



# PART 1

## Part 1: The Impact of Weak Competition Law and Policy on Food Producers & Agricultural Enterprises in Africa

### 1.1. Introduction

Part 1 documents the increasing concentration in food and agricultural markets and analyzes its impact in Africa. It outlines the specific challenges confronting low and middle-income developing countries (hereafter, developing countries) in competition law and policy. Developing countries' markets tend to be smaller and have higher barriers to the entry and growth of SMEs and MSMEs (see Box 1). This results in higher levels of market concentration and the increased likelihood and harm from anti-competitive behaviours.

#### Box 1: What are SMEs and MSMEs?

Agricultural small and medium enterprises (agri-SMEs) are defined as *profit-oriented enterprises that are involved in the agricultural value chain either directly or by providing enabling services to value chain actors* (ISF & SAFIN, 2021, p. 2).

To be defined as an agri-SME, these enterprises must be able to service an investment of USD 50,000 - USD 2 million, as indicated by at least two of the following characteristics:

- More than five but fewer than 250 employees (at least 25 members for co-ops)
- An annual turnover between USD 100,000 - USD 5 million
- Assets totalling at least USD 20,000

Agri-SMEs may include small commercial farms, in which farmers sell at least 50% of their production, as well as businesses owned by a cooperative.

Agricultural micro, small and medium enterprises (MSMEs) have the following characteristics:

- Fewer than five full-time equivalent employees
- Less than USD 100,000 in annual turnover

Source: SAFIN & ISF, 2021

Market concentration and anti-competitive behaviours undermine MSMEs. They face exclusion and exploitation due to abuses of market power, further compounding the effects of market volatility and barriers to entry. Consumers pay higher food prices thus limiting food access and increasing food insecurity in low-income households.

## 1.2. Context: Increasing market concentration and anti-competitive conduct

Market concentration, whether national, regional, or global, has three main effects (Akcigit et al, 2021; Aghion et al. 2021; De Loecker et al. 2022; Eeckhout, 2021; Tirole, 2022):

- [01] it enables anti-competitive practices by large firms at the expense of producers, MSMEs and consumers,
- [02] it weakens productivity and innovation
- [03] it suppresses investment.

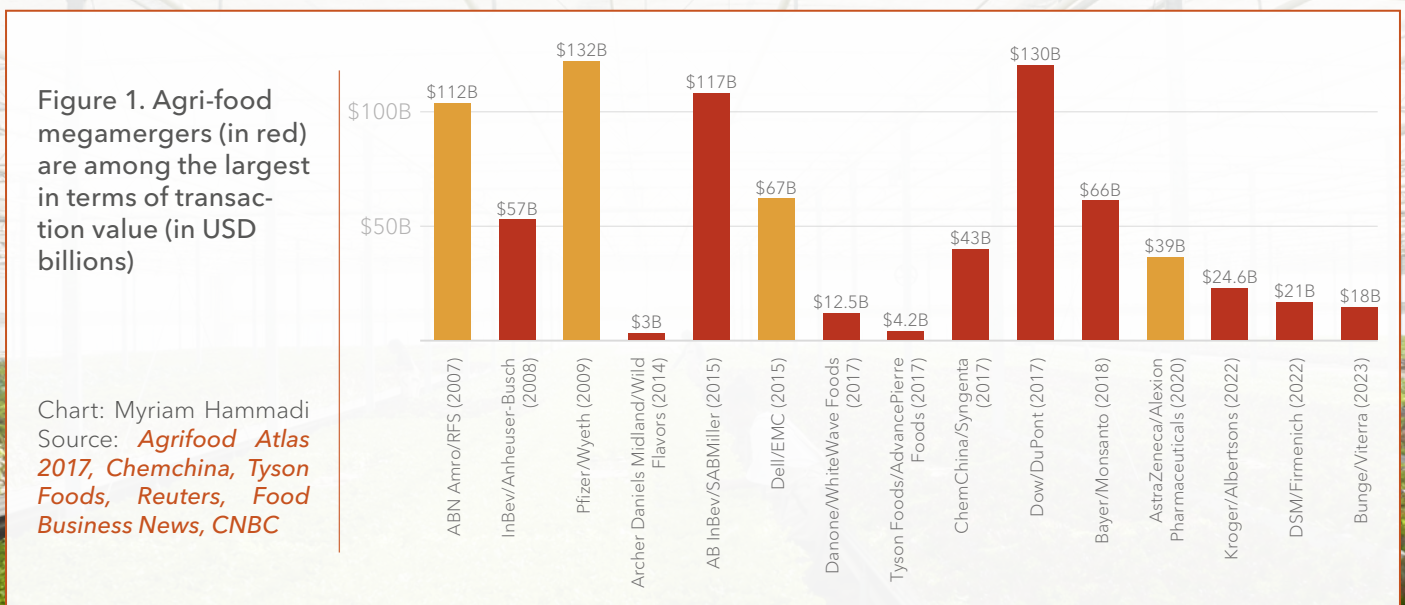
Market concentration is not inherently problematic, nor does it always result from anti-competitive practices by large firms. A market with only a few active companies may be the result of the intrinsic features of the industry. This is the case with the production of genetically modified seeds and related agricultural technologies due to the extensive research, regulatory approvals, and intellectual property protections involved. Economies of scale and scope, as well as network effects, allow larger companies to have lower costs and can potentially offer more attractive services to producers and consumers. However, increased concentration amongst a few companies becomes problematic when it changes *how* they behave.

