



Africa Resource Center, Nairobi

DISSEMINATION WORKSHOP REPORT

on

“Regulatory and Competition-related reforms in Kenya’s Power and Petroleum Sector



HELD ON 21 October 2009.

Nairobi, Kenya.

Introduction and welcome Remarks

By Samson Odhiambo, CUTS ARC Nairobi

The introductory remarks were provided by Mr. Samson Odhiambo. In his remarks he thanked all the participants for accepting the invitation to discuss the findings of the research on “regulatory and competition-related reforms in Kenya’s power and petroleum sectors”. He also led the self introduction of the participants before inviting Mr. Clement Onyango for his opening remarks

Opening remarks

By Clement Onyango, Centre Coordinator, CUTS ARC Nairobi

In his opening remarks, he thanked the participants and stakeholders for sparing time to attend the dissemination workshop on the project “competition and regulatory related-reforms in Kenyas power and Petroleum sectors”. He gave a brief on the activities of the research including the field work/interviews carried out throughout the country, scoping workshop, research activities and the validation workshop on the research findings. He gave the scope as well as the relevance of the study as follows:

- a) To assess the institutional framework and structure of the national competition policy;
- b) To review and evaluate the competition-related regulations and institutional framework in the energy sector;
- c) To undertake a comparative analysis of competition and regulatory framework in energy sector in other countries; In order to achieve the above objectives, the study accomplished the following tasks:
 - d) Evaluating the institutional framework and capacity for enforcement of competition-related laws and regulations in the electricity and petroleum sub-sectors;
 - e) Establishing and assessing the existing administrative procedures for enforcement of competition laws in the electricity and petroleum sub-sectors;
 - f) Evaluating the relevance of existing laws and enforcement powers;
 - g) Evaluating the independence, transparency and clarity of existing regulations;
 - h) Assessing the market structure and performance of the electricity and petroleum sub-sectors;
 - i) Assessing the quality, service delivery and dispute settlement mechanisms;
 - j) Evaluating the coordination and information exchange between the competition authority and the energy sector regulator;
 - k) Assessing the level of awareness about competition-related regulations among stakeholders;
 - l) Identifying implementation and enforcement challenges and constraints.

An overview of the project

Boaz Munga, Project Researcher

This presentation was a synthesis of the whole research project with highlights in the following areas:

- Overview of the energy sector in Kenya

- Research methodology
- Analytical framework
- Best practices and experiences
- Main findings
- Main constraints and challenges
- Conclusions and recommendations.

Main focus of the study included:

1. The outline of the study
2. Motivation of the study-why the reforms were made in the energy sector –petroleum and electricity.
3. Study sees the challenges on the angle of regulation and competition-the approach used for market to function properly.
4. High tariff and prices are still high-problem that the research was trying to solve though the world prices are lowering
5. Consumer welfare was incorporated in the study

The report can be seen on: http://www.cuts-international.org/ARC/Nairobi/Competition_in_Energy_Sector/PDF/ICBE_Draft_Report2009.pdf



Discussions of the research findings by stakeholders in session

PRESENTATION OF THE RESEARCH FINDINGS

By Christopher Onyango (Lead researcher)

The presentation was based on the following excerpts from the research findings:

1. Capacity for implementation of competition-related regulations
2. Regulatory independence and enforcement
3. Financing and regulatory institutions
4. Weak provisions for sanctions, fines and penalties
5. Uncoordinated enforcement of competition-related regulations.
6. Market structure and performance.
7. Transparency, advocacy and awareness creation.

8. Infrastructure development
9. Transmission network governance and pricing structures.
10. Enforcement of standards and quality.

The presenter gave in brief issues that affected the performance of the electricity and petroleum sub-sectors including:

1. Adoption of a regulatory model which combines technical and economic regulation model.
2. Factors effective coordination of implementation of competition-related regulations.
3. Ensuring administrative and financial regulatory independence.
4. Widening the scope for competitive power generation market
5. Effective governance of transmission network and pricing structures.
6. Strengthening monitoring and data reporting.
7. Enhancing transparency and awareness amongst stakeholders.

