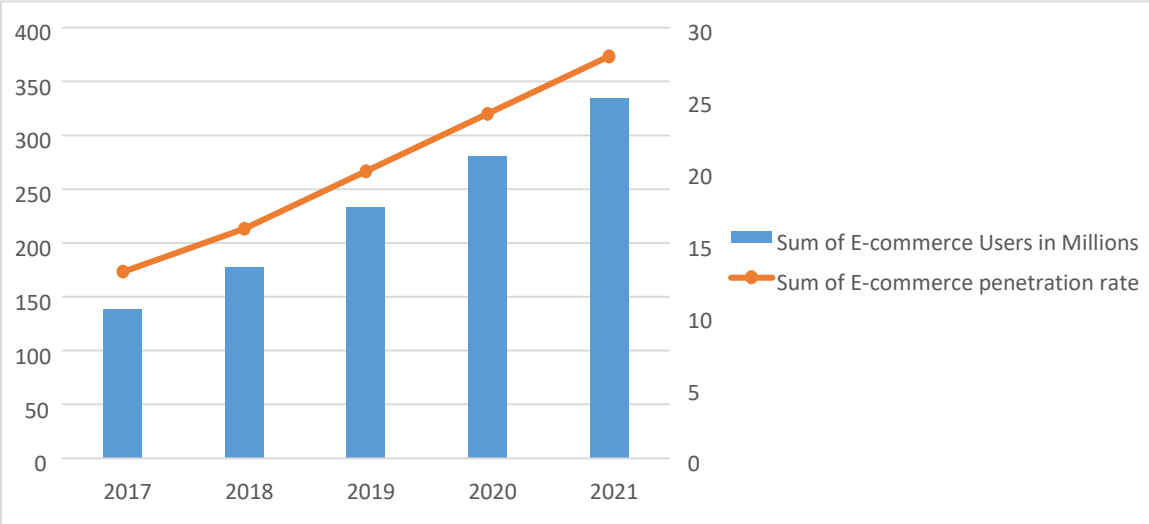
E-commerce Adoption in African markets

E-commerce penetration in Africa has been trending upward, and based on data available from SEMRUSH, approximately 92,000 unique platform users were active per month as of 2019 in Africa. This represents an 18% increase in platform usage since 2018. The increase in platform usage is positively correlated with the consumption in Sub-Saharan Africa estimated to increase from 7% in 2010 to 28% as of 2019, according to data ITU (ITU, 2019).

As of 2019, the scale-of-use data suggest that the average number of users per platform is triple on platforms from abroad than on homegrown platforms despite 82% of digital platforms in

Africa being homegrown. According to the ITC 2020 report on mapping e-marketplaces in Africa, Africa has 631 business-to-consumer online marketplaces for tangible goods which recorded 2.2 Billion visits in 2019 with South Africa, Egypt, Nigeria, Algeria, and Kenya together accounting for 78% of the total marketplace traffic. The figure below shows the African trend of e-commerce users and penetration rate from 2017 to 2021.

Figure 5: African’s e-commerce users and penetration rate, 2017-2021



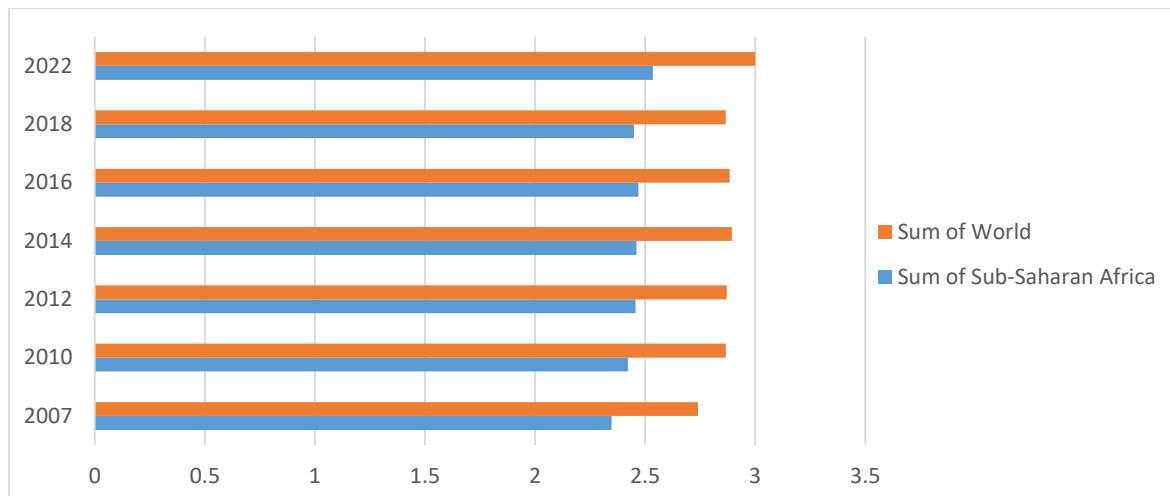
Source: International Trade Administration, 2021

It can be clearly noted that E-commerce penetration rate has been on an upward trajectory indicating growth in digital markets.

