Chapter 5
Ensuring Competition in the Telecommunication Business Environment in Ghana:
How Relevant is the Enactment of an Anti-Trust Law?

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ABSTRACT

This chapter investigates the possibility of anti-competitive behavior in the Ghana telecommunication sector and determines exploratorily if there is a need for the enactment of anti-trust laws to protect social welfare. The chapter first evaluates the available relevant literature on the subject, assesses the current situation, evaluates the current market structure, and identifies how market power is affecting consumer welfare. Reviews of available literature and secondary data were conducted to establish the relevant conditions for the applicability of such a law. Next, primary data was collected from stakeholders to solicit views on the impact of market structure on pricing and the need for anti-trust laws. Results suggest the Ghana telecommunication sector is open to "cartelization," which can result in different forms of price collusion despite the existence of a state regulatory body (The National Communications Authority, NCA). The study highlights the Ghanaian consumers' susceptibility to unfair marketing practices due to the possible absence of pertinent anti-trust legislation.

INTRODUCTION

It is an irrefutable fact that Information and Communications Technology (ICT) is making giant strands in developing countries and in Ghana the situation is no different. ICT in the form of telephone, cellular phone and Internet technology is improving the lives of Ghanaians in several ways.

Remote areas in Ghana formerly inaccessible by wire-carried analog telephony are now accessible through the Internet and the cell phone by means of Global Satellite Modulation (GSM)

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technology. As Ghanaians discover different uses for telecommunication technology, telephone and cell phone penetration has increased from about 50 000 subscribers in the mid-1990s to 10 million subscribers in 2012 and the trend seems set to continue (National Communications Authority, 2012).

Evidence of the positive impacts of a bourgeoning information technology sector in developing countries like Ghana abound. For example, residents in Nkoranza in Ghana's hinterland can enjoy cell-phone service almost as good as the service in the Ghanaian capital, Accra. Jeffrey Sachs, the eminent economist famously noted in the New York Times that in spite of their gargantuan differences, a striking similarity between the mostly rural north of Ghana and highly urbanized downtown New York was that cell phone service and Internet access was equally available (albeit at different speeds and different quality respectively) in both locations.

Information technology is also helping to breach market failures where they exist in Ghana. For example, with the "mobile money" concept now in full operation in many parts of Ghana and indeed in Africa, parents can now wire money to their children in secondary schools and tertiary institutions even if the schools are distant just by making a cell-phone call. The "mobile money" concept (similar to M-Pesa in Kenya) works by the consumer (the parent) purchasing a voucher at his location from a cellular phone service provider who will then ask its agents at the destination to pay the amount to the intended recipient (the student). In this example therefore, the student whose parent wired the money can pick the money from the cell phone providers' office nearest her school without having to make a trip home.

The stories of how mobile money is boosting commerce in Ghana and other developing countries like Kenya are elaborate and encouraging. However, despite the many upsides of Ghana's bourgeoning telecommunication sector, it pays to investigate whether the consumer is actually getting value for the service they pay for from the telecommunication service providers.

The question of value for money becomes even more relevant when one considers the fact that new telecommunication sectors in developing countries like Ghana are seldom perfectly competitive. There are usually only few firms with enough capital to enter the market so the typical telecommunication industry in a developing country has only a few firms (oligopolistic in nature) even if it has been privatized from a state monopoly.

Even worse, once the companies enter the market they sometimes take action to deter others from entering that market in order to prevent competition for their profits. This does not augur well for doing business for Ghanaians although it may well serve the interest of these telecommunication companies.

Further, even when a few telecommunication firms are able to coexist in the market, they may decide to collude to keep prices high instead of competing with each other with the ultimate result being that the consumer will suffer in terms of high prices and poor quality service. Anti-trust laws or pro-competition laws help to foster competition by eliminating collusion especially in industries where dominant players are strategically trying to eliminate competition and might work for a developing country like Ghana.

Of course, as Fox (2006) argues, for a developing country with systemic poverty, aggravated by corruption, cronyism, selective statism, weak institutions, and often unstable democracy, it is unclear *ex ante* whether anti-trust laws will be either effective or efficient or both (Fox, 2006). This is clearly a motivation for our research.

Ghana's Telecommunication sector was liberalized relatively recently having been under state monopoly in the previous decades (Haggarly, Shirly, & Wallsten, 2003). However, the telecom-