

# Day 2. Competition Law and Policy and Session III Small and Medium Enterprises



Shared Prosperity Dignified Life



Sultanate of Oman  
سلطنة عُمان  
وزارة التجارة والصناعة وترويج الاستثمار  
Ministry of Commerce, Industry & Investment Promotion



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## Background

The advent of the pandemic and the accompanying economic slowdown have had a significant impact on enterprises. Micro, Small, and Medium-Sized Enterprises (MSMEs) have been particularly affected by the lockdown, thus imposing challenges on their activities. In fact, since 2020, the United Nations Conference on Trade and Development (UNCTAD) has been part of the UN system global response to the pandemic through the Development Account project on the “Global Initiative towards post-COVID-19 resurgence of the MSME sector”, particularly within the framework of Cluster F “access to markets” of component 2.

As a matter of fact, SMEs are often unaware of legal competition provisions, especially in developing countries, often overlooking the benefits derived from competitive markets. During the COVID-19 crisis, Competition Authorities across the globe have been receptive to the challenges faced by the SMEs, thereby exceptionally authorizing cooperation agreements between competitors to face constraints brought by confinement in certain markets to get raw materials and components in more favorable conditions, or to have access to digital platforms in fairer and more transparent conditions.

In addition to the ever-present structural issues faced by the MSMEs, related to access to finance, the pandemic brought forth the necessity to migrate online. The economic activity carried out online scored significantly higher than in previous years, with platforms acting as intermediaries between the business community and the final consumers. However, the lack of market contestability, the potential for leveraging their power and monopolizing adjacent markets, and the platforms unequal position might have foreclosed the market to the SMEs, amongst others. The UNCTAD 2021 report entitled “The COVID-19 Pandemic impact on Micro, Small and Medium Sized Enterprises” noted that, by providing the MSMEs with a distribution channel, platforms level the playing field between them and facilitate the same exposure to potential customers for both, thereby “democratizing markets”, with *potential threats to innovative SMEs*. This could give rise to particular issues in digital markets where small strategic acquisitions by larger entities can have significant impacts on competition in the market but may not be subject to scrutiny.<sup>1</sup>

Government support packages for economic recovery since the autumn of 2020 targeted MSMEs through loans and guarantees, employment support and tax relief. However, other public measures<sup>2</sup> and initiatives are still needed to support the MSMEs resurgence, namely considering current challenges brought about by digitalization. The Public procurement adjustments to encourage the SMEs access to tenders are of particular interest as it has significant economic relevance (12 per cent of the Gross Domestic Product in countries of the Organization for Economic Cooperation and Development (OECD) and almost 30 per cent in developing countries). The UNCTAD 2012 report advocated for strategies aimed at facilitating the participation of the SMEs in public tenders and also aimed at broadening the number of potential bidders, and, thereby, stimulating competition. In this context, breaking down large tenders into lots is viewed as one of the most important means of helping SMEs. Or, in cases where the SMEs do not have the capacity to submit individual bids, allowing them to form a bidder consortium also creates opportunities for the SMEs.

The UNCTAD has been providing policy advice in the areas of competition and consumer protection policies for over 30 years and continues to gather information on the best practices about competition and consumer policy taken in response

to the pandemic impact on businesses and consumers, namely focusing on the contribution of competition law and policy to the SMEs resurgence in developing countries.<sup>3</sup>

The following are the main objectives of the session:

- Share the main findings and lessons learned from the technical cooperation project on the SMEs' resurgence.
- Raise awareness about the role of competition policy in the economic recovery of the MSMEs in the wake of the COVID-19 pandemic.

## Moderator

- **Juan Luis Crucelegui**, Chief, Capacity Building and Advisory Services, Competition and Consumer Policies Branch, UNCTAD

## Speakers

- **Evelyn Olmedo**, International Relations Officer, Superintendence of Competition, El Salvador
- **Tebelelo Pule**, Chief Executive Officer, Botswana Competition Authority
- **Alanoud Alfahad**, Director of the Monopolistic Investigations Department, Competition Protection Authority, Kuwait

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<sup>1</sup> UNCTAD (2021). "The COVID-19 Pandemic impact on Micro, Small and Medium Sized Enterprises", [https://unctad.org/system/files/official-document/ditcclp2021d3\\_en.pdf](https://unctad.org/system/files/official-document/ditcclp2021d3_en.pdf).

<sup>2</sup> See [Out of the frying pan ... into the fire?](#) Trade and Development Report 2020 Update (March 2021, UNCTAD/GDS/INF/2021/1).18 Mar 2021.

<sup>3</sup> See <https://www.un.org/development/desa/da/da-response-to-covid-19>, especially the Global Initiative towards post-COVID-19 Resurgence of the MSME Sector ([https://www.un.org/development/desa/da/wp-content/uploads/sites/52/2020/08/2023W\\_Global-Resurgence-of-the-MSME-Sector.pdf](https://www.un.org/development/desa/da/wp-content/uploads/sites/52/2020/08/2023W_Global-Resurgence-of-the-MSME-Sector.pdf)), in particular the component on Competition law and policy and SMEs.