Logistics Performance Trends

Logistics infrastructure plays a crucial role in shaping the dynamics of the digital platform economy. This is because it enables digital platforms that deal with physical goods to expand their reach to various geographic locations. This is particularly important for e-commerce and delivery-based platforms. It also allows digital platforms to optimize their supply chain through real-time tracking, inventory management, and demand forecasting become more accurate, reducing operational inefficiencies and costs. Advance logistics infrastructure supports same-day and on-demand delivery services which is essential for platforms offering services like ride-sharing, food delivery, and quick-turnaround e-commerce. According to World Bank, Sub-Saharan Africa had a logistic performance index of 2.5 in 2022 vis-à-vis the global performance of 3 (See Figure 6 on trend of logistic performance index since 2007).

Figure 6: Logistics performance index: Overall (1=low to 5=high), 2007 - 2022



Source: World Bank, 2022

The Pearson correlation coefficient of the Sub-Saharan Africa vis-à-vis the world logistic performance index is 0.9774, which indicates a strong positive relationship. This implies that global performance index increases as the Sub-Saharan regional index increases.

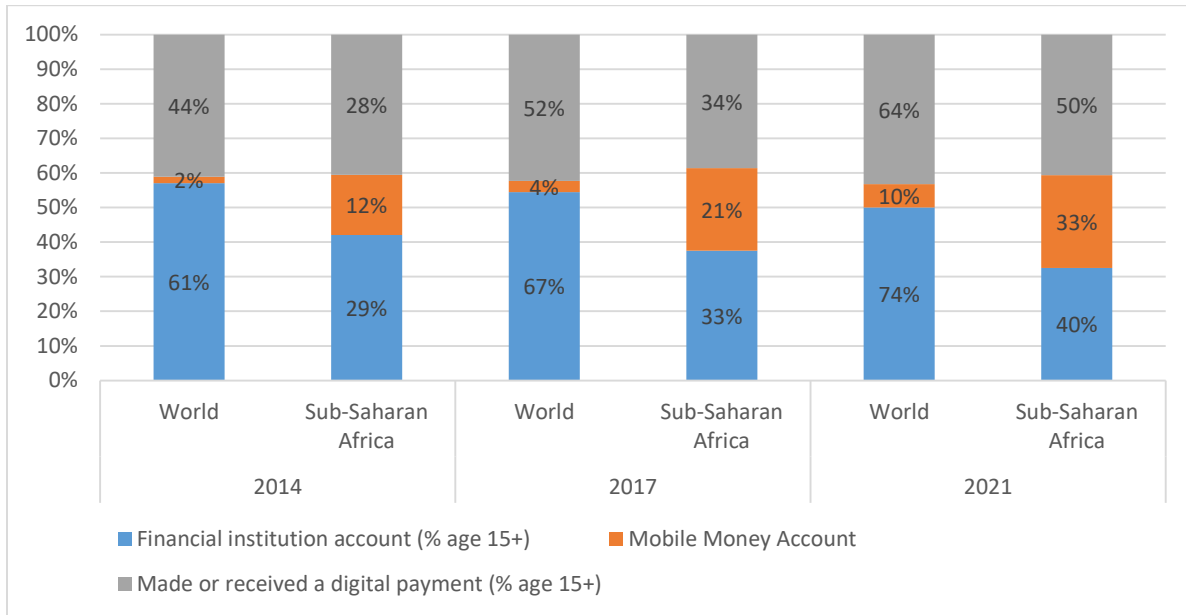
Financial inclusion and Digital payment solutions for the unbanked

The significance of digital payments in conjunction with the evolution of e-commerce in African markets cannot be overstated. Digital payments have played a transformative role in enabling market penetration and enhancing inclusivity in various ways. As many African countries face challenges related to traditional banking infrastructure, including limited access to physical bank branches, digital payment solutions have provided an alternative to cash-based transactions and traditional banking, allowing individuals to participate in e-commerce without the need for a physical presence. A significant portion of Africa's population remains unbanked or underbanked. Digital payments, often facilitated through mobile money platforms, have been instrumental in bringing financial services to previously excluded individuals. This has empowered them to engage in online transactions, contributing to their economic inclusion.

According to World Bank, Account ownership², is an important measure of financial inclusion, which includes mobile money account ownership seems to increase steadily from 23% in 2011 to 55% in 2021 which is an exponential growth of 32% compared to a 17% increase in financial institution account ownership as shown in the figure below (World Bank, 2021).

² The accounts can be with banking or regulated institutions such as credit unions, microfinance institutions, or mobile money service providers, as long as the account holder is able to store, send, and receive money

Figure 7: Financial Inclusion in Sub-Saharan Africa Vs Global



Notably, the percentage of the adult population in Sub-Saharan Africa that has conducted digital transactions has been on the rise at 22% which is slightly higher than a global increase of 20% in digital transactions. This can be attributed to the strong suit of Mobile Money Accounts worn by the Africa region which is the home of mobile money since the invention of M-Pesa by Safaricom in Kenya in 2007 (CBK, KNBS, FSD Kenya, 2021). This development has had a ripple effect on the digitalization of the banking system as traditional banks strive to keep up with the pace created by digital markets and Mobile payment solutions.

