

UNIVERSITY OF RWANDA
COLLEGE OF ARTS AND SOCIAL SCIENCES
SCHOOL OF LAW
LLM IN BUSINESS LAW

**THE IMPACT OF COMPETITION LAW ON ECONOMIC GROWTH IN
RWANDA**

**Thesis submitted in partial fulfillment of the requirement for the award of a master's
degree in Business Law (LLM)**

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DECLARATION

I, TWAGIRA Emery, hereby declare that to the best of my knowledge the work presented in this dissertation entitled “*The Impact of Competition Law on Economic Growth in Rwanda*” is original work and it is has not been previously submitted elsewhere for any academic qualification. Any references to other persons’ works are acknowledged in the footnotes and in the bibliography.

Date:

Signature.....

TWAGIRA Emery

DECLARATION BY THE SUPERVISOR

I, Prof. Dr. NGAGI MUNYAMFURA Alphonse, appointed supervisor of the work presented in this dissertation entitled “*The Impact of Competition Law on Economic Growth in Rwanda*”, hereby confirm that I have supervised this thesis and submission is made with my approval.

Date:

Signature.....

Prof. Dr. NGAGI MUNYAMFURA Alphonse

DEDICATION

To the Almighty God;

To my beloved Wife TULIYA Saba;

To my beloved Children (Keren T, Caleb T, Kealan T and Carmiel T);

To my beloved Parents (Late TWAGIRAYEZU Antoine and BAZIGAGA Therèse);

To my beloved Brothers (Late Chef T and Late Robert T)

To my Beloved Sisters (Jeanne T, Adelaide T and Liliane T);

To my beloved Nephews (Jordan, Mathis and Yanis);

To my beloved Nieces (Sabrina, Naomie, Deborah and Elsie);

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TWAGIRA Emery

LIST OF ACRONYMS AND ABBREVIATIONS

ADECOR	: Association for the Defence of the Rights of Consumers in Rwanda
BSC	: Broadband System Corporation
COFOG	: Classification of the Functions of Government
CUTS	: Consumer Unity & Trust Society
EUCL	: Energy Utility Corporation Limited
FDI	: Foreign Direct Investment
GDP	: Gross Domestic Product
ICT	: Information Communication Technology
IPPs	: Independent Power Producers
MDGs	: Millennium Development Goals
MINICOM	: Ministry of Trade and Industry
MTN	: Mobile Telephone Network
OECD	: Organization for Economic Co-operation and Development
PIC	: Public Investment Committee
PPAs	: Power Purchase Agreements
PSF	: Private Sector Federation
RDB	: Rwanda Development Boards
REG	: Rwanda Energy Group
RICA	: Rwanda Inspectorate, Competition and Consumer Protection Authority
RURA	: Rwanda Utilities Regulatory Authority
UN COMTRADE	: United Nations Commodity Trade Statistics Database
WASAC	: Rwanda - Water & Sanitation Corporation

ABSTRACT

The aim of this study was to examine and demonstrate how competition law promotes economic growth in Rwanda, and the following were found to specific objectives: #o present some concerns of competition practices in Rwanda, and their legal implications and how the issues in question should be enhanced and tackled in a legal and worthy manner, to analyze the strength, weaknesses and challenges of the institutions in place, to promote competition, and to establish the linkage between the enforcement of the competition law and the economic growth.

To gather information within the course of this research, the researcher used documentary review techniques including documents review, which was used to consult laws, books and other documents, reports, journals and case laws as well as interviews. By exploring the literature on the nature of competition and reason of having or initiating competition law, Rwanda like other most developing countries, is working to implement competition policy and laws like. The actions regarding the implementation of completion policy are explained by initiation of RDB where its first mission is to help in fostering Rwandan economy and this has to facilitate investors who like to do business in Rwanda.

It has been hard to estimate the role of competition policies and laws but the arrival of foreign investors help in increasing the level exports in hold to equilibrate the balance of payment. Those competition policies also were found to have a great contribution on development programs like 2020 Vision, EDPRS, and MDGs where Rwandan is ranked among the countries that has achieved more about the goals of Millennium Development.

TABLE OF CONTENTS

DECLARATION.....	iii
DECLARATION BY THE SUPERVISOR.....	iv
DEDICATION.....	v
ACKNOWLEDGMENTS	vi
LIST OF ACRONYMS AND ABBREVIATIONS	vii
ABSTRACT.....	viii
GENERAL INTRODUCTION.....	1
1. Background of the study	1
2. Problem statement.....	3
3. Hypotheses.....	4
4. Objectives of the Study	4
4.1. General objective	4
4.2 Specific objectives	4
5. Research Methodology	4
6. Division of the Study.....	5
CHAPTER ONE: CLARIFICATION OF KEY ELEMENTS.....	6
I.1 Concept of competition and competition policy.....	6
I.1.1 Concept of competition	6
I.1.1.1 Definition of competition	6
I.1.1.2 Types of competition in general	7
I.1.1.3 Description of competition in business in Rwanda	11
I.1.1.3.1. General Overview of business competition in Rwanda.....	12
I.1.1.3.2 Competition and regulatory issues	12
I.1.1.3.3 Types of existing competitions in Rwanda.....	13
I.1.2 Concepts of competition law and competition policy	15
I.1.2.1 Definition of competition law.....	15
I.1.2.2 Definition of competition policy	15
I.1.2.3 Distinction between competition law and competition policy	16
I.1.2.4 Implementation of competition law and policy	17

1. Competition Advocacy	19
a. Privatization	19
b. Legislation.....	20
d. Regulatory reform.....	21
2. Building a competition culture.....	22
3. Investigations by competition authorities	22
I.2 Theoretical review of economic growth.....	23
I.2.1 Meaning of economic growth.....	23
I.2.2 Factors that affect economic growth	23
I.2.2.1 Public expenditure	23
I.2.2.2 Trade components and the foreign direct investment (FDI).....	25
I.2.2.3 Non-economic determinants.....	27
I.2.3. An overview of Rwandan economic growth	30
I.2.3.1. Background.....	30
CHAPTER TWO: ANALYSIS OF THE EFFECTS OF COMPETITION LAW ON ECONOMIC GROWTH.....	32
II.1. Current status of competition law and policy and their impact on the economic growth of Rwanda.....	32
II.1.1. Legal framework of competition in Rwanda.....	32
II.1.1.1 Laws	33
II.1.1.2 Orders and regulations	33
II.1.2. Institutional framework of competition.....	34
II.1.2.1. Public institutions involved in promoting competition policy in Rwanda.....	34
1. The Ministry of Trade and Industry (MINICOM).....	35
2. Rwanda Utilities Regulatory Authority (RURA)	35
3. Rwanda Inspectorates, Competition and Consumer Protection Authority (RICA).....	36
II.1.2.2 Private Institutions and consumer association promoting competition in Rwanda	36
1. Rwanda Private Sector Federation.....	36
2. Consumer Associations.....	37
II.2. Advantages and disadvantages of the implementation of competition law on economic growth.....	38

II.2.1. Advantages of competition law on economic growth.....	39
II.2.1.1. Promoting wellbeing of consumers.....	39
II.2.1.3. Promoting investment decision.....	40
II.2.1.4. Fostering economic development.....	41
II.2.1.5. Development of commerce.....	42
II.2.2.6. Increase of competitiveness.....	43
II.2.1.7. Social impacts of competition.....	43
II.2.1.8. Advantages of competition on Rwandan economic growth.....	44
1. Increase of businesses and exports.....	44
2. Achievement of 2020 Vision goals and EDPRS.....	45
3. Implementation of Millennium Development Goals.....	45
II.2.3. Disadvantages of competition law on economic growth.....	46
II.3 How competition law and policy effectively impact on the economic growth.....	46
II.3.1 Increasing the innovation capability.....	46
II.3.2 Increase of growth per capita.....	47
II.3.3 Intensification of the economy.....	48
II.3.4 Efficiency in production.....	49
II.3.5 Increase in productivity.....	49
II.3.6 Restructuring of economic sector.....	50
GENERAL CONCLUSION AND RECOMMENDATIONS.....	51
Conclusion.....	51
Recommendations.....	52
BIBLIOGRAPHY.....	53
APPENDICES.....	62

GENERAL INTRODUCTION

The general introduction of this research paper shall deal with the background of the study, problem statement, objectives of the study, research questions, scope of the study, and hypotheses of the study, used methodologies and the subdivision of the thesis.

