

KEYNOTE ADDRESS BY MR. HENRY K. ROTICH, CABINET SECRETARY/THE NATIONAL TREASURY, ON THE CELEBRATIONS TO MARK THE WORLD COMPETITION DAY AND LAUNCH OF THE PRODUCT MARKET REGULATORY STUDY REPORT AT THE INTERCONTINENTAL HOTEL ON 9TH DECEMBER, 2015

**IFC Country Representative; Mr. Manuel Moses
Representatives of our Development Partners
All Protocols Observed
Ladies and Gentlemen**

1. **Ladies and Gentlemen**, we gather here today, to mark and celebrate The World Competition Day. I thank all of you for availing yourselves to attend this event which has become part of our Calendar.
2. The World Competition Day was declared by the United Nations on the 5th December, 1980 and it is celebrated by various Countries across the globe, Kenya included. The aim of marking this day is to raise awareness and create, rather than impose, a competition culture among the market participants, for the benefit of our citizenry.

3. **Ladies and Gentlemen,** as you are all aware, Kenya has been on a journey to deepen competition policy and law as a key driver of transforming our existing markets into becoming more efficient while ensuring opening up of others through deregulation and also dismantling regulatory obstacles to unlock growth potential of our Country.

4. I am delighted because great strides have been made in this area since the foundation that was laid under the *Economic Recovery Strategy Document* and later anchored in the *Kenya Vision 2030*.

5. Specifically, the Government has progressively opened up markets by removing non-justifiable regulation and empowering the Competition Authority of Kenya to effectively enforce the competition law. The Authority is also mandated, among others, to study existing and proposed Government policies and regulations and advise the Government on their implications to the effective functioning of our market economy.

6. **Ladies and Gentlemen,** I am happy to note that the Authority, over the year has been quite visible in the latter function. I am made to understand that through the intervention of the Authority, an investor in Meru County was able to invest in the Specialty tea industry, after the removal of discriminatory regulations. This has led to an increased income for farmers who have switched to the Purple leaf. I am aware also that through the advice of the

Authority, proposed regulations in the telecommunications sector which would have otherwise curtailed innovation and detrimental consumer welfare were abandoned.

7. **Ladies and Gentlemen**, these two interventions not only highlight the importance of effective competition regulation but of the need to open up markets and keep surveillance to ensure that we fully unlock growth potential of our economy. It is on this basis that H.E. the President of our Republic Hon. Uhuru Kenyatta, directed the Authority to finalize the Report of Product Market Regulatory Indicative Study targeting key sectors of our Kenya which we are launching today. We view the Report as a key reference point, as we continue implementing initiatives aimed at realization of the overarching objective of the *Vision 2030*.

8. **Ladies and Gentlemen**, we are cognizant of the fact that although our business environment improved last year, it has weakened compared to 2008 when we were at position 78 out of 189 countries. It is noted that significant but, non-justifiable regulation, contributed to the drop. As a government, Ladies and Gentlemen, we are aware that this unfortunate scenario has the effect of not according the private sector the requisite space to grow, create jobs and contribute to the desired economic development levels.

9. **Ladies and Gentlemen**, I am happy to note that the title of the Report we are launching today; '*Dismantling Regulatory Obstacles to Competition to Unlock Growth*

Potential in Kenya resonates well with our current economic agenda which, among others, aims at deepening the ease of doing business in the country while at the same time ensuring equitable distribution of wealth for shared prosperity.

10. I am made to understand that, as directed by H.E. the President of the Republic of Kenya, the focus of the Report is the identification of regulations that could restrict competition and distort markets thereby having negative effect on Kenya's competitiveness and growth to the detriment of realization of the Vision 2030. We are alive to the fact that well-functioning markets are crucial to attainment of the Vision 2030 and competition policy is one of the indispensable variables towards this journey.

11. Ladies and Gentlemen, this journey will not be smooth and fast, if we continue maintaining and or introducing restrictive regulations in our key economic sectors, limiting access to otherwise competitive markets, and unnecessarily constraining business operations. I am informed that reducing anticompetitive regulations in accordance with international best practice would result in productivity gains of between 3 and 13 percent over a period of 7 years. I am also ably informed that, in general, countries with lower regulatory burdens have the highest GDP per capita and productivity growth rates.

12. It is for these reasons that my ministry, within its economic advisory role to the Government, will keenly interrogate this Report with the ultimate agenda of its implementation. In addition, we shall explore the best mechanisms to sensitize our County Governments on the contents and recommendations of this Report in order to motivate them to accord it space in their policy making decisions.