In conclusion, the convergence of digital payments and the evolution of e-commerce in African markets has paved the way for greater market penetration, increased economic inclusivity, and improved access to financial services. By leveraging technology and embracing these trends, African economies have the opportunity to bridge gaps, empower individuals and businesses, and contribute to sustainable growth and development.

Challenges and Opportunities

Infrastructure limitations

The limitations of digital market infrastructure in Africa pose challenges to the development and growth of the digital economy on the continent. Several factors contribute to these limitations among them being connectivity. As discussed above, access to reliable and affordable internet connectivity is still limited in many parts of Africa. As a result, a significant portion of the population remains digitally excluded, hindering their participation in the digital marketplace (Cantú, 2021). Inadequate and inconsistent power supply is also another major hindrance to the

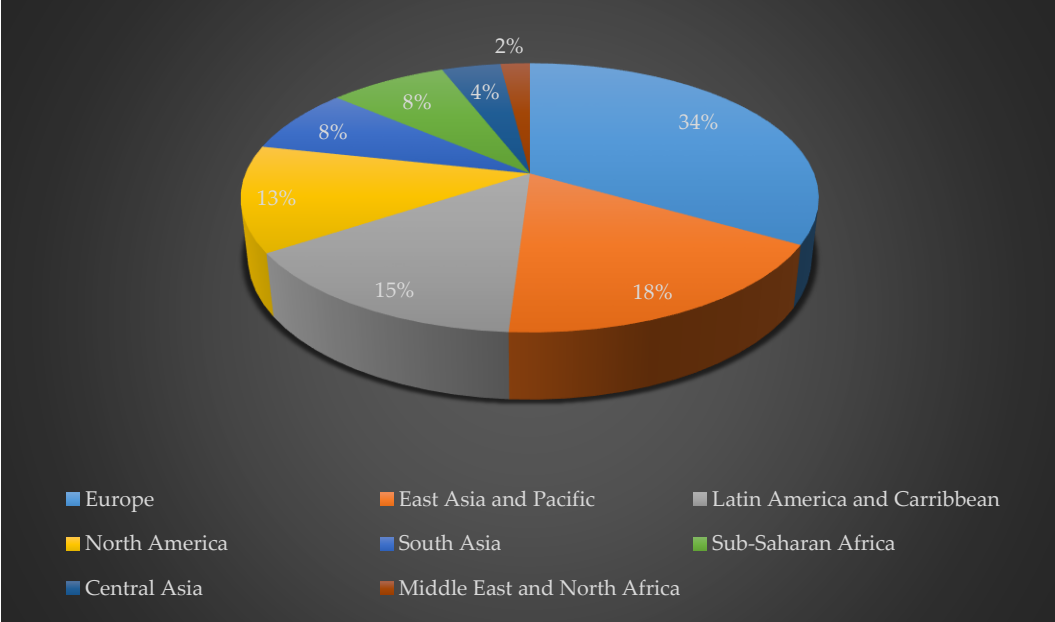
development of digital infrastructure in Africa. Many areas lack access to reliable electricity, making it difficult to operate and maintain data centers and other digital infrastructure required for a thriving digital marketplace. Poor Infrastructure has also contributed to logistics and last-mile delivery challenges in Africa, hindering the efficient movement of goods and services.

Addressing these limitations requires coordinated efforts from various stakeholders, including governments, private sector entities, development organizations, and international partners.