1. Background of the study

UNCTAD findings proved that economic growth involves increasingly human welfare, increasing of quantity consumed, quality and variety of consumer goods over time.¹ UNCTAD went on to prove that competition in the business between companies can play a fundamental role in economic growth, by encouraging firms for improvement of their products and costs reduction.²

Marwa, G.M in his research found out that in view for politicians and policymakers' competition is understood as a means to stimulate more efficiency, for the contribution of improved productivity, accelerated economic growth, and higher consumer welfare.³

However Kokkinou in his journal considered that innovative actions are quite important to economic growth, development, and welfare whereby in the first place, they stimulate investments, by introducing new commodities, and processes, and improvement of the livelihood in the society.⁴

More to the above Ministry of Commerce in Rwanda showed that they lead to new developments, which affect positive trade performance and competitiveness of the country and brings forth result in a high level of economic growth. MINICOM continued to show that the Government of Rwanda has created an easy environment in which enterprises operate freely; by putting in place clear policies and legislations to encourage a competitive environment for

¹ UNCTAD. *The Role of Competition policy in Promoting Economic development: The Appropriate design and Effectiveness of Competition law and Policy*, UNCTAD secretariat., (2010). p 12

² *Ibidem*

³ Marwa, G. M., *Competition and Economic Growth: An Empirical Analysis with Special Reference to MENA Countries*, (September, 2014), p2

⁴ Kokkinou, A. *Innovation Policy, Competitiveness and Growth*, (1997). P 7

business enterprises, thereby increasing efficiency in the economy to the ultimate benefit of both consumers and producers.⁵

The Rwandan Law n° 36/2012 of 21/09/2012 relating to Competition and Consumer Protection, in its Article 1, shows how that law purposely encourages competition on the condition that it puts in place prohibition practices that undermine the normal and fair course of competition practices in commercial matters and ensures the promotion and protection of consumers' interests.⁶ The above law Rwandan in its Article 2, in point 4°, defined the competition as an economic competition of two or more separate enterprises engaged on the same market, in identical or similar commercial activities.⁷

The above statement proves that in the current years in Rwanda were provided socio-economic development with positive changes in business, by improving the business climate and increasing of investment attractiveness. However it has also been realized that many companies to maximize the profit in their businesses, it required deviation from the principle that should guide competition and engage themselves in practices that restrict or mislead competition and at the end affect consumer and economy in a negative manner.

Therefore, Ehlermann and Laudati, in their journal, found out that regulation of business and competition was deemed necessary and compulsory in order to facilitate a free and fair competition, which would result in economic efficiency, effective allocation of resources and ultimately economic growth that in return benefit all participants in the economy⁸. The Journalists added on that trade authorities in different countries have set up policies and laws to govern competition whereby they prohibited certain practices that are considered anti-competitive though those policies have been criticized by different authors for not being

⁵ MINICOM, *Rwanda Competition and Consumer Protection Policy*. (2011, April 28), p 3

⁶ The Rwandan Law n° 36/2012 of 21/09/2012 relating to Competition and Consumer Protection, art 1.

⁷ Ibid. Art 2.

⁸ Ehlermann, C. D., and Laudati, L. (eds.), Robert Schuman “*Centre Annual on European Competition Law*”, Kluwer Law International (1996) p 147

comprehensive as they deal with practices by private enterprises yet there are other behaviours that are favoured by a nation⁹.

The journalist on CUTS International went on to say that competition policy is widely accepted that it contributes to economic development to the extent to which economies competition policies and laws are performing better apparently on the field work.¹⁰ Finally, many observation around were that many economies have performed reasonably well in terms of economic development, without any competition policies in place; and in the same way, there are economies that have adopted competition policies and reforms for quite a long time now, but are still struggling, in terms of economic development.¹¹

2. Problem statement

Competition laws regulate market economies in almost all countries all over the world, including Rwanda. Studies show that past efforts to study the drivers and effects of competition laws have been manifested by the lack of systematic measures of these laws across a wide range of years or countries¹².

Indeed, the International Bank for Reconstruction and Development studies also show that businesses that operate in a competitive environment usually achieve a high level of productivity, which benefits consumers with lower prices and better variety of product to choose in between¹³. Unfortunately some studies show that sometimes states do some anticompetitive acts that block entry and expansion on the merits and facilitate cartels to the extent that such acts are qualitatively more serious problem in transitional and developing countries. These blockages and other restraints dominate the landscape and they defeat the establishment and development of

⁹ Ehlermann, C. D., and Laudati, L. (eds.), Robert Schuman “*Centre Annual on European Competition Law*”, Kluwer Law International (1996) p 147

¹⁰ CUTS International, *Competition Policy and Economic growth-Is There a Causal factor?* Jaipur, (2008). p 1

¹¹*Ibidem*

¹² Anu, B., & Chilton, A. S. *Competition Law Around The World From 1889 to 2010: The Competition Law Index*. Journal of Competition Law & Economics, 14(3), (2018, September) p 393

¹³ The International Bank for Reconstruction and Development / The World Bank.. *Preferential Trade Agreement Policies for Development*. In K. Dawar, P. Holmes, J.-P. Chauffour, & J.-C. Maur (Eds.), *Competition Policy*. Washington DC: Library of Congress Cataloging-in-Publication Data, (2011), p 347

markets and, commensurately, squeeze out all significant economic opportunities for people without social or political connections or economic power. It is in this regard that this research seeks to analyze the legal and institutional framework built up to promote a competitive environment to boost economic opportunities for all people of Rwanda. In doing so, we will highlight the effects of the government's actions from a legal perspective for and against the competition on the country's economic growth.

3. Hypotheses

This research endeavored to prove the following hypothetical statements:

- a) A well-organized competition can promote a real impact on economic growth.
- b) Economic growth requires the existence of an effective and efficient legal framework of competition.

4. Objectives of the Study

4.1. General objective

The objective of this research is to analyze and demonstrate how competition law promotes economic growth in Rwanda.

4.2 Specific objectives

- a) To present some concerns about competition practices in Rwanda and their legal implications and how the issues in question should be enhanced and tackled in a legal and worthy manner.
- b) To analyze the strength, weaknesses, and challenges of the institutions in place to promote competition.
- c) To establish the linkage between the enforcement of the competition law and the economic growth

5. Research Methodology

To gather information within the course of this research, the researcher used documentary review techniques including document review, consultation of laws, books and other documents, reports, and journals. In order to provide appropriate answers to the research questions, structured interviews were used with the aim to deepen the research and the content analysis was used.

6. Division of the Study

This work is divided into two chapters, preceded by the general introduction. The first chapter deals with the conceptual framework of the study, while the second refers to the analysis of the effects of competition law on economic growth, and ended by the conclusion of the study as well as recommendations.

CHAPTER ONE: CLARIFICATION OF KEY ELEMENTS

According to Rhonda in his journal highlighted that most countries, competition generally promotes and economic growth and resources, to benefit all stakeholders in the economic process for efficiency. The journalists went on to say that ccompetition is thought as a dynamic process of rivalry for sales between market participants and potential market participants, who invest their capitals in the production and development of goods and services.¹⁴ The journalists added that, competition policy may encompass a broader set of policy objectives including consumer welfare, more equitable income distribution and encouragement of small businesses. However, there is a presumption in favor of competition unless it can be shown that efficiency or some other public policy goal overrides it.¹⁵

I.1 Concept of competition and competition policy

Research have proved that competition among firms enables consumers to enjoy the freedom of choice, low prices, and good value for money, and promotes innovation at higher standards. On the national level, the need for regulation to prevent anticompetitive practices is accordingly accepted. On international trade level, the competition policy issues are more complex. And abuse of market power can span markets and national boundaries, and many countries lack a competition policy framework that would facilitate cooperation with other countries.¹⁶

I.1.1 Concept of competition

Different authors and scholars in different areas have tried in different way to define competition and others went beyond by defining it by listing its types.

I.1.1.1 Definition of competition

Lesniewski has defined Competition as a key tool and a major dimension of economic life. He added that its importance comes from the word "compete" which means "to seek together" and

¹⁴ Rhonda L. Smith, Australian Competition and Consumer Commission, Competition law and Policy, Theoretical Underpinnings, 2013, p1

¹⁵ *Ibidem*

¹⁶ *Ibidem*

that's why it stimulates the level of human aspirations, allowing you to achieve the highest results, as well as being the driving force of technological innovation and productivity growth¹⁷. Stankiewicz believes on his point of view that "the competition is viewed as a phenomenon in the sense that participants compete against each other in the quest for similar purposes, meaning that the actions taken by some to achieve certain goals, make it difficult or impossible to achieve the same objectives by others"¹⁸.

Competition is defined further by Grzebyk as individuals' activity that seeks to achieve the benefits that others want to gain at the same time and in the same conditions¹⁹. Its purpose is to eliminate competitors in the same industry by taking over their customers.

I.1.1.2 Types of competition in general

On the above level of competition there are four basic models including perfect competition, oligopolistic competition, monopolistic competition, pure monopoly²⁰.

1. Perfect competition

Baumol in his journal shows that perfect competition is viewed as that pure competition which describes the market in such that none of the participants can have market power and consequently, participants cannot set the price of homogeneous products. Baumol went on to say that, perfect competition operates under strict conditions in the sense that some sellers and buyers under the auction type of market argue that financial assets and products can approximate this concept of competition in the context that perfect competition is a natural benchmark when compared to other structures in the market and efficient economic resource²¹.

¹⁷ Lesniewski, M. A, *The Resource Competitiveness of Enterprises, Economics and Organization of Enterprise*. . (2014), p 57

¹⁸Stankiewicz, , M. J. *The Competitiveness of Businesses, Building Competitiveness Companies in the Conditions of Globalization*. Torun: Home Organizer, (2005), p 19

¹⁹ Grzebyk, M. *Cluster, Concept and Cooperation and the Competitiveness of Businesses. The Company and Region, Competitiveness and Innovation*. Rzeszow, (2009), p 108

²⁰ Jonas , A. A. *Strategies of Competition in the Market of Banking Services*. Warsaw: Library Manager and Banker, (2002), p 10

²¹ Baumol, W. *Regulation Misled by Misread Theory: Perfect Competition and Competition-Imposed Price Discrimination*. New York: Amazon Publishers, (2004), p 111

Mas-Colell, in his journal meant that the efficiency of the perfect competition is that the market has scarce resources that provide a perfect market condition that can be highly competitive. For that reason, every firm needs to exercise efficiency under the right market conditions so that, perfect competition can highly assume the market structure to be strong and exists in the real market to avoid imperfections²².