Market concentration becomes a problem when it results in:

- [01] large firms being able to *shape* markets, exercising substantial power at the expense of smaller producers, enterprises, and consumers;
- [02] new enterprises facing higher barriers to entry; and
- [03] increased likelihood of anti-competitive coordination between firms, through price fixing, dividing up markets, or rigging bids for tenders.

Because mergers can lead to anti-competitive conduction, they are among the most common practices overseen by competition laws and policies. However, in recent years, the rise of mega-mergers has challenged competition regulators across the world. Agri-food mega-mergers, in particular, are among the largest in terms of transaction value (Clapp, 2022) (Figure 1).

### The rise of big food and agriculture through recent mega mergers



In the United States and the European Union, the rise of big tech giants, such as Google, Amazon, Meta, Apple and Microsoft, alongside their anti-competitive conduct, has led to a major rethink of competition law and policy.

Competition regulators have responded with increasing urgency, using the dual policy levers of antitrust law and industrial policy. Concern has now moved beyond digital platforms. The US government has started targeting big pharma and big agriculture, with the aim of “full and aggressive enforcement for antitrust laws” as described by President Biden (MSNBC, 2021; White House, 2021; FTC, 2022a; FTC, 2022b). In March 2023, the US Department of Agriculture unlocked USD 89 million to deconcentrate the meat processing sector and announced initial steps to create a more competitive marketplace for seeds and other agricultural inputs (USDA, 2023). Similarly, EU regulators are taking steps to reduce concentration in agriculture and food markets (Case AT.40134 – AB InBev Beer Trade Restrictions, 2019; Case AT.40127 Canned vegetables Corroos and CECAB Group, 2021).

In developing countries, and specifically in Africa, the competition landscape is much more challenging than in the United State and the European Union. Markets are typically smaller and less developed while the costs to entry are often prohibitively high for small producers and MSMEs.

## 1.3. Market concentration in Africa: the good, the bad, and the ugly

Agricultural and food markets in Africa are particularly vulnerable to anti-competitive conduct. They are among the smallest markets by sector, thus requiring high levels of investment to enter, have complex regulatory barriers to navigate, government policies that favour established business, and weak institutional frameworks.

### 1.3.1. African markets are concentrated and dysfunctional

In a well-functioning market, firms compete for market share by offering better products and services to consumers at lower prices. However, in markets that do not function well, firms do not need to compete for market shares and can accrue a substantial market power which allows them to set prices and control markets. These large firms can charge prices unrelated to the actual costs of supply - including through collusion with other firms to increase prices and profit margins. Developing countries tend to have more concentrated markets and higher barriers to entry - conditions that make it difficult for new firms to enter a given market. As a result, cartels in developing countries are likely to be stronger and have significant price mark-ups (Cheng, 2020; International Finance Corporation, 2021; Roberts, 2020b). Therefore, collusion is simultaneously more likely and more harmful in highly concentrated markets.

In many African food and agricultural markets, the extreme levels of global concentration affect the entire food system, from the inputs used for production to the final sale to end consumers. Local producers are squeezed upstream and downstream since the firms that sell the inputs control prices while large buyers control the market for their outputs (Christiaensen & Martin, 2018). High price volatility further increases small producers' vulnerability.



Other parts of the value chain are highly concentrated with detrimental impact on consumers. Because the processing sector is also heavily concentrated, and specifically in Africa, MSMEs struggle to enter and compete with large firms. At the retail level, consumers in African cities pay higher food prices than in other developing countries (Nakamura et al., 2016; Allen, 2017), limiting accessibility of food and driving food insecurity (Sitko et al., 2018; Bell et al. 2020; Ochieng et al, 2019; Baulch et al., 2021; Cedrez et al., 2020).