The report can be seen on: [http://www.cuts-international.org/ARC/Nairobi/Competition in Energy Sector/PDF/ICBE Draft Report2009.pdf](http://www.cuts-international.org/ARC/Nairobi/Competition_in_Energy_Sector/PDF/ICBE_Draft_Report2009.pdf)



Left to Right Dr. Bonuke (energy specialist), Mr. Nyagol (monopolies and price commission), Kosgey Kolil (Kenya electricity workers union) and Emma Wanyonyi (consumer information network) share discussion points.

Deliberations from the Floor

1. The scope and composition of the Monopolies and Price Commission. The issue was given a discussion with comparison with the Federal Trade Commission (FTC) of the U.S which has 1,400 staff members with most of them economists and lawyers. Importantly, there should be closer coordination between personnel/experts so as to bring diversity of the staff as well as competency.
2. There is poor coordination between relevant stakeholders such as the energy regulatory commission (ERC), Ministry of Energy (MOE) and the Monopolies and price commission (MPC), Kenya power and lightning (KPLC) more so in the area of information sharing and consultation which should be addressed immediately. Awareness raising should be more conveyed in order to attain this.
3. Funding of the regulator should be in the hands of the exchequer as is the case in the U.K and U.S. They should not depend on levies but central government in order to compromise on their

independence. There ought to be alternative sources of funding through government diversification.

4. Model III of sector regulations and competition should be adopted in Kenya. This model is a hybrid one with the regulator having both competitions, technical and regulatory rules. These gives provisions of contractual agreements between regulators and competition authority.
5. The reform process in the infrastructure cannot be complete with the regulatory approach/model used. Other factor such as increase in oil prices has resulted into price escalation.
6. Kenya needs to invest more on alternative sources of energy which are affordable to lower the price of energy. To achieve this, there is need to invest more on the energy sector by providing incentives.
7. In order to improve the quality of services in the electricity and petroleum sectors, players and worker representatives need to move forward and out in proper infrastructure, staffing for proper delivery of services for efficiency and professionalism.
8. Standards of petroleum products. The Kenya bureau of standards ought to carry out quality tests and get verification of the best quality products.
9. The energy act should be consolidated and made more relevant. The minister should get authority from the Energy regulatory Commission to make regulations for the petroleum and natural gas industry including but not limited to regulations to control petroleum prices.
10. There is need to incorporate the disadvantaged in the tariff revision and setting such as the consumers, manufacturers/industrial players on how the tariff structure works.

Closing Remarks

By Samson Odhiambo, CUTS ARC Nairobi.

In his closing remarks he thanked all the participants for their active participation and fruitful discussions on the research project as well all those who were involved in the research activities. In addition he mentioned that a dissemination of the policy brief and the research report would be undertaken as information sharing to all the relevant stakeholders so as the findings would have an impact.

Annex 1: List of participants

SR	NAME	Organisation and Contacts
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7	Mr. Kaviti Ndungi	Trade Development Officer Ministry of Trade and Industry

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8	Mr. R. Gisore	Manager EAC/COMESA Regional Standards Email: reubengo@kebs.org
9	Dr. John Bonuke	Lecturer and regulatory specialist. Email: Johnbonuke@yahoo.com
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Annex 2: Workshop Agenda

Dissemination Workshop Agenda ,	
Time	Activity.
8.30 – 9.00a.m	Registration / Introduction.
9.00 – 9.15a.m	Welcome and Opening Remarks.
9.30 – 10.00a.m	Overview of the Project.
10.00 – 10.30a.m	Tea / Coffee Break
10.00 – 11.30am	Presentation of the Research Findings.
11.30 – 12.30p.m	Way forward
1.00p.m	Lunch / Departure