Mas-Colell went on to say that the products under sale by a seller in the market are identical to the ones under sale by a supplier and that it is arguably, buyers hardly worry about supply sources as long as the products are of the same price and are identical.²³ The journalist continued to argue that firms have the power to alter the output without altering the prices of products in the market and sellers and buyers can be few compared to the expected market capacity hence they do not have the power to alter market prices of products unfortunately the buyers and sellers accept the product prices that are in the market.²⁴

The third assumption said that consumers or buyers are well informed about the products and their characteristics they like to purchase from different companies. This is due to that consumers and suppliers are urged to understand the economic data and mechanisms of technologies that are adopted by firms. Therefore is to get substitutions of one firm change the price or quality abruptly.²⁵

The fourth condition or assumption is that there are no barriers to get out or enter the market. In the end this may affect the profit of the organization in business. The last assumption is that enterprises have the same opportunities to have access to resources and technologies. This means that companies or enterprises can use all things inside the internal markets. Hence the demand curve assumes to be elastic under perfect market conditions. It such way the expected marginal

²² Mas-Colell, A. *Non-cooperative Approaches to the Theory of Perfect Competition (Economic theory, econometrics, and mathematical)*, New York, (1982), p 531

²³ Idem, p 533

²⁴ *Ibidem*

²⁵ *Ibidem*

cost should be equal to cost of production and this lead to equilibrium. This also is due to the existence of many factors of production like labor and production capacity.²⁶

This type of pure competition or the state of affairs existing in a market totally free from imperfections in the communication and interaction in the economic forces of supply and demand²⁷ does not exist in Rwanda or elsewhere in the world. It is the idealistic condition. There certainly exist imperfect markets and imperfect competitions as a very limited set of requirements of perfect competition would be satisfied even when firms in an industry were subject to a regulated price set by a government or some other regulatory body, such as RURA in Rwanda.²⁸

2. Oligopolistic competition

Shubik in his journal, the oligopoly competition consists of a market with limited competition, in which a market is shared by a small number of producers or sellers. In the other way round Codognato in his study of oligopoly showed that exchange economies can be divided into two approaches including asymmetric oligopoly and symmetric oligopoly in the sense that asymmetric oligopoly, some consumers have market power while others act competitively whereas the symmetric oligopoly, all consumers are treated symmetrically and all of them act strategically²⁹.

Codognato went on to say that in such a competitive situation above mentioned, the exchange can be viewed as taking place in the way that, each competitive trader comes with his initial endowment in each good to a central market-place, where the sum of these endowments for each good is supplied for trade. The journalists reiterated the fact that a price system is announced, and determines the income of each trader as the scalar product of this price vector by the vector of his initial endowments. Then each utility-maximizing competitive trader buys back a bundle

²⁶ Roberts, J. *Perfectly and Imperfectly Competitive Markets*. In *a Dictionary of Economics* The New Palgrave, (1987) p 837

²⁷ *Ibidem*

²⁸ ICPAR. *Economics and Business Environment*. Study Manual (1st ed.). Kigali: ICPAR, (2012), p 137

²⁹ Codognato, G. *Teoria dei giochi ed equilibrio economico generale*. *Ricerche Economiche* (42), (1988), p 520.

of the commodities, the value of which does not exceed his income and If the price system clears each market a competitive equilibrium obtains.³⁰

3. Monopolistic competition

Poiesz in his article meant that monopolistic competition is a type of imperfect competition such that many producers sell products that are differentiated from one another for example by branding or quality and hence are not perfect substitutes. He added that in such situation monopolistic competition, a firm takes the prices charged by its rivals as given and ignores the impact of its own prices on the prices of other firms³¹.

The journalist continued to say that in the presence of coercive government, monopolistic competition will fall into government granted monopoly whereas perfect competition, the firm maintains spare capacity and models of monopolistic competition are often used to model industries.

Gans in his work gave examples of industries with market structures similar to monopolistic competition including restaurants, cereal, clothing, shoes, and service industries in large cities³².

Gans added that monopolistically competitive markets are characterized by many producers and many consumers in the market, and no business has total control over the market price, consumers perceive that there are non-price differences among the competitors' products, few barriers to entry and exit and finally producers have a degree of control over price.³³

Blinder, Baumol, and Gale also provided that monopolies are characterized by a lack of economic competition to produce the good or service, a lack of viable substitute goods, and the possibility of a high monopoly price well above the seller's marginal cost that leads to a high monopoly profit.³⁴

³⁰ Codognato , G. *Teoria dei giochi ed equilibrio economico generale*. Ricerche Economiche (42), (1988), p 520.

³¹ Shubik , M., *Commodity, Money, Oligopoly, Credit and Bankruptcy in a General Equilibrium Model*. *Western Economic Journal* (11), (1973) p 24.

³² Gans, J., King, S., Stonecash, R., & Mankiw, G. N. *Principles of Economics*. Thomson Learning. ISBN 0-17-011441-4, (2003), p 210

³³ *Ibidem*

³⁴ Blinder, Alan S; Baumol, William J; Gale, Colton L. "11: Monopoly". *Microeconomics: Principles and Policy* (paperback). Thomson South-Western,(2001). p. 212.

More to the above Orbach and Campbell provided that although monopolies may be big businesses, size is not a characteristic of a monopoly because even a small business may still have the power to raise prices in a small industry or market thus to mean that the big size of the market doesnot determine the sense of monopoly³⁵.

They went on to say that monopolies can be established by a government naturally, or in form of integration, by emphasizing that in many jurisdictions, competition laws restrict monopolies whereby a person holding a dominant position or a monopoly in a market is often not illegal in itself, but, certain categories of behavior can be considered abusive and therefore incur legal sanctions when business is dominant.³⁶

They stressed that a government granted monopoly or legal monopoly, by contrast, is sanctioned by the state, often to provide an incentive to invest in a risky venture or enrich a domestic interest group. Patents, copyrights, and trademarks are sometimes used as examples of government-granted monopolies. The government may also reserve the venture for itself, thus forming a government monopoly. Monopolies may be naturally occurring due to limited competition because the industry is resource-intensive and requires substantial costs to operate.³⁷

4. Pure monopoly

A pure monopoly is understood in the context that a specific person or enterprise is the only supplier of a particular commodity. This state is relatively hinging to a single entity's control of a market to purchase a good or service, or a duopoly in which two suppliers dominate the market for a commodity or service and with oligopoly, which consists of a few sellers dominating a market.³⁸

I.1.1.3 Description of competition in business in Rwanda

The ministry of commerce of Rwanda has created an enabling environment in which enterprises operate, clear policies and legislation have been put in place to foster a competitive environment

³⁵ Orbach, O., & Campbell, G. *The Antitrust Curse of Bigness*. Southern California.SSRN 1856553., (2012) p 28

³⁶ *Ibidem*

³⁷ *Ibidem*

³⁸ *Ibidem*

for business enterprises, thereby increasing efficiency in the economy for both consumers and producers to promote economic development and economic growth.³⁹

I.1.1.3.1. General Overview of business competition in Rwanda

Some unfair practices in business have come due to lack of competition and consumer protection policy in Rwanda, such as price-fixing, speculative hoarding and collusive tendering.⁴⁰

To solve the above malpractices Rwanda enacted policies and laws including Rwanda Competition and Consumer Protection Policy in 2011; Law relating to competition and consumer protection in 2012; Organic Law on State finances and property” in 2013; Ministerial Order relating to financial regulations in 2016; Law Governing Public-Private Partnerships in Rwanda in 2016; and the Prime Minister’s Order determining the functioning of the Public-Private Partnership (PPP) Steering Committee in 2017; and the Public-Private Partnership Guidelines in 2018. These laws and regulations define the types of arrangements and potential sectors; identify institutions to be involved; outline processes for procurement; define roles for institutions and institutionalizes governance framework for competitions. A number of public institutions are established to be involved and regulate the competition in business. These include the PPP Steering Committee (“PPPSC”), Contracting Authority (“CA”), and Rwanda Development Board (“RDB”) as public institutions with specific roles in the PPP process.⁴¹

In addition to these institutions, other institutions and committees, the Public Investment Committee (“PIC”), Ministry of Finance and Economic Planning (“MINECOFIN”), Ministry of Justice (“MINIJUST”) and Rwanda Utility Regulatory Authority (“RURA”) also play an important role in the competition process in accordance with other laws, rules and regulations and policies of the Government of Rwanda.⁴²

I.1.1.3.2 Competition and regulatory issues

In Rwanda, important sectors of the business such as electricity, water, and transport are regulated by the government regulators in line with the latter they have put in place institutional

³⁹ MINICOM, Rwanda Trade Policy, 2011, p 3

⁴⁰ *Ibidem*

⁴¹ Government of Rwanda, *Report*, June 2018, p 9,

⁴² *Idem*, 10

framework as well along with legal framework. It was realized that it is essential that a thorough examination of applicable laws and guidelines issued by the government must be undertaken in the competition process. The specific procedural/ approval requirements are set to ensure compliance with the regulatory provisions. The Contracting Authority (“CA”) should incorporate these procedures into the timelines in the procurement phase. Furthermore, competition laws should also be examined and appropriate procedural/ approval requirements should be dovetailed into the Public-Private Partnership (PPP) process. Indeed, the Rwanda Utility Regulation Agency (RURA) was created to resolve conflicts that can happen between business owners and also monitors those who work in a way that is unlawful. Apart from those institutions, the ministry of justice has initiated the Commercial Court and High Court of commerce which mainly deals with claims related to trade conflicts between different parts that are involved.⁴³