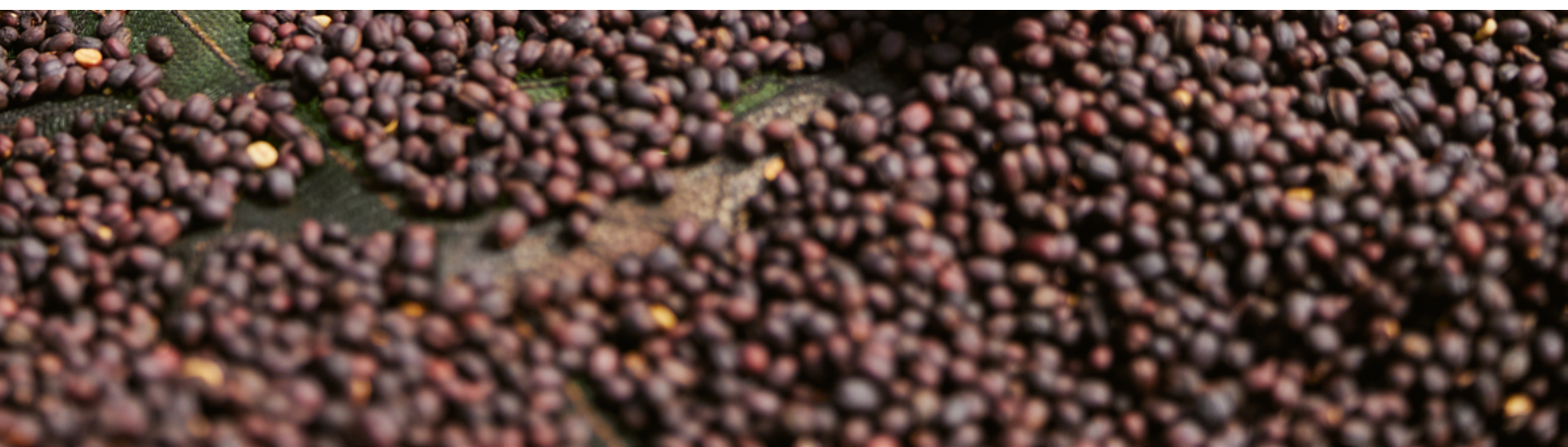
### 1.3.2. Cartels are widespread in food and agricultural markets in Africa

In Africa, markets for inputs such as fertilizer, seeds, and pesticides are highly concentrated, thus facilitating anticompetitive behaviour by large firms across borders (World Bank, 2016; Burke et al., 2019; Vilakazi 2017). In fertilizers, three out of the five main companies operating in 24 countries across the continent have been involved in cartels detected in South Africa and Zambia, which increased prices to farmers (World Bank, 2016). Cartels in fertilizer and poultry have increased prices by 50 per cent and more (Tups & Dannenberg, 2023; Hernandez & Torero, 2013; Connor, 2020).

As a result, farmers are squeezed by cartels both as buyers of inputs (for which they pay higher prices) and sellers of agricultural products (for which they are paid lower prices), due to high levels of concentration at input and processing levels (Connor, 2020; Lianos et al., 2022; World Bank, 2021).

Investigations of food and agricultural markets by African competition authorities' have uncovered extensive cartel conduct. For example, South Africa, which has the most vigorous competition enforcement in Africa, identified cartels in the markets for fertilizer, silo storage and trading, poultry, maize milling, wheat milling, bread, and dairy (Roberts, 2020b; Muzata et al., 2017). In the wheat flour case, the cartel was found to have marked-up prices by 24-42 per cent and simultaneously excluded smaller bread bakeries (Mncube, 2013; 2014). Extensive collusion was also uncovered in maize-meal - the main staple food - by some of the same companies involved in wheat milling (Makhaya & Roberts, 2013). Higher in the grain value chain, a dominant grain silo owner was found to have abused its market power in storage to squeeze out smaller traders (Roberts, 2012).

Given the reach of the companies involved, the impact of these cartels is felt across southern Africa, including in Botswana, Eswatini, Namibia and Lesotho. Competition authorities in Zambia and Kenya, which are also well established, have identified cartel conduct in many agri-food products and services (Kariuki & Roberts, 2016). Cartel conduct in poultry, fish-farming and fertilizer has been reported in Zambia and Kenya has identified widespread coordination concerns in agricultural markets.



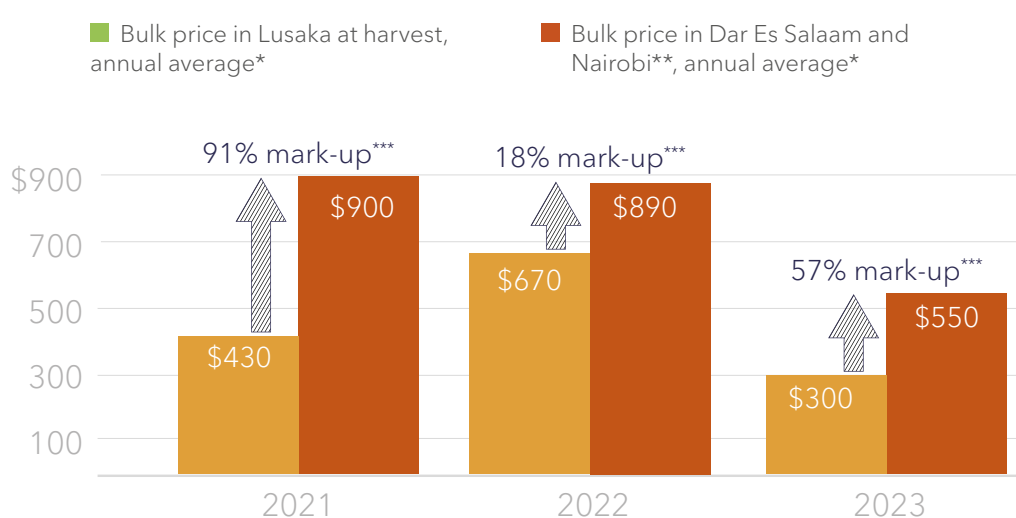
### 1.3.3. Anti-competitive conduct and market power lead to higher prices for producers, MSMEs and consumers