Competition Law and Policy Considerations

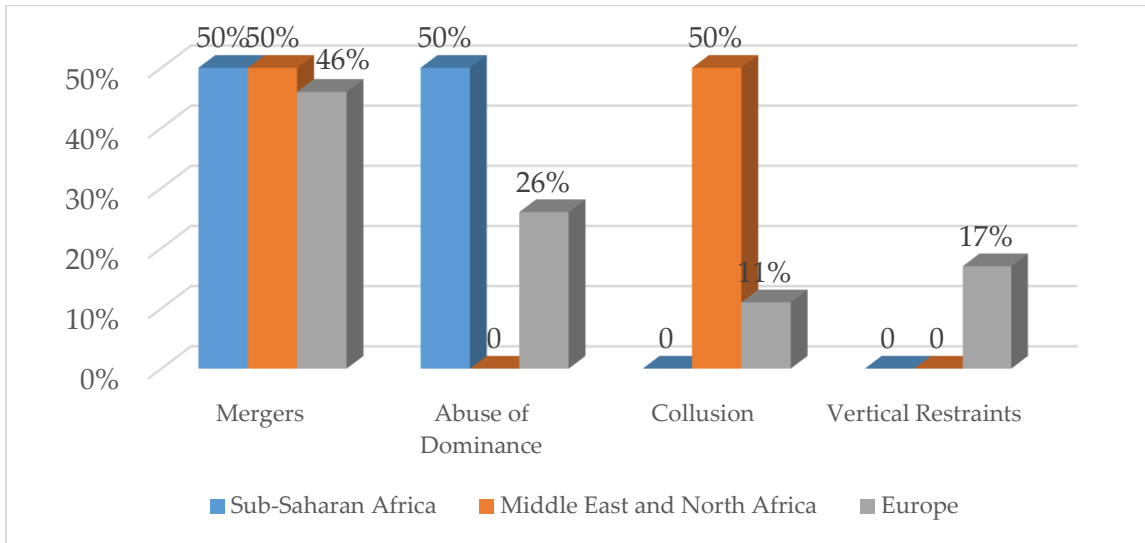
The rise of digital markets has prompted competition regulators from around the globe to adopt regulatory and other initiatives to deal with competition and consumer protection issues in digital markets including amendments to competition laws, establishment of new laws specific to digital markets and also approaches like development of guidelines and market studies. European Commission has been at the forefront of ensuring competitive digital markets compared to other regions. 34% of digital cases globally were reviewed and finalized by the European Commission, followed by East Asia and Pacific with 18% while Africa is the last with 2% (World Bank., 2021). See the figure below.

Figure 8: Digital cases by region



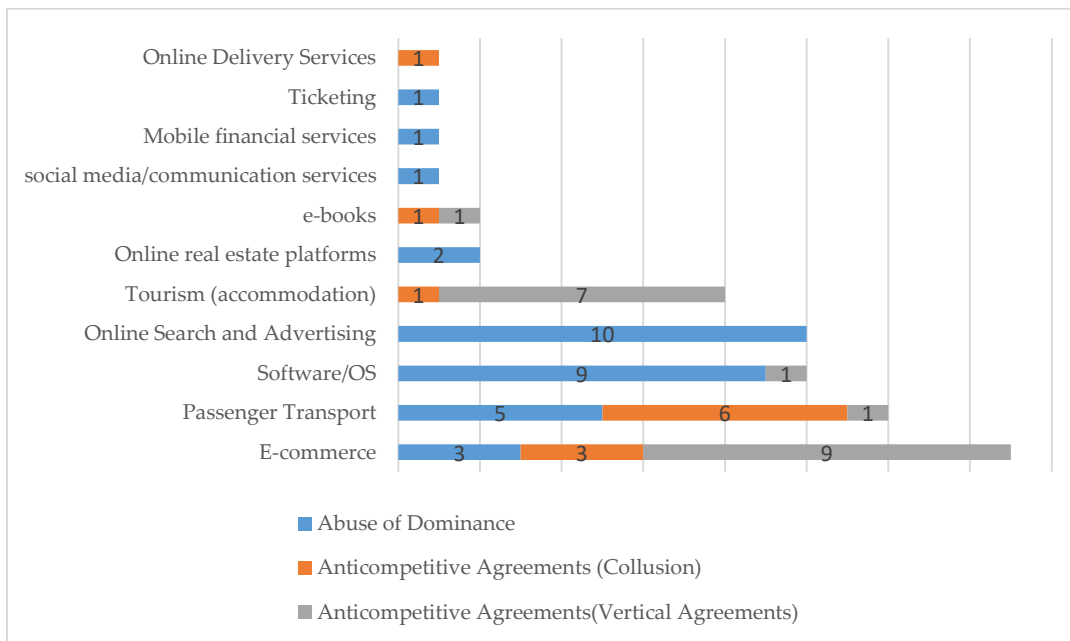
Compared to other regions, competition agencies in Africa seem to be more reactive in handling cases involving digital markets rather than proactively investigating cases involved in anticompetitive conduct. This is evidenced by the higher proportion of digital market cases in abuse of dominance and mergers compared to anticompetitive agreements. Below is an overview and comparison of the various categories of antitrust case in Africa vis a vis Europe.

Figure 9: Comparison of Types of Digital Platforms M&As



Africa competition agencies have dealt with negligible cases on collusion and vertical restraints in the digital ecosystem as of 2021. Separately, evidence reveals that business models make different platforms susceptible to different anticompetitive conducts (See Figure 10) (World Bank., 2021).

Figure 10: Anticompetitive Conducts per Type of Sector



Abuse of dominance cases is more prevalent on online search engines and advertisement platforms and operating systems due to the use of self-preferencing algorithms, while e-

commerce and accommodation sectors are predominantly affected by vertical restraints due to over-reliance on other small business.

Competition Dynamics presented by digital markets

The unique features of digital markets have challenged some of the antitrust tools and frameworks applicable for traditional markets (OECD, 2022).