I.1.1.3.3 Types of existing competitions in Rwanda

a) Perfect competition

ICPAR research has provided that this type of pure competition or the state of affairs existing in a market totally free from imperfections in the communication and interaction in the economic forces of supply and demand⁴⁴ does not exist in Rwanda or elsewhere in the world. It is the idealistic condition. There certainly exist imperfect markets and imperfect competitions as a very limited set of requirements of perfect competition would be satisfied even when firms in an industry were subject to a regulated price set by a government or some other regulatory body, such as RURA in Rwanda.⁴⁵

b) Oligopolistic competition

The report provided by Rwanda Utility Regulatory Agency (RURA) In Rwandan market place, oligopolistic competition is observed in the telecommunication market for example in June 2018, Rwanda telecom market was composed by two main telecom operators (MTN and Airtel- Tigo), only five (5) Internet service providers (Liquid Telecom Ltd, ISPA Ltd , 4G Networks Ltd , BSC

⁴⁴ Government of Rwanda, *Report*, June 2018, p 9,

⁴⁵ ICPAR., *Economics and Business Environment. Study Manual* (1st ed.). Kigali: ICPAR (2012), p, 137.

Ltd, AXIOM) one wholesale network service provider (KT Rwanda Networks, two (2) Network facility providers (IHS Rwanda Ltd and Fibernet Telecom Ltd) and twenty-Seven (27) Retailers Internet Service Providers. This limited number of companies is serving 9,226,721 mobile telephone subscribers and 5,475,448 Internet service, subscribers.⁴⁶

In the same line of oligopolistic competition, in the transport sector due to the regulations and guidelines set by RURA, only 50 passenger buses transport operators have licensed: 44 local transport of person companies and cooperatives and only 6 licensed cross border companies, with only 3 companies operating in the big city of Kigali.⁴⁷

c) Pure monopolies

The annual report from RURA went to say that Rwanda Energy Group (REG) with two companies, WASAC dealing with the water supply and EUCL dealing with supply in the whole country provides an example of monopoly markets without any competitor. These companies are empowered to set tariffs and prices as they want and consumers are unable to go somewhere else because there is no competitor. EUCL has a monopoly over transmission, distribution, and supply of electricity to customers connected to the national grid. All 27 Independent Power Producers (IPPs) sell the generated electricity to Rwanda Energy Group/Energy Utility Corporation Limited (REG/EUCL) under long or short term Power Purchase Agreements (PPAs) signed between the parties.⁴⁸

Daniel Sabiiti and Oswald NIYINZOMA in their journal, also provided that Rwanda's Cement manufacturing factory is another monopolistic company with over 30 years of monopoly. They showed that it has however struggled to feed the growing local market, despite a booming construction industry and between March and June 2018, Rwanda was hit by biting cement crisis causing severe shortages of cement that pushed the retail price per 50 kg bag to over Rwf13,000 (\$14.28) up from Rwf 8,500.⁴⁹

⁴⁶ RURA. *Annual Report 2017-2018*. Kigali: RURA, (2018), pp 77-78

⁴⁷ *Ibidem*

⁴⁸ *Ibidem*

⁴⁹ Daniel Sabiiti and Oswald Niyonzima, *CIMERWA Misses Deadline to End Cement Shortage*, Kigali to Day Express April 26, 2018, p 1

d) Monopolistic competition

Monopolistic competition is a type of imperfect competition such that many producers sell products that are differentiated from one another for example by branding or quality and hence are not perfect substitutes. In monopolistic competition, a firm takes the prices charged by its rivals as given and ignores the impact of its own prices on the prices of other firms⁵⁰. Hence this type of competition in Rwanda exists especially in the hotel industry and in the restaurant industry without forgetting bakery related businesses.

I.1.2 Concepts of competition law and competition policy

I.1.2.1 Definition of competition law

The British Competition Commission defined competition as a ‘process of rivalry between businesses seeking to win over customers. The commission went on to explain that if competition law is about the process of rivalry between businesses to win over customers, and asked itself why this then is viewed as a good thing. The answer to the above inquiry was found in economic theory, more precisely in competition theory which has contrasted the benefits that occur in a perfectly competitive market to those in a monopoly.⁵¹

However the primary purpose of competition law is to remedy some of the situations in which the free market system breaks down. The point was well made in the House of Lords debate during the passage of the Competition Act 1998 that ‘competition law provides the framework for competitive activity. It protects the process of competition.⁵²

I.1.2.2 Definition of competition policy

Competition policy is understood to be the application of competition law with different purposes like consumer protection, protection of total welfare, protection of commercial

⁵⁰ Poiesz, T. B, *The Free Market Illusion Psychological Limitations of Consumer Choice; Tijdschrift voor Economie en Management*,. (49), (2004), p 309

⁵¹ Jung, Y., & Hao, Q. *The New Economic Constitution in China: A Third Way for Competition Regime?* 24 *Northwestern Journal of International Law & Business*. (2003), p 63

⁵² A Quick Guide to UK Merger, *See Competition Commission and Office of Fair Trading, Assessment*, OFT1313, London, (March 2011), p 6.

freedom, redistribution, and protection of small and medium companies, employment, industrial policy, environmental protection, and single market. It aims at promoting economic development by promoting and protecting the process of competition, thereby protecting the interests of consumers and to provide for matters connected therewith.’⁵³

I.1.2.3 Distinction between competition law and competition policy

In the international report provided by CUTS, 100 countries in the words including the developed and developing have adopted the policies and regulations for the domestic competition.⁵⁴ The reports concluded that the competition policy is about all the measures undertaken by governments that may affect the behaviors and structures of enterprises⁵⁵. The measures that are taken by governments include the promotion of competition on internal markets, removing conditions to enter on the market, and easy the control undertaken by government.⁵⁶

Adopting competition law is one of the important things that are taken by government while regulating competition behaviors. That includes the actions of parliament, orders from ministries, and judicial related decisions where their aim is preventing cartels and other competitive practices from being dominants on the market. It is must that competition law should work in the manner leading to efficient allocation of scarce resources through protectionism practices.⁵⁷

However, that may help in improving the productivity and effective allocation of resources. This also intends to be sure that the welfare of consumers is reached by making market to be more

⁵³ Hansard (HL), *Introduction to competition law*, col. 1156, 1997, p 1

⁵⁴ *Idem* p 3

⁵⁵ David Simon, *Competition Bill [H.L.]*, *HL Deb 30 October 1997 vol 582 cc1144-95*, UK Parliament (1997), p 6

⁵⁶ *Ibidem*

⁵⁷ Louise du Plessis, Judd, L., & Buuren, A. *Competition legislation and Policy-is it necessary in a developing economy? Fifth Annual Competition Law, Economics and Policy Conference, (2011), p 3*

efficient. This also leads to the presence of greater option of prices. Those advantages lead to anticompetitive practices⁵⁸

I.1.2.4 Implementation of competition law and policy

A basic concern regarding the application of a competition law structure and the effective compliance of its legal commands is that of the aims and goals to be accomplished by competition law. In practice, in conjunction with the objectives of competition law, the economic objectives of a certain jurisdiction usually determine the role of competition law and policy in the economy. The purpose of antitrust provisions must essentially be decided by these basic principles of competition law; How to view these provisions; and ultimately, how to execute them. Therefore, from the perspective of the enforcement of competition law, the substantive rules and commands of a defined competition law regime should be interpreted and applied in such a way as to allow such goals and objectives to be met. Consequently, in practice, the rules of competition law cannot be effectively enacted until their aims and goals are clearly defined.⁵⁹

Moreover while most of the newly established competition structures have inherited expertise from the most developed competition regimes when developing their legal commands and competition authorities, the antitrust laws ' goals and inevitably their implementation would ultimately be decided by the specific circumstances of the jurisdictions concerned. For example, many developing countries face different barriers to achieving competitive markets relative to developed economies, so the antitrust laws in these developing countries will have to address issues such as government intervention in the market process or the establishment of strong public institutions responsible for enforcing competition law⁶⁰.

Despite the above, due to the fact that the conditions and histories of the countries setting up competition systems vary greatly from one another, there are significant similarities between

⁵⁸ UN. *Application of competition law: exemptions and exceptions*. United Nations Conference on Trade and Development. UN, (2002).