High levels of concentration mean big corporations have the market power to set prices, even when explicit anti-competitive conduct is not detected. Data collected by the African Market Observatory shows that large vertically integrated input suppliers and traders in Africa earn excessive margins, thus reducing prices to farmers and increasing prices to customers including small food businesses (Nsomba et al., 2022a; 2022b; Roberts, 2023). In the soybean trade, for example, traders earn a mark-up of up to 91 per cent in addition to producer prices, and after taking transport costs into account. They suppress farmer prices in Malawi and Zambia while increasing prices to buyers in Kenya (see Figure 2).

#### Traders in the soybean market profit from huge mark-ups in Kenya and Tanzania



Figure 2. Prices at harvest in Zambia, compared with prices at point of sale in Kenya and Tanzania



\*The annual average is based on the harvest season prices (April to June each year)

\*\* Prices at the point of sale include the transport costs, based on responses in interviews, averaged at USD 90 per tonne.

\*\*\*The mark-ups are calculated over the supplying country prices, net of the transport costs to Dar es Salaam and Nairobi

Chart: Myriam Hammadi • Source: *African Market Observatory Price Tracker*

Higher prices in mature and competitive markets can be caused by a variety of reasons. However, in small markets, with high barriers to entry and a small number of competitors, the high prices points to dominant corporations with market power being able to set prices even when explicit anti-competitive conduct is not detected.

### 1.3.4. Excessive market power can be used to exclude MSMEs from markets

Excessive market power can be used to exclude MSMEs from markets. A dominant firm<sup>1</sup> can unilaterally (not only in collusion with others) use its substantial market power to exclude rivals from the market and/or exploit customers by, for example,

- [01] Raising rivals' costs by blocking their access to critical inputs through an increase in prices or a reduction in output, significantly harming the ability for the rival firm to compete;
- [02] Imposing exclusivity obligations through contracts with customers that prevent them from accessing other suppliers. Contracts can also include onerous terms for MSMEs, such as a contract without the possibility of termination or expiration; and
- [03] Price discrimination resulting in a firm unjustifiably charging customers different prices for the same good or service.

Vertical integration can contribute to excessive market power when it allows the dominant company to serve as a 'gatekeeper' and engage in the abuses described above.

Dominant firms can also erect strategic barriers to entry. These firms exert their market power to undermine MSMEs by controlling supply chains and access to markets. Strategic barriers to entry can compound intrinsic features of a market thereby limiting potential entry and expansion by MSMEs into that market (Nkhonjera, 2020).

As a result of increasing global concentration, national and regional food markets are shaped by a small number of global producers. As discussed above, these firms may engage in exclusionary strategies as well as rely on a range of mechanisms to secure their market position. This could include political lobbying and leveraging influences in financial institutions, to restrict competitors' access to finance. This reinforces market failures which work against SME market entry and expansion.

## 1.4. Market concentration in the seeds, fertilizers, and poultry sectors

Awareness is growing about the harm caused by market concentration and weak competition to consumers and producers in African markets. This section provides evidence of this harm through case studies in the seeds, fertilizers, and poultry markets.

Consumers and small producers in African countries bear the negative impacts of high global concentration in the trading and input markets (OECD, 2018; Paelo, et al., 2018; Ncube et al., 2016; Vilakazi & Roberts, 2019; Tups & Dannenberg, 2021). Theoretically, farmers can benefit from the efficiencies generated by integrated traders and input suppliers. However, because of this concentration, farmers have limited alternatives and retain a very weak bargaining position (Sitko

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1. Dominance is normally defined as a firm having 'substantial market power', which in some jurisdictions means a market share above 40 to 50 per cent.

& Chisanga, 2017). In cases where the same companies operate in many countries across Africa, such as in fertilizer and grain trading, then collusion is more likely (World Bank, 2016).

Addressing such collusion can bring tremendous gains. According to the World Bank and the African Competition Forum, disciplining cartels and improving competition regulations could help reduce the prices of food staples by 10 per cent, alleviate poverty levels for 500,000 farmers in Kenya, South Africa, and Zambia, and save consumers more than USD 700 million each year (World Bank, 2016).

Yet, many African countries have not yet reached this goal. In general, competition enforcement resources are highly constrained, and their jurisdictional reach is limited. This hinders their ability to act decisively against dominant firms engaging in anti-competitive practice, especially in cases where the behaviour is cross-border. Moreover, because some countries have not set up an effective competition authority, such behaviour may continue despite being identified and sanctioned in another country.



The situation in seed, fertilizer and poultry markets in Africa provides a compelling example of the negative impact of anti-competitive practices on producers, MSMEs, and consumers.