Multi-sidedness of digital markets – Digital platforms often serve multiple group of users with distinct interests, such as users and advertisers. Therefore, posing challenges in market definition since there are two outcomes, either defining a single market or separate markets. In some cases, a single market for all the product offered in the platform M.4731 *Google/DoubleClick* or M.8124 *Microsoft/LinkedIn* by DG COMP while others have been assessed as separate markets such as the online delivery case by Spanish CNMC C/0730/16 *Just Eat/La Nevera Roja*.

Zero-priced Markets - Seven out of the ten largest global companies have zero-price products and services on their digital platform. These business models earn revenue from consumer data, and advertising among others. Therefore, the use of price as a criterion for competition analysis may not be applicable. Since market definition tools such as the ‘Small but significant non-transitory increase in price’ (SSNIP) test become less applicable. Examples of zero-priced cases include M.7217 *Facebook/WhatsApp*. This therefore, calls for assessing consumer harm by broadening the scope for consumer welfare to consider other aspects such as quality, data flow and data protection and privacy, detecting collusive algorithms.

Network Effects – Network effects occur when the value of a product or service increases as more users adopt it. In digital markets, platforms with a large user base tend to attract more users, creating barriers to entry for new competitors into the same platform, therefore leading to markets “tipping” into monopoly. Example of a case where Network effects was put into consideration is *OLX Brazil/Grupo ZAP* case by CADE.

Low marginal Costs and Economies of Scale – Digital platforms can have low marginal costs for serving additional users, which can lead to winner-takes-all dynamics. Dominant players can offer services at lower prices or for free, making it challenging for smaller competitors to compete on cost or even use their assets in one market to enter another.

Access to Data – digital markets are data driven by nature. A lot of data is generated through interactions, clicks and digital transactions. Dominant platforms may control access to critical data or services that competitors need to operate. For instance, data was considered as one of the key competitive edge in the *Corner Shop and Walmart* acquisition which was assessed by COFECE.

Interoperability and data portability – Users who have created a reputation as providers on an e-commerce platform or a user who has created profile on a social network platform and gained users or some may have created a reputation may lose all that when they switch to another platform.

Vertical Integration and Self-Preferencing - Some digital platforms operate in multiple layers of the supply chain or provide their own products alongside those of third parties. Antitrust scrutiny may focus on whether dominant platforms engage in self-preferencing, favoring their products over competitors' and potentially stifling competition.

Killer Acquisitions - In the context of the digital economy, the killer acquisitions³ typically target smaller innovative startups that pose a potential threat to the acquiring company's market dominance.

One example of a killer acquisition in the digital economy is the acquisition of WhatsApp by Facebook in 2014. WhatsApp was a rapidly growing messaging platform that posed a potential threat to Facebook's dominance in social networking. By acquiring WhatsApp, Facebook eliminated a potential competitor and gained access to a large user base and innovative features⁴

Another example is Google's acquisition of DoubleClick in 2007. DoubleClick was a leading provider of online advertising technology. By acquiring DoubleClick, Google solidified its position in the online advertising market and eliminated a potential competitor in the digital advertising space.

Approaches to digital markets regulation

The rise of digital markets has prompted competition regulators from around the globe to adopt regulatory and other initiatives to deal with competition and consumer protection issues in digital markets, including amendments to competition laws, establishment of new laws specific to digital markets and also approaches like development of guidelines and market studies.

Amendments to competition laws

Some jurisdictions have either amended or in the process of amending their competition laws to better address anticompetitive practices in digital markets. For instance, the government of Germany drafted new competition rules, that set out a two-step procedure which allows the Federal Cartel Office (FCO) to issue a decision finding that an individual company has paramount cross-market significance for competition within the criteria provided under the rules. The FCO can also decide to prohibit the identified company to engage in certain conduct that directly or indirectly impairs competitors unfairly in a market, in which the company, even

³ "killer acquisitions" refer to acquisitions made by large incumbent companies with the intention of eliminating potential competition or stifling innovation (OECD, 2020).

⁴ [Remember Stacker? Another Look at "Killer" Acquisitions in the Digital Economy \(analysisgroup.com\)](https://www.analysisgroup.com/remember-stacker-another-look-at-killer-acquisitions-in-the-digital-economy)

without being dominant, can expand its position rapidly, to the extent that the impairment is capable of significantly impeding effective competition. Also, the FCO can also impose remedies, interim measures or accept commitments to terminate proceedings.

New Regulations for digital platforms

Further, other regulators like the European Commission (EC) have introduced new laws to deal with completion in digital markets. The EC introduced new rules for platforms that act as "gatekeepers" for "core platform services" under the Digital Markets Act (the "DMA"). The DMA provides criteria for gatekeeper platforms as those that: have a significant impact on the internal market (European Economic Area); it operates a core platform service that serves as an important gateway for business users to reach end users (a core platform service); and it enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future. The DMA provides obligations of the gatekeepers and grants the Commission wide powers of investigation to determine both designation of gatekeeper status and whether a designated gatekeeper is complying with its obligations.