⁵⁹ BORK, R. H. *The Antitrust Paradox: A Policy at War with Itself*. New York: The Free Press, (1993), p 50

⁶⁰ *Ibidem*

competition regimes with regard to the goals and objectives of competition law. In general, competition law is considered a rule of public interest, such as private property, In general, competition law is considered a rule of public interest, such as private property, contract regulation and crime abolition. In this context, due to the public nature of this branch of law, the preservation of the public interest as competitive markets that constitute a public good is one of its essential objectives. In fact, there is widespread acceptance Jurisdictions and the ongoing debate on increasing economic efficiency and enhancing consumer welfare are among the main objectives of competition law.⁶¹

As far as increasing economic efficiency is concerned, this is mainly concerned with: allocative efficiency, which allocates resources to their most desired use; efficient output, which generates goods at the lowest cost; and competitive efficiency, which creates better goods and services through innovation. In this regard, the purpose of competition law and policy is to encourage market participants to increase efficiency by: promoting economic growth; encouraging the development of new products and services by promoting rivalry between competing undertakings; increasing productivity; reducing costs; increasing choice; improving product quality; and encouraging innovation to benefit consumers. With regard to optimizing consumer welfare, the goal of competition law and policy is to optimize consumer welfare by lowering prices, increasing production, raising consumer choice and quality of goods and services, and fostering technological development and innovation. As a result, according to some analysts, the basic goal of competition law is consumer protection in practice.⁶²

Nonetheless, there is a contested issue on the objective approach to consumer welfare among jurisdictions, on the one hand, some regimes do not take into account the transfer of wealth from consumers to producers resulting from higher prices, lower output, or any other factor affecting demand. Certain governments, on the other hand, assume that the objective of consumer welfare must prioritize consumer welfare and interests over producers. In general, the purpose of consumer safety is more apparent in jurisdictions where there are already consumer protection laws in the competition law provisions. Accordingly, the competition regulator is also

⁶¹Hovenkamp, H. *The Antitrust Enterprise: Principle and Execution*. London: Harvard University Press, (2005).p 1

⁶² *Ibidem*

responsible for implementing consumer protection regulations in some of these jurisdictions; in the end, this is due to the fact that the market system itself is intended to bring advantages to customers.

Countries vary in the development of their strategies with respect to the formulation of competition law. This is because the principles on which policies are based represent the expectations, culture, history and institutional structure of each community. Therefore, the nature and meaning of competition law and policy varies from country to country, and this diversity is largely influenced by the school of thought or ideology which prevails when the country adopts its laws.⁶³ For an effective implementation of competition law and policy, the following strategies shall be used;

1. Competition Advocacy

Competition advocacy resources are numerous and take various forms. Below is a brief discussion of four major areas where a competition agency can advocate: privatization, regulation, government policy and regulatory reform, corporate competition policy, and the development of a culture of competition. For example, these classifications do not exclude each other. For example, privatization issues may arise in a given sector during regulatory reform. The focus of these discussions is once again on advocacy in developing countries.⁶⁴

a. Privatization

The economies of many developing countries are characterized by a significant degree of participation by the state through state owned enterprises. Market reforms in these countries inevitably feature the privatization of these SOEs. The competition agency should have a role in the privatization process. It is important, it is often said, that publicly owned monopolies not be converted into private ones through the privatization process. The state has an interest in maximizing its revenues in privatization sales, however, and thus it has an incentive to create and sell an enterprise that has market power. Such an entity has more value than one that is introduced into a competitive market. The competition agency is well placed to offer resistance

⁶³UN, *Application Of Competition Law: Exemptions And Exceptions, United Nations Conference On Trade And Development, 2002, p14*

⁶⁴ The World Bank. *OECD: A Framework for the Design and Implementation of Competition Law and Policy, Chapter, (1998), p 93*

to this tendency. It is in the agency's interest to participate in the privatization process if only because "getting it right" at the privatization stage – creating competitive markets from the outset will lessen its enforcement burdens later on.⁶⁵

As far as Rwanda is concerned, through its public expenditure program, which has played a crucial role in the process of fostering socio-economic reconstruction, it has made important strides in its rehabilitation from the 1994 genocide against the Tutsi. The economic growth depends, among other factors, greatly on the size and value of investment. In this regard; Public Private Partnerships and Joint Ventures plays a key role in promoting the accelerated implementation of strategic national investments and generates economic multiplier effects including job creation; value for money and quality services without compromising debt longevity.

The "National Public Investment Strategy" was adopted in 2009 to direct the government in its investment program, focusing on improving the efficiency and effectiveness of the portfolio of public investment and strengthening cooperation between public and private investment, including public private partnerships.

Since then, much has been accomplished, particularly in terms of building transparent and accountable public investment processes. This 2009 policy has led in particular to the establishment of the Public Investment Committee (PIC) as the point of entry and oversight for all central government projects. Experience has shown that this formula has contributed significantly to the development of public project efficiency and transparency. There have also been significant progress in other areas of public spending, which now call for further policy guidance: e.g Creation of the PPP system and creation of PPPs, alternative forms of private sector investment, progress in decentralization.⁶⁶

b. Legislation

In many nations, the regulations provide for the competition regulator to periodically update and report on proposed legislation that may impact competition. A legislature or parliament's production can be huge; in a legislative session, hundreds, even thousands of laws can be drafted.

⁶⁵ *Idem*, p 95

⁶⁶ *Idem*, p2

Even learning, never mind writing, is not a great use of scarce resources for the competition agency even reading all these pieces of legislation, never mind commenting on them. In addition, it is sometimes the case that the substance of a proposed law is effectively shaped in the drafting process and will not subsequently undergo any significant change. herefore, there should be procedures in place that permit the agency to recognize and focus on those relatively few measures that pose significant competition policy issues and that permit the agency to interfere in those instances early in the legislative process.⁶⁷

c. Other government policies

There is a range of government policies that affect competition and markets (not including formal regulation, which is discussed separately below), to which the competition agency could provide useful input. These include trade policies, state aids and subsidies, and procurement procedures. As noted above, trade can provide important competition in newly opened markets in developing countries. The competition agency is well placed to promote trade liberalization, but this position is likely to be controversial as well. Domestic producers and sellers, who may enjoy positions of dominance and who are well connected politically, will resist the lowering of barriers to efficient foreign competitors. Similar issues exist regarding state aids and subsidies to powerful domestic businesses. In this regard, however, there may exist policy reasons unrelated to competition, including social concerns such as protection for local workers, offered in justification for protectionist measures and state subsidies. The competition agency cannot ignore these issues; it can urge, however, that these restraints be strictly related to restructuring programs, that they be temporary and that policymakers consider more direct ways of achieving social goals rather than by interfering with the efficient operation of markets.⁶⁸

d. Regulatory reform

One of the most significant forums for competition advocacy is in regulatory reform or deregulation, and again this has special importance in developing countries. The economies of most less developed countries are characterized by state owned monopolies in infrastructure industries, including telecommunications, electricity, railroads, air transportation, ports and

⁶⁷ MINECOFIN, *National Investment Policy*. Kigali: MINECOFIN, (2017), p2

⁶⁸ OECD. *Report on Regulatory Reform, Volume II*. Paris, (1997), p 7.

maritime transport and petroleum and natural gas. Other markets, including financial markets, are also characterized by a high degree of government participation and control. Privatization and deregulation of these sectors is usually a priority in countries that are progressing toward a market economy, and for obvious reasons it is critical that these processes incorporate sound competition policy principles.⁶⁹

2. Building a competition culture

A cornerstone of a successful market economy is the existence of a “competition culture” within a country – an understanding by the public of the benefits of competition and broad-based support for a strong competition policy. An important focus for competition advocacy by the competition agency is the development of this competition culture. All parts of a society – consumers, businesspeople, trade unions, educators, the legal community, government and regulatory officials and judges – should be addressed in this effort. This proposition is now widely accepted. Competition officials in most countries are diligent about informing their citizens about the value of competition and of their efforts in promoting it.⁷⁰

3. Investigations by competition authorities

An investigation may arise through a complaint or an issue being referred to the Competition by another authority or body or may be initiated by the Competition Advocacy Agency itself. The procedure for carrying out the investigations is similar for all types of cases. However the time it will take for a case to be completed will depend on the number of parties involved and its complexity. If the investigation raises a major issue that would be expected to impact on the industry and/or viewers generally, the Competition Advocacy Agency may also consider conducting a public consultation so that all parties have an opportunity to express their views. These cases will obviously take longer to complete. On the other hand, a complaint concerning the behavior of a licensee may not require any public consultation in which case it may take less time to complete.⁷¹

⁶⁹ OECD. *Report on Regulatory Reform, Volume II*. Paris, (1997), p 8.

⁷⁰ Lee, B. *Competition Advocacy for a Knowledge-Based Society*. (2002), p 6

⁷¹ Lee, B. *Competition Advocacy for a Knowledge-Based Society*. (2002), p 8

I.2 Theoretical review of economic growth

I.2.1 Meaning of economic growth

Economic growth is defined as the increase of real GDP or GDP per capita or the augmentation of national product where prices are used to measure it in constant manner. Different factors influence economic growth and the main are the following: human resource where this is explained by active population and investing in capacity building, natural resources including land and underground resources, and the last are the increase in working capital and the advanced technology in production.⁷²

Other indirect factors also may have an influence on economic growth of the nation like efficient financial institutions, private sector, the size the consumers or demand, saving rate and investment rates, efficient in financial system, budgetary and fiscal or tax polies, migration of labor and effective working of the government. Denison concluded that there are four main factors influencing economic growth that are human resources, natural resources, capital formation and technology but their importance in economic growth are different.⁷³

I.2.2 Factors that affect economic growth

All the factors of economic growth are related in nature meaning that one can't influence the rate of economic growth. The economic growth factors are grouped into six groups. Two are named as efficient and demand other fours are named to be supply demand. That last one is gathering natural's resources, capital goods, human resource and technology. Those factors are known to have the higher value n good and services.⁷⁴

I.2.2.1 Public expenditure

Many people have showed the effects of public expenditures on economic growth of any nation. The sample of 15 developing countries showed that there is significant positive impact of public