#### 1.4.1. Seeds - the case of weak local competition and stifled innovation

Since the late 1990s, the seed industry has undergone tremendous consolidation worldwide. Consolidation refers to the act of merging or integrating separate firms, resulting in fewer independent competitors and structural alterations in the market. It differs from market concentration which measures the level of market power held by a few firms within that market.

Mergers have been the primary driver of market consolidation with clear knock-on effects in African countries. Between 1996 and 2018, the four largest firms accounted for nearly 400 ownership changes (Howard, 2020). As a result, these firms, namely Corteva, Bayer, ChemChina and BASF, account for over 40 per cent of global seed sales and over 60 per cent of proprietary seed sales (Mooney, 2018; Shand & Wetter, 2019). Such extreme levels of global market concentration impact African countries profoundly (OECD, 2018; Competition Commission of South Africa, 2021; Bosiu et al., 2017).

Global consolidation in agricultural biotechnology has limited the availability of conventional seeds and reduced options for farmers and consumers. Seed companies have cut back on non-biotech offerings, resulting in fewer choices for those who prefer non-genetically engineered crops while market concentration has led to higher prices (Shi et al., 2010; Bonny, 2017; African Centre for Biodiversity, 2017). For example, a survey revealed that 60 per cent of farmers in countries cultivating genetically modified cotton, including the United States, struggled to source conventional seeds (American Antitrust Institute, Food & Water Watch, and the National Farmers Union, 2017).

Consolidation in the seed industry has sparked concerns as to whether competition authorities are applying the appropriate merger review standards, including standards to safeguard innovation (see also Federico et al., 2019; Lianos & Katalevsky, 2017). In the Bayer and Monsanto merger, the European Commission raised concerns related to the reduction of price and innovation competition in a significant number of markets where the parties' activities overlapped, such as in the development of seeds and traits. To address these concerns, the merged entity divested Bayer's business and assets in the overlapping markets where competition concerns were raised within the EU (Coublucq et al., 2022). However, the effects of the merger were not evaluated in regions with weaker competition authorities.

Pioneer's acquisition of the South African seed company Pannar is another example of the negative effect of consolidation on seed innovation (see Box 2). This exemplifies the risks of mergers leading to concentrated control over knowledge of climate and soil, which is vital for the future development of improved, climate-resilient seeds. Such innovation is crucial to make African food systems more resilient to the devastating impacts of climate change on food production.

### Box 2. Consolidation in the seeds industry - limited local competition

Consolidation in the seeds industry has led to reduced local competition, stifling much-needed innovation in climate-resistant seeds crucial for mitigating the impact of climate change on food security.

The merger between Pioneer and Pannar in South Africa exemplifies this issue. It granted a single multinational company control over Pannar's extensive genetics library of maize germplasm, previously accessible to other companies for developing improved hybrid seeds. Despite claims of enhanced competitiveness, the merger reduced competition.

The Competition Commission of South Africa (CCSA) initially recognized the potential harm and prohibited the merger, given its concerns about the consolidation of two major players in the hybrid maize seed breeding market. However, the Competition Appeal Court overturned the decision, albeit with certain conditions. Subsequent review has unequivocally shown that the promised benefits of increased innovation and superior cultivars resulting from the merger were nonexistent. Instead, farmers in regions where Pioneer and Pannar were competitors faced a reduction in seed variety due to Pioneer's limited introductions. Further exacerbating the situation, Pioneer-branded seeds continued to perform poorly compared to those of their competitors, indicating a clear lack of long-term incentive for innovation stemming from the merger.

These outcomes highlight the adverse consequences of mergers in the seed industry. It has obstructed the research and availability of climate-resistant seeds crucial for combating the food security challenges imposed by climate change.

Source: Paelo et al., 2018



Increased consolidation in the seed industry and the entry of international firms through local entities is also evident in other African countries. In Zimbabwe, the Competition and Tariff Commission approved the USD 30 million acquisition of Pannar Seeds by Du Pont Pioneer in 2015. In Zambia, Syngenta (now merged with ChemChina) acquired the Zambian seed company MRI Seed in 2013. At the time of the acquisition, many considered MRI Seed's maize germplasm collection one of Africa's most comprehensive and diverse (Chisoro-Dube & Kaziboni, 2017). However, the acquisition of local firms by global and transnational seed companies has undermined local competition in the African seed industry.

Competition authorities have often not directly assessed the innovation and dynamic competition effects arising from acquisitions involving global firms. In fact, merger control has not historically been overly concerned with the potential for these transactions to dampen innovation. For example, the EU had never used innovation as a primary reason for a merger review until it examined the Dow and DuPont transaction. Ever-stronger intellectual property rights, including extended patents and plant breeders' rights, exacerbate this blind spot in merger control and makes innovation more expensive for competitors (African Centre for Biodiversity, 2017).

#### 1.4.2. Fertilizers – the case of high prices and excessive margins

Fertilizers are an essential input for food production. However, farmers in African countries are at the mercy of export and trading cartels, and extremely high levels of concentration in primary fertilizers. Sub-Saharan African countries import fertilizer, making them highly vulnerable to disruptions in global supply chains and international cartels charging inflated prices.