Guidelines

Additionally, other regulators have opted to issue guidelines to set out rules and clarify the approaches that they are taking in regard to conduct by digital platforms. For instance, in December 2019, the Japan Fair Trade Commission (JFTC) finalized new antitrust and merger guidelines for digital platform companies. They included the following:

- Guidelines concerning abuse of superior bargaining position in transactions between digital platform operators and consumers, which clarify when collection of personal data can be considered an "abuse of superior bargaining position" under the Antimonopoly Act. The guidelines provide that such conduct includes acquiring personal information without stating the purpose of use to consumers, and using personal information against the intention of consumers beyond the scope necessary to achieve the purpose of use. Personal information means not only information which can identify the specific individual by name and date of birth, etc., but also information with which a digital platform operator may identify a certain person by collating it easily with other information.
- Merger guidelines, which focuses on business combinations in the digital markets. The market definition focuses on competition by means of quality as opposed to price and clarifies the considerations in the definition of the product market and the geographic market. As for the effects of the business combination, competition analysis will be based on characteristics of digital services such as network effect and switching cost, and views on elimination of the possibility for new entry into the market by acquiring a start-up.

Market Studies

Some authorities have opted for soft approach by conducting market studies to examine business practices and competition concerns involving digital markets, and proposing solutions for how to deal with the issues identified. For instance, the Superintendence of Industry and Commerce

of Colombia conducted a market study on digital matching platforms for tourist accommodation services (ICN, 2020). Other jurisdictions' market studies include Australia's digital platform inquiry, UK's online platforms and digital advertising market study and European Commission sector inquiry into e-commerce among others.

Similarly, the Competition Authority of Kenya has prioritized enforcement in digital markets as one of its strategic areas of focus and is currently conducting a market study in the online food and groceries delivery market with a view of identifying competition and consumer protection issues and proposing interventions. In 2021, the Authority carried out a Digital Credit Market Inquiry as further discussed.

Competition Authority of Kenya - Digital Credit Market Inquiry

The Competition Authority, in collaboration with Innovations for Poverty Action, initiated the market inquiry which sought to: understand the nature and size of the digital credit market; identify impending consumer protection risks and outcomes; increase product information and terms and conditions limpidity and completeness; address probable fraud; enhance consumer redress and control over personal data in order to increase consumer choice and stir competition among the players; and inform the policy development for sufficient consumer protection across both regulated and unregulated lenders (CAK & IPA, 2021).

Based on the established findings of the study, the Authority made several policy recommendations in order to safeguard competition and promote consumer welfare. Among them included the development of policies that will increase the competition landscape in the digital credit ecosystem through the implementation of the following proposed policy measures:

- Standardization of channel access, placement of products, and revenue-sharing for digital credit services on mobile money rates;
- Expansion of consumer data sharing for both regulated and non-regulated players through the introduction/enhancement of the credit information systems;
- Promote the creation of services from third parties that allow consumers to receive competing offers from digital credit players; and
- Establish a framework with rules on the use of competitors' data by mobile money providers and their partner lenders.

South Africa's Competition Commission - Online intermediation platform markets

South Africa Competition Commission sought to examine how the features of online intermediation platform markets hindered competition among the platform players, among commercial users or erode consumer choice; whether the market features facilitate exploitative behaviors; and whether they have a negative impact on SMEs and/or HDP firms participation (Competition Commission of South Africa, 2023). The online intermediation platforms included: e-commerce marketplaces, online travel agencies, food delivery, Software application stores, app

stores and property/automotive classifieds along with the role of Google Search in shaping B2C platform competition. The Commission made several remedial actions;

- Creation of better opportunities for small local platform players to acquire customers through Google Search, hence providing a level playing ground with the big platform players;
- Increase platform competition in the online intermediation platform hence increasing consumer choice and innovation and ultimate reduction of prices for businesses listing in the platforms; and
- Enhancing digital economy inclusivity through reduced entry and participation barriers and unbiased competition.

Advocacy Initiatives

Advocacy⁵ involves activities aimed at raising awareness, educating stakeholders, and influencing policies and practices that support competitive markets. Advocacy complements traditional enforcement actions by focusing on preventive measures, voluntary compliance, and fostering a culture of competition. Some of the advocacy efforts in digital markets include:

Kenya – Digital Financial Product

The Competition Authority of Kenya in 2016 carried out an investigation to determine the level of transparency and disclosure by Digital Financial Services (DFS). The level disclosure was established to be inadequate since the findings pointed to non-disclosure of transaction fees and charges on transactions conducted through SIM toolkits, USSD and mobile apps.

To remedy this, the Competition Authority ordered DFS to disclose all associated fees and charges to the customers before completing a transaction and the provision of a detailed receipt post-transaction which included detailed text messages (CAK, 2016). That promoted consumer awareness levels on the transaction fees charged from 25% to 80%.

Zimbabwe - Mobile Money

Together with the Telecommunications Regulator and the Central Bank of the Zimbabwe, the Competition and Tariff Commission of Zimbabwe worked towards overcoming regulatory barriers in the telecommunications industry that caused a decline in mobile Transaction fees for money transfers. Its cooperation with other regulators also widened the availability of mobile payments (CTC, n.d.).

