

CHAIRMAN'S REMARKS

Ghana Competition Law and Policy Seminar

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My Lords, distinguished guests, esteemed colleagues at the Bar, representatives of regulatory bodies, members of academia, industry leaders, ladies and gentlemen:

I accept the honour of chairing this seminar with some humility, and I confess, with short notice. But some conversations are too important to delay, and this is one of them.

The urgency is not abstract. Ghana's existing framework for regulating competitive conduct is, to put it plainly, scattered and disjointed. We have the Protection Against Unfair Competition Act, 2000 (Act 589), a smattering of sector-specific powers vested in bodies such as the National Communications Authority, Ghana Standards Board, the Food and Drugs Board, the Public Utilities Regulatory Commission (PURL) and the Bank of Ghana, and others. What we do not have is a coherent, economy-wide competition statute that addresses cartels, abuse of dominance and merger control in a systematic way. The result is a framework that is woefully inadequate to the demands of a modern market economy.

I can speak to this from direct experience. Those of you familiar with the litigation involving Internet Ghana Limited and Ghana Telecom, which arose from mid 2000s through the 2010s, a matter in which I had the privilege of serving as counsel for Internet Ghana, will recall just how acutely the absence of dedicated competition machinery was felt. What the evidence disclosed in that case was a deliberate and systematic campaign to drive a pioneering internet service provider out of the market: infrastructure withheld, clients poached, equipment seized, technicians barred from their own colocation rooms. A former Ghana Telecom executive described it, frankly, as a "battle" that led to InternetGhana's "natural death." The High Court ultimately upheld our client's claims and awarded substantial damages. But the proceedings were long, expensive and hard-fought — precisely because there was no dedicated competition authority to investigate, no specialist enforcement mechanism to intervene, and no coherent statutory framework within which such conduct could be efficiently addressed. The law, as it stood, forced us to litigate what a properly equipped competition regime might have resolved far sooner, and at far less cost to all concerned. That experience has stayed with me.

Our path should be clear. Ghana needs a transparent, enforceable competition policy that discourages cartels, fights abuse of dominance, ensures open merger reviews, and collaborates with sector regulators. It should also promote fair procedures, support legitimate investments, and adapt to digital and cross-border markets.

Ghana stands at a consequential juncture. The Ministry of Trade, Agribusiness and Industry has prepared a draft Competition Policy and Bill, yet to be submitted to Parliament. That window, i.e. between drafting and enactment, is where lawyers, economists, regulators and business leaders can do their most useful work. Once a bill passes, the architecture is fixed. Today, it is still open.

Throughout my career, I have been reminded, sometimes forcefully, that the quality of a legal framework depends not only on its stated objectives but on how precisely it is constructed. A competition regime that departs from settled principles, even in well-intentioned ways, can produce regulatory outcomes that harm the very markets it seeks to protect. For example, the proposed definition of Significant Market Power at a fixed 45% threshold is one such concern; there are others. These matters deserve rigorous analysis, not mere assessment.

I am also conscious that we operate increasingly within a regional framework. The AfCFTA Protocol on Competition Policy, adopted in 2023, and the ECOWAS Regional Competition Authority's merger control regime are already shaping the environment in which Ghanaian businesses compete. A domestic framework that is incoherent or poorly aligned with regional rules will place our enterprises at a disadvantage.

It is with the aim of achieving such a goal that I am glad to be associated with this event, and I am even more pleased that our distinguished speakers, David Bailey (KC), Peter Alexiadis, and Dr Juliet Twumasi-Anokye, have agreed to share their knowledge and expertise with us today. Thank you. I also commend the organisers, the Competition and Markets Centre (CMC), for curating a timely and well-structured programme, and I wish to thank all participants for taking time out of your busy schedules to be here today.

It is through such collaborative platforms that we sharpen policy thinking and develop practical solutions to complex competition challenges. I trust that this seminar will be both productive and forward-looking, and that the shared here will lead to tangible action within Ghana and beyond. I wish you all a successful and impactful seminar.

Thank you.