Morocco and the western Sahara hold over three quarters of global phosphate rock reserves, while Canada and Russia account for 80 per cent of global potash reserves. It is estimated that international collusion in potash and phosphate exports have driven up prices by 50 - 63 per cent (Jenny, 2012; Gnutzmann & Spiewanowski, 2016). In addition, the three largest North American potash producers operate a joint marketing organisation, Canpotex, whose membership also includes PotashCorp and Mosaic, thus facilitating their coordination. The three largest Russian and Belarusian potash producers also operate a joint venture, Belarusian Potash Company (BPC).

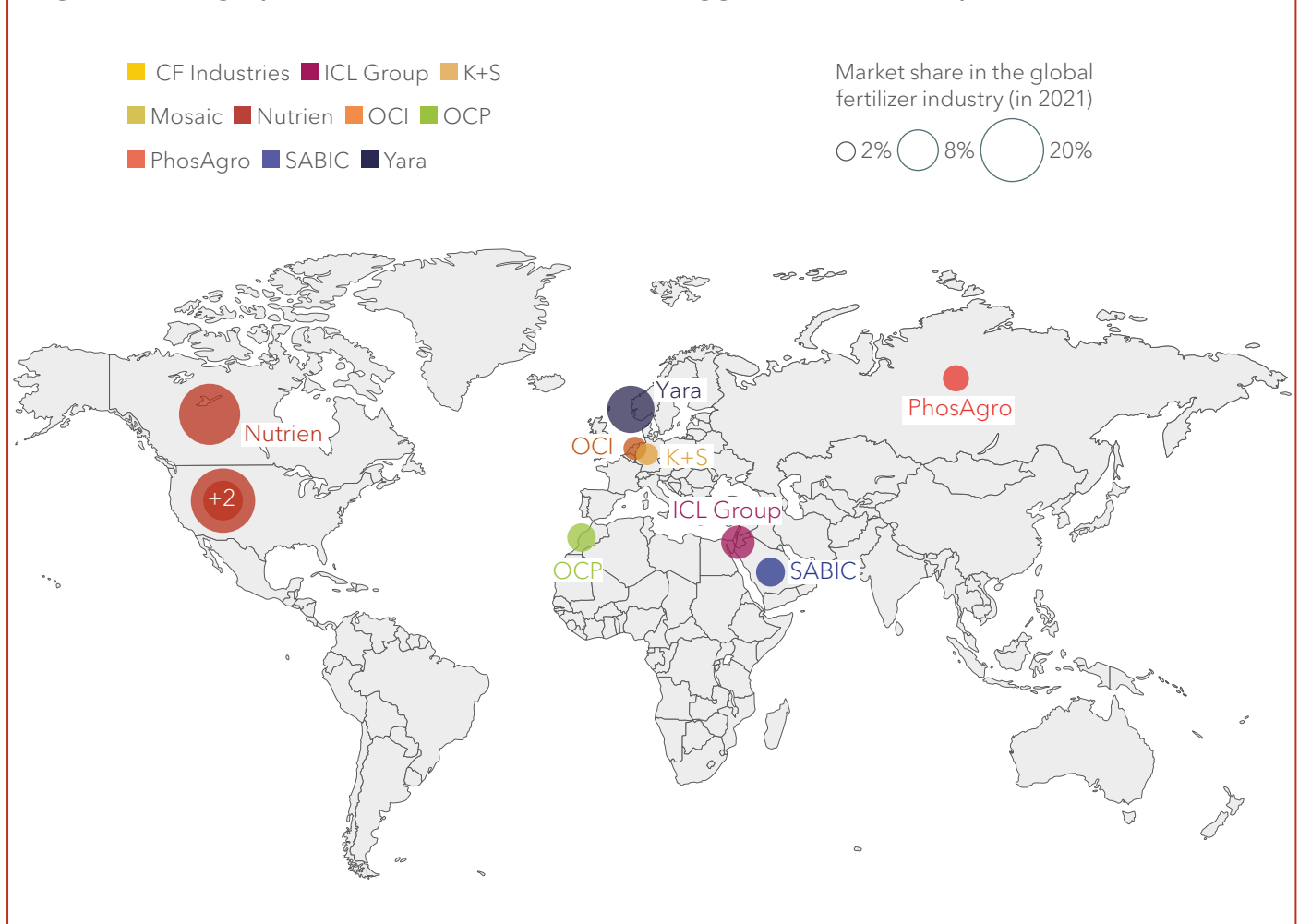
African competition authorities have also identified fertilizer trading cartels in Mauritius, Zambia, and South Africa. This has resulted in further driving up already inflated prices (Box 3).



A wave of mergers over the past decade has further increased concentration in global fertilizer supply (Tups & Dannenberg, 2023; Hernandez & Torero, 2013; Connor, 2020). The world's largest fertilizer companies are in North America, Europe and the Middle East (Figure 3), yet their mergers have increased the concentration impacting African countries (Roberts 2019; Nsomba et al. 2022b).