Africa Competition Legal Framework

Digital platforms have established themselves in most urban areas in Africa. However, most of the African population has yet to make use of them which opens an opportunity for regulation

⁵ In this context, advocacy refers to the efforts of competition agencies to promote and encourage competition in markets (ICN, 2002).

to minimize risks and harms such platforms present as they establish themselves in the broader unserved areas. Regulators across the continent have been taking steps to strengthen their existing competition legislation, enhancing their enforcement powers and increasing transparency and predictability in competition law enforcement (Mia, 2022). Some of the notable policy enhancements are as presented in the table below:

Table 1: Africa Competition Law and Policy Legal Framework

REGULATOR	SUMMARY
The African Continental Free Trade Area (AfCFTA) agreement	The AfCFTA agreement will enable firms within the African continent to conduct their business across national borders. The AfCFTA Protocol on Competition is intended to provide market governance to ensure that anti-competitive practices with cross-border effects do not affect the implementation and benefits of the AfCFTA.
Common Market for Eastern and Southern Africa (COMESA)	The COMESA Competition Commission (CCC) is one of the most active regional competition bodies in Africa and has continued to enforce competition law in the region. CCC recently published various guidelines and practice notes to further amplify competition regulation in the COMESA region.
East African Community (EAC)	The EAC Competition Authority (EACCA) became operational in 2018, and currently, the EACCA and its 2016 Competition Act are in the process of being repealed in its entirety and the EAC Competition Bill, 2020 is envisioned to take its place. The new law will enable EACCA expand its mandate to include merger regulations.
Economic Community of West African States (ECOWAS)	In 2021 the ECOWAS competition authority began assessment of its legal framework to develop operational tools in relation to mergers; guidelines on case investigations, enforcement and the levying of penalties; and the adoption of a leniency policy.
South African Development Community (SADC)	The proposed recommendations for the draft SADC Digital Economy Governance Framework (Hlomani, 2023) include creation of competition law frameworks and regulations that: <ul style="list-style-type: none"> • Enable the authorities to analyze data competition challenges, create remedies, and enforce their powers to protect competition in digital marketplaces; • Ensure the authorities have the power to regulate cross-border data, make inquiries into continental and regional effects, and cooperate with other competition regulators; • Grant competitors access to the critical infrastructure in order to open up competition; • Empower authorities regulating digital networks, and competition, to order specific private operators to facilitate interoperability;

REGULATOR	SUMMARY
	<ul style="list-style-type: none"> • Prioritize transparency for dominant platforms to discourage unfair practices, ensure contestability, and reduce the asymmetry of information and bargaining power between the dominant platforms and the users.
Kenya	The Competition Authority of Kenya (CAK) has sought to strengthen its enforcement powers by publishing a host of regulations and guidelines, including Guidelines on the Informant Reward Scheme Policy; Buyer Power Guidelines; Joint Venture Guidelines; Block Exemption Guidelines on Certain COVID-19 Economic Recovery Priority Sectors; and Retail Code of Practice.
Malawi	Competition and Fair Trading Commission Malawi - To strengthen its enforcement powers the commission has published guidelines on abuse of dominance; collusive conduct; resale price maintenance; predatory pricing, price discrimination and tying; market definition; and public interest.
Nigeria	Federal Competition and Consumer Protection Commission (FCCPC) Nigeria adjusted its merger filing fees and also launched an electronic portal via which merger notifications may be submitted and provided a filing fee calculator. Further, the FCCPC invited public comments on proposed regulations relating to restrictive agreements and trade practices, and abuses of dominance.
South Africa	Competition Commission of South Africa (CCSA) launched a market inquiry into online intermediation platforms; published revised draft small merger guidelines intended to capture small mergers taking place in the digital sector that fall below the thresholds for mandatory merger notification; drafted guidelines on collaboration among competitors on localization initiatives; and proposed amendments to merger notification forms.

Data Protection and Privacy

Data protection and privacy regulations in Africa vary from country to country, reflecting the diverse legal, cultural, and economic contexts of the continent. While some countries have comprehensive data protection laws in place, others are still in the process of developing or implementing such regulations (Baker Mckenzie, 2022). South Africa, Nigeria, Kenya, Ghana, Rwanda, Uganda, Tunisia, Mauritius, and Senegal currently either have the Data Protection Act or data protection provisions in their laws. While Morocco has a draft law on personal data protection that is under consideration and lastly, AU has also been working on a data protection framework for the entire continent to promote the harmonization of data protection regulations and facilitate cross-border data flows.

Policy Options

Competition agencies around the world, including in Africa, play a crucial role in ensuring fair competition, preventing anticompetitive practices, and creating a level playing field that encourages startups and innovative businesses to thrive. In particular, competition agencies in

Africa can achieve competitive practices in the digital economy through collaboration and strengthen their enforcement tools as further elaborated below.