⁷² Denison, E. F.. *The Sources of Economic Growth in the United States and Alternatives Before Us. CED Supplementary Paper, (1962) (13).*

⁷³ *Idem*

⁷⁴ *Denison, E. F.. The Sources of Economic Growth in the United States and Alternatives Before Us. CED Supplementary Paper, (1962) p 13*

expenditure on economic growth.⁷⁵ For example Benos in his study found that infrastructure and human capital has a significant impact on growth in long term.⁷⁶ Using the Wagner's law Lamartina and Zaghini found the relationship between public expenditure and economic growth.⁷⁷ Given example, the theory of Wagner was confirmed by Lamartina and Zaghani due to the elasticity of public expenditure compared to the value of GDP. Their analysis went far and concluded that in developing countries where GDP per capita is lower, there is higher expectation of higher elasticity values in long term since the economic growth is only funded by the government.⁷⁸

Szarowska in her study about the direct relationship between public expenditure and the output in terms of GDP in short terms with the use of the countries like Bulgaria, Czech Republic, Hungary, Romania, and Slovakia found that there is no countercyclical effect between variables.⁷⁹ However, other papers in conducted by OECD in some developing countries especially in Latin America showed that there are pro-cycle effects.⁸⁰ Other literature also confirmed the role of education on the growth of an economy. They found education is a key – indicator of quality human capital where skilled workers bring a higher contribution to economic growth of the nation.⁸¹

⁷⁵ Ghosh, S., & Andros, G, *The Composition of Government spending and Growth: Is current or capital spending better?* Oxford Economic Papers, (2008). pp 484-516.

⁷⁶ Benos, N. *Fiscal policy and Economic growth: Empirical evidence from EU countries.* University of Ioannina, (2009), p 2

⁷⁷ Lamartina, S., & Zaghini, A. Increasing Public Expenditure: Wagner's Law in OECD countries. *German Economic Review* (12(2)), (2008). pp. 149–164.

⁷⁸ *Ibidem*

⁷⁹ Szarowská, Irena, "The cyclicity of government expenditure and Wagner's law- Case of Czech Republic, Slovakia, Hungary, Bulgaria and Romania." Scientific Papers of the University of Pardubice. Series D, Faculty of Economics & Administration, (2012). pp 188-198

⁸⁰ Alesina, A., Campante, F., & Tabellini, G. *Why is Fiscal policy often procyclical?* Journal of the European Economic Association, (2008). pp 1006–1030.

⁸¹ Sala-I-Martin, X., Doppelhofer, G., & Miller, R., Determinants of Long-term Growth: A Bayesian averaging of Classical estimates (BACE) Approach. *American Economic Review*, (2004) pp 813–835.

Ho and Chen investigated the influence of military spending on economic growth. Many researchers concluded that defense spending has a negative effect on growth.⁸² Ho and Chen in their study have confirmed that the spending on military has no positive effect on economic growth and many other studies revealed that defense has negative effect on growth. Benoit was the first to carry out such kind of research and found that there is a positive impact of military spending on economic growth of less developed countries. This can be resulted on the size of the sample, different theoretical specification and time period of the study.⁸³ McDonald and Ege affirmed that defense expenditure had a small or rather insignificant effect on economic growth.⁸⁴

Using COFOG methodology Boldeanu and Tache found that there is a correlation between public spending and economic growth in 30 European countries. They performed their analysis in separate manner where each component of public expenditure, its impact of was analyzed with the use of three statistical methods. Nothing they found except the negative impact of government expenditure on economic growth on nations.⁸⁵

1.2.2.2 Trade components and the foreign direct investment (FDI)

Various study have been conducted with the aim of analyzing the relationship between foreign direct investment(FDI) and the components of trade meaning exports, imports openness, and trade restriction with the growth on economy. There results showed that countries that apply

⁸² Hou, Na, & Bo Chen, *Military Spending and Economic Growth in an Augmented Solow Model: A Panel Data Investigation for OECD Countries. Peace Economics, Peace Science, and Public Policy*, (2014), pp 395-409.

⁸³ Benoit, E. *Defense and Economic Growth in Developing Countries*. Lexington: Lexington Books. (1973) in Florin Teodor B. and Liliana C., *The main determinants affecting economic growth*, Series V: Economic Sciences • Vol. 8 (57) No. 2, 2015, p 3

⁸⁴ Pieroni, L., *Military expenditure and Economic Growth. Defence and Peace Economics* (2009), pp 327-339.

⁸⁵ Boldeanu, Florin , T., & Ileana , T., *Public expenditures by Subdivision and Economic growth in Europe*. Bucharest: BASIQ (2015), Proceedings in Florin Teodor B. and Liliana C., *The main determinants affecting economic growth*, Series V: Economic Sciences • Vol. 8 (57) No. 2, 2015, p 3

economic liberalization or trade liberalization have the great per capita GDP and the growth is accelerated⁸⁶.

Tekin in his study found increasing exports brings positive effect on growth as Sultan and Haque shown a long-term and direct relationship between some trade indicators and economic growth.⁸⁷ In a study conducted in 10 East European countries by Simut and Mester; they found that there is a positive correlation and causal effects between exports and their economic growth⁸⁸.

In Middle East countries, different researchers have been interested on the role of trade on economic growth. Al- Raimony revealed that there is positive relationship between real export growth and economic growth while real imports decline the economic growth in Jordan.⁸⁹ In Palestine Abu-Eideh found that the real domestic bring positive impact on of Palestinian economy.⁹⁰ Economic liberalization which permits foreigners to enter on the market and favoring the exports was found to have a great importance on economic growth through channels like transfer of technology, competitive advantages and benefits from economies of scale.⁹¹

Using large sample Li and Liu investigated the importance of FDI on economic growth of nations where developed and developing countries were mixed. Their outputs concluded that

⁸⁶ Barro, R. J., Determinants of economic Growth in a Panel of Countries. *Annals of Economics and Finance*, (2003), pp 231-274.

⁸⁷ Sultan, Z. A., & Haque, I. M., The Estimation of the Cointegration relationship between Growth, Domestic Investment and Exports: The Indian Economy. *International Journal of Economics and Finance*, (2011). p 226

⁸⁸ Simuț, Ramona, & Meșter, I., *An Investigation of Cointegration and Causality between Investments, Exports, Openness, Industrial production and Economic growth: A comparative study for the East European countries*. Annals of the University of Oradea, Economic Science Series, (2014),369-378.

⁸⁹ AL-Raimony, A. The Determinants of Economic Growth in Jordan. *Humanities and Social Sciences Series*, (2011), p 2297

⁹⁰ Abu-Eideh, M. O. Factors of economic growth in Palestine: an empirical Analysis during the period of (1994-2013). *International Journal of Business and Economic Development*, (2014). p 70-84.

⁹¹ Chang, R., Kaltani, L., & Loayza, N. Openness is Good for Growth: The Role of Policy Complementarities. *Journal of Development Economics*, (2009). p 33-49.

there is a direct positive impact of FDI on economic growth.⁹² And numerous findings in 2000s showed that has a positive effect of economic growth of countries.⁹³

The money from Foreign Direct Investment has positive impact on economic growth and can foster the pace of economic growth specifically in less developed countries⁹⁴. This happens by allowing external forces to implement their technologies and to this foreign direct –investment causes direct impact in the domain by which the money are allocated and at the same time it bring tremendous impact on national productivity and economy in general.⁹⁵

I.2.2.3 Non-economic determinants

Researchers have found that the main determinants of economic growth include government institutions, efficient political and administrative systems, social and cultural factors, geography as well as demography. In the study conducted by Arusha during the period of 1996 to 2003 on 71 developed countries, he found that nations with high rated governance, their economy grow faster with those with low rated governance.⁹⁶

Rodrik stated that five kind of institutional frameworks (property rights, regulatory institutions, institutions for macroeconomic stabilization, institutions for social insurance and institutions of conflict management) can have a direct outcome on growth and on other determinants of economic growth.⁹⁷

⁹² Xiaoying, L., & Xiaming , L., Foreign Direct Investment and Economic Growth: *An Increasingly Endogenous Relationship. Worm Development*, (2005), p 393

⁹³ Lensink, R., & Morrissey, O., Foreign Direct Investment: Flows, Volatility and the Impact on Growth. *Review of International Economics* (2006) p 478 .

⁹⁴ Johnson, A. The Effects of FDI Inflows on Host Country Economic Growth. *CESIS - Centre of Excellence for Science and Innovation Studies, Royal Institute of Technology Working Paper Series* (2006) p 58.

⁹⁵ de Vita, G., & Khine , K. Growth effects of FDI and Portfolio Investment Flows to Developing Countries: a disaggregated analysis by income levels. *Applied Economics Letters* (2009). p 277

⁹⁶ Arusha, C. V. Government Expenditure, Governance and Economic Growth. *Comparative Economic Studies* (2009). p 401

⁹⁷ Rodrik, D. Where did all the growth go? External shocks, Social conflict and Growth collapses. *Journal of Economic Growth*,(1999). p 385

Mauro stated that corruption tends to have a negative effect on growth by affecting innovation and other start up activities and may reduce productivity. In the case of innovation, corruption can limit the new entrepreneurs to enter the market.⁹⁸ The enterprises that have to pay a big amount of money for bribes tend to reduce their production and also distort their figures⁹⁹. Shera et al determined the impact of corruption on economic growth for 22 developing countries, former socialist states in the Balkans, East and Central Europe and Asia. The results of their study demonstrated that corruption had statistical significance and a negative influence on economic growth.¹⁰⁰

In contrast to studies in which corruption is viewed as an inhabitant to economic growth, there are papers that consider that corruption can be beneficiary because it can make the economy more efficient and facilitate for investors a way to pass more restrictive and established rules¹⁰¹ considered that in certain circumstances corruption can have a lubrication effect on growth.