### Sub-Saharan African countries are vulnerable to global concentration of fertilizer companies

Figure 3. Geographical concentration of the 10 biggest fertilizer companies in the world



Map: Myriam Hammadi • Source: *IATP and Statista*

Fertilizer prices have increased in recent years, far above the already elevated levels in international markets, due to the Russia-Ukraine war. This highlights issues with competitive supply (CCRED, 2022). The price of the widely used urea fertilizer was USD 1,000 to USD 1,200 per tonne in central and east Africa in the first half of 2023, compared with the international price of USD 400 per tonne, making it three times more expensive. Taking into account reasonable transport and trading costs to supply inland countries in central and east Africa of USD 250 per tonne, this suggests excess margins of USD 450 per tonne or an excess price mark-up of 60 to 70 per cent on top of a fair delivery price.

## Central and East African prices for urea fertilizer are three times higher than world prices

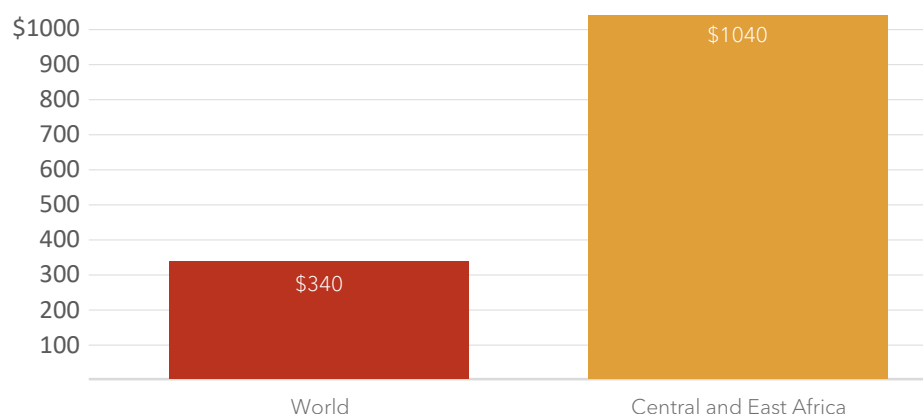


Figure 4. Prices paid for urea fertilizers in USD per tonne from January to July 2023

Chart: Myriam Hammadi  
Source: *African Market Observatory Price Tracker*

Global and regional anti-competitive arrangements as well as inefficiencies along the value chain push up the fertilizer prices paid by farmers in Africa. They are fuelled by extraordinarily high levels of concentration (Ncube et al. 2016; Vilakazi & Roberts, 2019). Collusive conduct within Africa, involving multinationals and local suppliers, have increased prices farmers paid even further (Box 3).

### Box 3. Concentration, collusion, and high mark-ups of fertilizers

In addition to global collusive arrangements in fertilizer supply, African competition authorities have identified trading cartels that have increased mark-ups even further. Zambia uncovered collusion between the major suppliers in 2012, while Mauritius identified cartels between its two major importers in 2023.

In 2009, the South African Competition Commission identified a cartel between regional suppliers which had operated until the mid-2000s. This cartel coordinated across southern Africa and shared information in various committees for imports, exports and a 'Nitrogen Balance Committee'. It also undermined smaller suppliers and importers who attempted to by-pass the cartel and reach farmers. It is highly likely that the arrangements affected other countries in southern Africa; however, it is difficult to see how national authorities could have identified and addressed these arrangements without international cooperation and strengthened national authorities.

A 2015 inquiry and 2016 study found high and increasing mark-ups above international prices in Kenya and Tanzania. Recent data by the African Market Observatory (2022) further indicated that high fertilizer prices remain an acute crisis in some countries such as Malawi and Zambia. Extremely high fertilizer prices in 2021 and 2022, blamed on Russia's invasion of Ukraine have, in fact, had much higher mark-ups than compared with international prices.

These high fertilizer prices harm farmers and directly undermine food production and food security.

Sources: Mauritius Competition Commission, 2023; Ncube et al., 2016; Vilakazi & Roberts, 2019; African Market Observatory, 2022



### 1.4.3. Poultry – the case of concentration and increased cross shareholding

Poultry is one of the fastest growing markets, offering low production costs. It is also the animal protein with lowest greenhouse gas emission. This makes it critical for achieving food and nutrition security in an environmentally, economically, and socially sustainable way. However, high levels of concentration in poultry production and processing in African countries threaten to undermine small, local producers and disrupt the critical role that the poultry sector can play in transforming food system sustainably.

Only a small number of multinational firms shape the development of the poultry industry and the rapidly expanding poultry markets in Africa. Concentration has increased through a large number of mergers and acquisitions which have, with a few exceptions, been unchallenged by competition authorities.

Concentration in the poultry sector is found throughout the supply chain, although primarily in breeding stock which is the most concentrated sector in industrial foods (ETC, 2022). Only two multinationals dominate breeding stock and control over 95 per cent of global supply. These companies provide access to their breeds either through licensing or distribution agreements, or by integrating directly into production in countries. The intellectual property embodied in the breeding stock is therefore a key factor driving the internationalization of the industry and higher levels of concentration.