Collaborative approaches to competition enforcement

Competition authorities need to collaborate with other regulatory bodies, such as data protection agencies and telecommunications regulators, to create a holistic regulatory framework that supports innovation while ensuring fair competition for the digital markets. Collaborative efforts among competition authorities on digital markets are also crucial in the globalized and interconnected digital economy. Multilateral organizations such as ACF, and ICN can support competition Authorities in their collaborative efforts especially in absence of jurisdiction of regionally competition Authorities. Collaboration efforts can be achieved through:

- **Information sharing on best practices** – different jurisdictions where the digital platforms are operating can share information, insights and best practices related to digital players subjected to competition and public interest assessment. This can be achieved through the multilateral organizations such as ACF, ICN.
- **Joint investigations** – competition agencies may collaborate on investigations into multinational digital platforms by sharing resources and expertise thus leading to effective enforcement actions;
- **Data exchange** (e.g. investigation reports, merger analysis reports etc.) – Establishing data exchange frameworks that will support collaboration efforts such data sharing and evidence gathering during joint investigations;
- **Mutual assistance** – competition agencies may provide mutual assistance in gathering evidence, conducting interviews and obtaining documentations on cross-border platform investigations or merger assessment.
- **Policy coordination** - Competition authorities can work together to develop consistent policies and guidelines for addressing competition challenges specific to digital markets, such as platform dominance and algorithmic collusion.
- **Peer reviews** – Competition agencies can conduct peer reviews to evaluate each other's competition enforcement and regulatory practices. This helps identify areas for improvement and knowledge sharing.
- **Capacity building and training** – hosting/participating in capacity-building initiatives, workshops, seminars, and training sessions aimed at enhancing the skills and knowledge of competition officials dealing with digital markets.
- **Joint statements and guidelines** – competition agencies may issue joint statements or guidelines addressing specific competition issues relating to digital markets, providing clarity to market players and consumers hence promoting a consistent approach across jurisdictions.

- **Coordination on remedies** - When imposing remedies on digital platforms, competition authorities may collaborate to ensure that remedies are effective and coordinated across jurisdictions.
- **Task forces and working groups** – agencies may form task forces and/or actively participate in working groups focused on digital markets, allowing them to pool resources and expertise on specific challenges.

These collaborative initiatives will address the challenges posed by digital markets that often transcend national borders and ensure consistent enforcement, promote fair competition and address the unique challenges posed by the rapidly evolving digital economy.

Strengthening of competition enforcement tools

Competition authorities need to proactively enhance their enforcement tools to ensure they can not only remedy anticompetitive mergers but also take action against anticompetitive conduct including collusion, and vertical restraints in digital markets.

- **Antitrust Enforcement** - Proactive investigation against anticompetitive conduct including collusion, and vertical restraints by competition agencies in Africa is demanding compared to other competition agencies in mature competition regimes and therefore highly recommended in order to prevent dominant players from stifling competition and ensure that new entrants and startups have a better chance to compete and innovate in the digital ecosystem.
- **Mergers and Acquisitions Review** - In-depth merger assessment for digital platform transactions by first understanding the model of operation of the platform, identifying the key element of competition and the market dynamics inherent in the digital market is critical to ensure anticompetitive mergers are effectively remedied. Competition Authorities can also seek competitors' insights and views on the proposed merger before approval.
- **Merger Simulation and Retrospective Analysis tools** - Competition agencies can conduct digital merger simulations where applicable and/or on the approved digital mergers and acquisitions to determine the likely effect of a merger for merger simulation and learn the actual effect of a merger for retrospective analysis.
- **Market Inquiries and Studies** - Conducting in-depth market studies allows competition authorities to understand the model of operation of various digital platforms, and identify barriers to entry, anticompetitive behaviors, and areas where innovation may be hindered. This information can lead to targeted interventions that foster a more competitive environment in the digital landscape. Additionally, competition agencies will build an internal database that can be used later on.
- **Guidelines for Digital Platforms** - Competition authorities may issue guidelines specifically tailored to digital platforms, which offer clarity on how competition laws apply

to these markets. These guidelines will also provide a roadmap for startups and entrepreneurs to navigate the regulatory landscape.

- **Advocacy initiatives** - Competition authorities may organize awareness creation initiatives including workshops, seminars, and educational initiatives about competition laws and how they can benefit new businesses. Other advocacy initiatives may include: investigating app store policies and assessing whether they hinder competition or innovation by limiting app developers' choices or imposing unfair terms; and advocating for data access and portability to ensure that startups have equal access to data held by dominant platforms, enabling them to compete more effectively.
- **Innovation Challenges and Hackathons:** Competition authorities may organize innovation challenges, hackathons, and contests to encourage startups and innovators to develop solutions that address competition-related issues in digital markets.

Proactively addressing competition issues in digital markets will create an environment that encourages fair competition, hence competition agencies will have played a vital role in nurturing innovation and entrepreneurship. These will help create a dynamic and competitive digital ecosystem that benefits both consumers and innovative businesses.

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