Political factors like political regimes, political instability, civil freedom, the perception of politics play also an important role in fostering economic growth and. Political instability has a negative effect on companies and their willingness to invest, can create violence and anarchy in the society and in the end can have serious consequences on economic growth.¹⁰²

According to Aisen and Veiga, in their study, they have concluded that political instability brings negative effects on the economic growth of 169 countries referring to the period of 1960 to 2004. They said that that affects the economy in terms of productivity and physical labor or development of human skills. They also said that democracy has a small negative effect on the growth of a nation. Other studies revealed that the role of democracy in accelerating economic

⁹⁸ Mauro, P. *Corruption and Growth*. Quarterly Journal of Economics 110, (1995) p 681-712

⁹⁹ Svensson, J. *Who Must Pay Bribes and How Much?* Quarterly Journal of Economics (2003), p 207–300.

¹⁰⁰ Shera, A., Dosti, B., & Grabova, P. Corruption impact on Economic Growth: An empirical analysis. Journal of Economic Development, Management, IT, Finance and Marketing 6(2), (2014), p 57

¹⁰¹ Kaufmann, D., & Shang-Jin, W. Does ‘grease money’ speed up the wheels of commerce? Washington, DC: International Monetary Fund, (2000), p 18

¹⁰² Lensink, R., & Morrissey O., Foreign Direct Investment: *Flows, Volatility and the Impact on Growth*. Review of International Economics (2006), p, 478

growth is not clear. Any relationship with is and economic growth is neither significant nor insignificant.¹⁰³

Socio-cultural factors also have an important role on economic growth. Ethnic diversity and fragmentation, language, religion, civic norms, beliefs are among the sociocultural determinants that may have an effect on economic growth¹⁰⁴. Ethnic diversity may have a negative impact on growth by reducing trust. It can have a negative effect on education (low schooling), political instability, underdeveloped financial system, high public deficit, underdeveloped infrastructure. The importance of geography on growth has been well researched. After World War II there was a surge in the empirical analysis of geography.¹⁰⁵ Braudel analyzed the impact of geography and climate change in Europe and its dominance over the colonies. North-Atlantic and Mediterranean Europe were the creative centres of the world after the Middle Ages ended.¹⁰⁶

Acemoglu affirmed that geography can affect in many ways economic growth. Soil quality can have an influence on agricultural productivity. Natural resources directly contribute to the industrialization of a country by essential components for production. Climate has a direct impact on production and attitudes regarding consumption. The topography of a region or state can have a positive or negative impact on transport costs and on communication. And not least, diseases can affect health care, production and the accumulation of human and physical capital.¹⁰⁷

¹⁰³ Ari, A., & Veiga, F. J., How does Political Instability affect Economic growth? *European Journal of Political Economy* (2013). 29, 151-167.

¹⁰⁴ Acemoglu, D., Simon, J., & Robinson, J. Reversal of fortune: Geography and Institutions in the Making of the Modern World Income Distribution. *Quarterly Journal of Economics* (2002). 117(4), 1231–1294.

¹⁰⁵ *Ibidem*

¹⁰⁶ Braudel, F. *Civilization and Capitalism, 15th-18th Century*. London: Collins, (1981-1984).

¹⁰⁷ Acemoglu, D., Simon, J., & Robinson, J. Reversal of fortune: Geography and Institutions in the Making of the Modern World Income Distribution. *Quarterly Journal of Economics* (2002), p 1231.

I.2.3. An overview of Rwandan economic growth

Rwanda has been deemed the African region's economic miracle, revivifying itself from a horrific genocide in 1994 and has become one of the fastest growing economies in the African continent¹⁰⁸.

I.2.3.1. Background

Since 1994 the Rwandan economy has known an increase rate 8.1% per year until 2001 due to different reforms initiated by the government of Rwanda especially in the investment domain and due to the tragedies of around 1 million of people who were displaced and the costs in terms of social and economy were enormous.

The country's GDP collapsed that year, falling in half from an already low base. Inflation climbed to more than 60 percent. Four out of every five persons were living below the official poverty line. Life expectancy at birth fell to below 30 years, and hunger and food insecurity were widespread, with severe long-term consequences. However, emerging from these devastations, which itself followed three decades of economic stagnation, the country has seen its average income rise three-and-a-half-fold since.¹⁰⁹

For the ambition of coping with developing countries especially those of the Asian continent, different approaches have been adopted including high standards and demand discipline, self-reliance and tough measures against corruption. And lastly the 2020 Vision and EDPRSs show that the future of the country will be characterized by security, being prosperous, and enjoying a modernity era. For keeping the rate of economic growth, Rwanda promotes an inclusive economy where private people, people with technical skills, people from all political parties including those in opposition are in cabinet and each is given a target to accomplish in terms of contract performance (Imihigo).

¹⁰⁸ Cheeseman, N. *Why Rwanda's Development Model wouldn't work elsewhere in Africa*. (T. Conversation, Interviewer), (2018), p 2

¹⁰⁹ Bhoroma, V. *Investment, Economic Development Lessons from Rwanda*. (NewsDay, Interviewer), (2018), p 4.

I.2.3.2. Evolution and the current status of Rwandan economy

The growth of Rwandan economy is mainly resulted from the agricultural reforms especially on the commercial crops like coffee and tea that the main part of the country' exports. To coffee the government of Rwanda allowed commerce to make its trade freely by doing export in different parts of the world they wish. This helped the Government to get higher revenues. This also helped farmers and other producers to boost their investment and productivity as results. The export of tea and coffee together with a foreign aid contributed 20% of gross national income in 2011¹¹⁰.

The economy of Rwanda also was boosted by other products like gold, tin, production of energy, mining as well as construction. The development of tourism in Virunga Park also played an indisputable role on the growth of Rwandan economy. In 2016, the total GDP of the country was \$8.5 billion and the country would like to keep the increase in it with the partnership of international community¹¹¹.

¹¹⁰ Howard, E. Rwanda, *20 years on: How a Country is rebuilding itself*. (T. Guardian, Interviewer), (2014), p 2

¹¹¹ *Ibidem*

CHAPTER TWO: ANALYSIS OF THE EFFECTS OF COMPETITION LAW ON ECONOMIC GROWTH

Competition policy is defined as the set of laws of a state or a government that govern the level and the ability people involved in businesses can compete freely or not. Those laws attempts to limit the practices that may hinder competition like monopoly and cartel. In common understanding competition policy is considered as a regulatory tool that prohibits economic actors that frustrate the competition and other trade barriers. In broader the competition policy initiated by Rwandan government aim to promote economic competitiveness by providing fair and unselective negotiations between consumers and suppliers. By reading attentively the competition policy of Rwanda, its aim is to create fair business climate nationwide. Its impact is explained by it violate the laws. Otherwise, they would gain from improved efficiencies an preventing the anti-competitive practices.¹¹²

II.1. Current status of competition law and policy and their impact on the economic growth of Rwanda

Since 2000, the government of Rwanda has worked hard for developing the welfare of its citizen, and this was done with the initiation of different policies including that of attracting foreign ' investors and attracting the creation of SMEs internally. This was made possible by removing barriers for those who liked to enter in business by creating different public agencies. Not only public institutions were created in order to boost the extent of competition but also private institutions which encompass all mechanisms and regulation in promoting competition and protecting the rights of consumers in Rwanda were created.¹¹³

II.1.1. Legal framework of competition in Rwanda

This is large category which is about all the initiatives taken by public institutions or government bodies as competition components. Ana adequate competition policy requires the interdependence and collaboration between various entities and stakeholders, hence clear roles

¹¹²Ministry Of Trade And Industry, (MINICOM), Rwanda Competition and Consumer Protection Policy (2010), p 14

¹¹³ *Ibidem*

and responsibilities are needed to be implemented. In Rwanda such framework is explained in the following manner:

II.1.1.1 Laws

The Government of Rwanda has put in place different laws related to competition practices and trade facilitation. For example law N° 36/2012 of 21/09/2012 relating to competition and consumer protection; this aims to encourage fair and robust competition in the economy by prohibiting practices anticompetitive practices, and protects the rights and interests of consumers by setting out standards for fair trading.

Rwanda Inspectorates, Competition and Consumer Protection Authority (RICA), was established by Law N° 31/2017 of 25/07/2017 (Official Gazette n° Special of 18/08/2017), determining its Mission, Organization and Functioning, having reviewed Law n° 61/2013 of 23/08/2013 establishing the National Standards Inspectorate, Competition and Consumer Protection Authority (NICA); and in its missions the following were included: to advise the Government for initiating the development of trade policy, competition and consumer protection and product quality, and to monitor and protect against bad practices that undermine the normal course of competition in business activities.

II.1.1.2 Orders and regulations

Ministerial Order n° 17/11 of 27/01/2009 granting legal status to the Association for the Defense of the Rights of Consumers in Rwanda (ADECOR); where one of the missions of the association was to promote and protect consumers' rights. If this is done well the competitions should work hard for not abusing the rights of consumers where this kind of competition may advantage the consumers.