13. However, we are privy to the fact that many governments, including Kenya, employ regulatory tools for a number of reasons. One essential motive is economic- in particular those motives aimed at addressing market failures where demand and supply do not lead to the socially optimal outcomes. These are economically justified and are important and necessary for policy-making and in achieving our development objectives especially those geared towards poverty reduction and shared prosperity across both the citizenry and geographically.

14. Ladies and Gentlemen, these are fundamentals we shall definitely take into account as we endeavor to advocate for review of the highlighted regulatory tools.

15. At this juncture, let me recognize the Authority for the work done in publishing this Report and appreciate the role and the support of The World Bank Group and the DFID towards finalizing the Report. It is my considered guidance that finalization of the Report is

not the end. I urge the Authority to develop strategies to implement the recommendations of the Report, and share it with The National Treasury, as we embark on the Budget making process of the financial year 2016/2017. This will inform appropriate policy pronouncements and concomitant resource allocations.

16. I am happy to note that in order to ensure policy objectives are achieved in the most effective manner, as we move forward, the Authority has finalized '*a Competition Regulatory Impact Assessment*'. *Framework*'. I am informed that this framework, which was developed in consultation with the sector regulators and other relevant stakeholders, has the object of guiding the policy makers in consideration of the costs and benefits of proposed bills, regulations and policies. The framework has a simple, straightforward, but critical checklist, which policymakers are supposed to adhere to when proposing legislation.

17. I urge the Authority to publish the Checklist and roll it out within the shortest reasonable time in order to ensure that as we dismantle the regulatory obstacles highlighted in the PMR Report.

18. **Ladies and Gentlemen**, I wish now to turn to a topical, but not pleasant, issue; governance. I posit that the Competition Authority, as it deepens its capacity to effectively achieve its mandate, has a critical role to play in eradicating corruption. As it has been

reported on many occasions, public procurement is a hot-bed of corruption. This is manifested in the form of concerted practices among government officers and parties involved in the process. This usually takes the form of collusion among suppliers to fix selling prices and allocate themselves government bids. This deprives the government, and therefore the Kenyan public value for money.

19. A cursor look at the mandate of the Authority is to, among others; prohibit collusive tendering and other forms of practices that may distort competition. I am aware that the Competition Authority of Kenya and the Public Procurement Oversight Authority are in the process of concretizing initiatives towards rolling out enforcement activities aimed at eradicating bid-rigging and other practices that distort competition within public procurement.

20. **Ladies and Gentlemen**, this is a commendable inter-agency initiative and I wish to commit the support of The National Treasury, both through resource allocation and by welcoming the two institutions, to pilot the enforcement initiative within the National Treasury, if they deem it a priority.

21. I also wish to urge all the other Ministries, State Departments and State Corporations, to open up to this initiative and cooperate because it is a statutory obligation that we should provide services to Kenyans at market values. In addition, it is my conviction that successful

removal of bid-rigging practices will facilitate savings from the procurement budget which will help us employ the savings to other social utility projects to the benefit of vulnerable members of our society.

22. **To conclude**, I am delighted to note that the Authority has progressively concluded cooperation frameworks with various sector regulators including Communications Authority of Kenya and Central Bank of Kenya. These frameworks will not only facilitate management of the existing concurrent jurisdictional issues among the agencies but will also go a long way in creating a transparent and predictable investment climate.

23. Premised on this, I wish therefore to urge the Authority to fast-track the actualization of these frameworks and conclude pending frameworks with the Insurance Regulatory Authority and other relevant sector regulators. In addition, I urge you to ensure speedy publication of the Concurrency Rules currently under development with the support of The World Bank Group.

24. Lastly, I wish to appreciate the support of the World Bank Group in preparations of this Report and other initiatives they have supported that have tremendously promoted a culture of competition in Kenya, regionally and globally in the past 3 years. I look forward to

our continued interaction especially taking into account that Competition Policy will be a key discussion point during the next World Bank/IMF Spring meeting in April 2016.

25. We also deeply appreciate the support of our other development partners namely the Dutch Government; Israel Government; Japanese Government; Chinese Government; DFID; FSD and Kenya Market Trusts. Be assured that your input has made an impact in improving the lives of Kenyans.

26. With those Remarks, Ladies and Gentlemen, I wish now to declare the Product Market Regulatory Indicative Study Report titled '*Dismantling Regulatory Obstacles to Competition to Unlock Growth Potential in Kenya*' officially launched.

Thank you and God Bless you All.

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