Poultry production systems have involved close coordination between companies supplying breeding stock and animal feed, together with those slaughtering and processing birds. As a result, smaller independent farmers who grow birds are confronted with very large and powerful input suppliers and bird buyers, thus reducing their bargaining power.

Moreover, the high levels of concentration in breeding stock have been found to fuel collusive arrangements uncovered around the world (Roberts, 2023). This includes extensive collusive conduct identified in 2021 in the USA, where a cross-supply chain cartel increased chicken prices by as much as 50 per cent (Li & Weisman, 2023; Sappington & Turner, 2023). Similar conduct was uncovered in 2018 in Zambia (Box 4) (Goga & Roberts, forthcoming).





#### Box 4. Collusion in the Zambian Poultry Industry

In 2018, the Competition and Consumer Protection Commission (CCPC) uncovered that Zambian growers faced a cartel on day-old chicks. The main companies (hatcheries) with the licences for the international breeds restricted supplies and the terms for farmers to order chicks.

This de facto production quota inflated the prices paid by farmers for day-old chicks. The market concentration of the Zambian poultry meat industry, with the top two players holding a significant market share of around 75%, raised concerns about anti-competitive practices stifling competition and contributing to the high day-old chick prices.

It was revealed that the hatcheries had agreed policies through the Poultry Association of Zambia (PAZ) which the CCPC determined violated the Competition and Consumer Protection Act since they aimed to limit chick production and manipulate prices. As a result, the hatcheries were fined, and they were instructed to terminate the agreement and establish independent, reasonable requirements for chick orders.

Source: Goga & Roberts, forthcoming.

The examples above highlight the adverse effects on small producers and consumers in African countries caused by the high levels of concentration and market power of multinational firms in agricultural input markets. Farmers and small producers are squeezed by highly integrated suppliers and buyers as well as by higher prices for food and inputs.

## 1.5. Conclusion

African countries' markets are smaller and have higher entry barriers than in most other regions in the world. This results in anti-competitive behaviours being both more likely to occur and more harmful. The examples of fertilizer, seeds, and poultry show that concentration leads to market power being exerted to undermine producers and MSMEs and to charge high prices to consumers. These factors compound the obstacles already faced by agri-food MSMEs and worsen food insecurity. This must change.

First, markets must be fair<sup>2</sup>, including in food and agriculture. African farmers should not pay inflated prices for inputs and receive low prices for their outputs, with poor options for storage and

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2. In the words of Kyuck-Lee, with reference to competition in South Korea, cited in Fox (2002, p. 407), '...if the outcome of competition is to be accepted by the society at large, the process of competition itself must not only be free but also conform to a social norm, explicit or implicit. In other words, it must also be fair. Otherwise, the freedom to compete loses its intrinsic value. Fair competition must go in tandem with free competition. These two concepts embody one and the same value.'

processing. Smaller food producers should not be blocked from major retail chains. The power of vertically integrated gatekeeper firms which can block diverse business models and disruptors needs to be curtailed.

Second, markets require appropriate rules and institutions to address issues of substantial market power, externalities, and imperfect information. If these intrinsic features are not tackled, then market outcomes reproduce inequalities in ways which are socially and politically unsustainable.

Third, markets struggle to set the appropriate signals for the major structural changes required to respond to climate change and transform agri-food systems. Market prices value marginal or incremental sales by existing companies, not new products and ways of producing goods and services<sup>3</sup>. Competition rules therefore need to be part of the wider policy framework for sustainable and inclusive markets and production. This includes policies and regulations to achieve resilient production with lower emissions, such as more efficient use and application of fertilizer, and a more diverse range of crops, including those that are under-utilized.

Agriculture and food markets exemplify these challenges. They are concentrated at many levels of the value chains, are responsible for important positive and negative externalities for the climate and are essential for transitioning food systems towards greater climate change mitigation and adaptation. Better rules for agriculture and food markets require competition law and policy reforms which need to be translated into practical actions at the national, regional and international levels. The challenges are particularly acute in developing countries, such as Africa, with mostly young or nascent competition regimes.

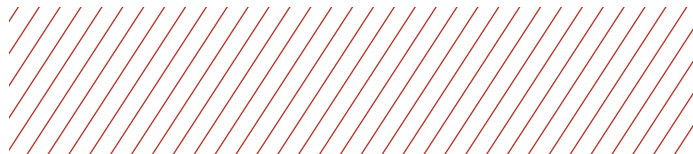
Part 2 of this report provides a situation analysis of competition law and policy regimes in Africa which are, with some exceptions, not up to the challenge of effectively enforcing competition in markets dominated by a few large multinational firms. It also reviews the actions taken by African competition institutions against anti-competitive conduct. The last part of this report (Part 3) presents a reform agenda to strengthen competition regimes to reduce the impact of concentration in African food and agricultural markets.

The purpose of this research is to support efforts to reform and strengthen competition law and policy into a tool that will enable producers and MSMEs to have fairer and more competitive access to markets, while protecting consumers.



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3. They also do not price in externality effects such as the effects of fertilizer usage on bodies of water.



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