Rwanda Competition and Consumer Protection Policy of April 28, 2011 where its role is to promote fair competition, providing consumers access to products and services at competitive prices and better quality and to create an environment, which is conducive to investment.

RDB is in charge of attracting private investments from both domestic and foreign (FDI) sources. RDB also serves as the secretariat of the PPP Steering Committee as per Article 2 of the Prime Minister's Order determining the functioning of the Public Private Partnership (PPP)

Steering Committee. Law N ° 14/2016 of 02/05/2016“governing public private partnerships”, RDB’s role also comprises the function of a specialized advisor for the preparation and implementation of PPPs. This role includes coordinating the negotiation of strategic investments and Joint Ventures with potential investors as well as following up the actualization of investments attracted.

II.1.2. Institutional framework of competition

Completion laws are designed in the manner by which they can help the businesses persons to compete in viable conditions. Most of the time people use to invest with the expectations of gaining returns on their investment. Though, the competition laws help to make equilibrium in terms of profits among competitors and reduce the power of the market for one firm on detriment of the others. However, this culture will encourage other people to enter in business. Hence organizations or firms will not hesitate to enter the market since they know that disciplinary decisions could be taken for those who can abuse the power of the market.¹¹⁴

For developing countries competition laws help in developing countries against competitive practices. Due to their embryonic industrialization, those countries depend on the import. This should be made possible and easy if not the prices will be high. Those countries also may suffer from unique prices of the cartels and dominants positions of exporting firms.¹¹⁵ Since the competition law and policies are working effectively they help in promoting efficient in the country especially in terms of investment.

II.1.2.1. Public institutions involved in promoting competition policy in Rwanda

Rwanda initiated public institutions which are involved in the promotion of competition such as Ministry of Trade and Industry (MINICOM), Rwanda Development Board (RDB), Rwanda Standard Board (RSB), Rwanda Utilities Regulatory Authority (RURA), Rwanda Competition and Consumer Protection Regulatory Body under the name “Rwanda Inspectorate, Competition

¹¹⁴ Mokhamad, K.H et al, *ASEAN Conference on Fair Competition Law and Policy in the ASEAN Free Trade Area* (2003) p 5

¹¹⁵ Mokhamad, K.H et al, *ASEAN Conference on Fair Competition Law and Policy in the ASEAN Free Trade Area* (2003) p 5

And Consumer Protection Authority (RICA), etc. In addition to the Public institutions, in Rwanda we have also Private institutions composed by Rwanda Private Sector Federation, Consumer associations and Non- Government Organizations, which play a big role in protecting consumers by encouraging competition.¹¹⁶

1. The Ministry of Trade and Industry (MINICOM)

Through the department of investment, MINICOM has the mission to favor competition and consumer protection. Specifically, through its responsibilities, this ministry works with public and private stakeholders to be sure if consumer protection is in line with what is specified in trade law and it can remove all barriers if found.¹¹⁷ To achieve that, MINICOM has five strategic objectives, which are about business growth by protecting consumers.

- Increasing the productivity and creating productive capacities for commerce nationally, regionally and internationally
- Improving participation of importers and exporters of goods as well as services in the country and aiming other countries for exporting
- To increase investment by focusing foreign direct investment ones that may increase the volume products and services
- Capacity building in trade and development by offering trainings in public and private institutions
- Adopting science and technology and valuing innovation practices, strategies, and institutions by including intellectual property for supporting the development of industries and creativity based industrial knowledge

2. Rwanda Utilities Regulatory Authority (RURA)

Rwanda Utility Regulatory Authority (RURA) as an independent body was established by the law N°39/2001 of 13th September, 2001. That law has been amended by the law N°09/2013 of

¹¹⁶ Ministry Of Trade And Industry, (MINICOM), Rwanda Competition and Consumer Protection Policy (2010), p 14

¹¹⁷ Ministry Of Trade And Industry, (MINICOM), *Trade and Investment Polict* (2019), p 12

01/03/2013 establishing Rwanda Utility Regulatory Authority (RURA), where its mission, powers, organization, and functioning were determined.

The main missions of the law was to set up the guidelines in for implementation of the laws and regulation in practice, to ensure that that public utilities comply with the laws and regulation governing the sector, to make think transparent and equal treatment, to ensure that services that offered are authorized and licensed by respecting public interest, to protect the interests of the users and operators, introducing fair competition in various sectors, and mainly protecting the interests of consumers.¹¹⁸

Lastly, RURA also is committed in ensuring the development and delivery of the highest quality of services that are utile to consumers and aims to reach the efficiency reliability and equity while providing services.¹¹⁹.

3. Rwanda Inspectorates, Competition and Consumer Protection Authority (RICA)

RICA was put in place by the Law N° 31/2017 of 25/07/2017 as it was officiated in the Special Gazette n° 61/2013 of 23/08/2013 creating the national Standards Inspectorate, Competition and Consumer Protection Authority (NICA). In the article 6 RICA of the above law, RICA has the responsibilities that include are about to provide advices to government on issues related to standardization, ensuring the implementation of state policy about the protection of consumers and favoring the competition practices, and advises on laws, strategies and other decision related to its missions. Upon that the institution has to prevent everything that may hinder competition. To achieve its mission, RICA works in collaboration with other institutions inside the country and outside the country.

II.1.2.2 Private Institutions and consumer association promoting competition in Rwanda

1. Rwanda Private Sector Federation

In Rwanda the Private Sector Federation or PSF has been created in 1999 and is a result of combining the chamber of commerce and industry and the organization of employees.

¹¹⁸ Usanase, A. *Institutional Framework of Consumer Protection in Rwanda*. Kigali, (2014), p 34

¹¹⁹ Government of Rwanda, Law n° 09/2013 of 01/03/2013 *establishing Rwanda Utilities Regulatory Authority (RURA) and determining its mission, powers, organization and functioning*. Official Gazette, (2013) Bis 14

Nowadays, the federation is composed by 10 professional and promotional chambers where 8 of them are representing business sectors and two crosscutting as well. Those chambers are named as Agricultural and Livestock, Chamber of Industry, Chamber of Commerce and Services, Chamber of Financial Institutions, Chamber of ICT, Chamber of Liberal Profession, Chamber of Tourism, Chamber of Arts, Crafts and Artisans, Chamber of Women Entrepreneurs, and Chamber of Young Entrepreneurs. As an employers' professional organization and given that its main mission is to only protect the members' professional interest, and advocate effectively, it is clear that this organization has no direct mission for consumers' protection. However, through its Code of Business & Excellence established in July 2009 and reviewed in November 2014, this Organization has indirectly this mission.¹²⁰

2. Consumer Associations

In Rwanda, there are currently two associations for consumer protection namely: Association for the Defence of the Rights of Consumers in Rwanda (ADECOR), and Consumers Human Rights Organization of Rwanda (CHROR).¹²¹

3. Association pour la Défense des Droits des Consommateurs au Rwanda (ADECOR)

In Rwanda, the only one and operational consumers' association for the protection of consumers' rights is named ADECOR (Non-profit making Association): Association pour la Défense des Droits des Consommateurs au Rwanda, in French or, Association for the Defence of the Rights of Consumers in Rwanda, in English. Its legal personality has been established by the Ministerial Order n° 17/11 of 27/01/2009 granting legal status to the Association for the Defence of the Rights of Consumers in Rwanda (ADECOR), and approving its Legal Representatives¹²². Currently, this Association is composed of 250 members, and is headquartered in Kigali City. Hence the association was created to fulfill the following as objectives: 1) using all means to fight against higher prices, 1) assuring the quality, exactness on weight and measurements of

¹²⁰ Ntaganda, A. R. *Assessment of Consumer Protection in Rwandan Insurance Sector*. Kigali, (May 2016), p 31

¹²¹ *Ibidem*

¹²² Government of Rwanda, *Ministerial Order n° 17/11 of 27/01/2009 granting Legal Status to the Association for the Defence of the Rights of Consumers in Rwanda (ADECOR), and approving its Legal Representatives*. Official Gazette, (2009). Art 1

products on markets, 3) mobilization to consumers about their rights and the achievement of their obligations, 4) find solutions of all issues facing consumers in Rwanda by dialogues or mutual consultation and 5) is participating integral development of the country using permanent and transparent dialogue with other economic stakeholders.¹²³

The above objectives have to be achieved especially through four (4) following ways and means: 1° Inform and educate consumers about the defence of their rights and interests; 2° Represent consumers and assert their rights before public authorities as well as national organizations inside and outside the country; 3° Organize and develop close collaboration with all partners: Government, specialized services, economic operators, national or international Non-Governmental Organizations and the mass media; and 4° Initiate concrete actions in favor of consumers¹²⁴.

II.2. Advantages and disadvantages of the implementation of competition law on economic growth

Developing countries are familiar with perpetual problems such as poverty, poor infrastructure, critical infrastructure, weak capital markets, lack of industrial and technological development and monopolies. Through those challenges, the economies of those countries used to lag behind too and this forces those countries to find means to escape those problems. Due to that competition policy is necessary for the good of their economy. And the attentive creation of competition policy and competition laws may bring positive effects on economy. Countries put in place competition policy in order to stimulate the development of business and innovation. When competition is enforced the first people to benefit from it are consumers and government since letting people open their businesses increases the opportunity of collecting more taxes and this helps in increasing the national expenditure which is among the indicators of economic growth.¹²⁵

¹²³ *Idem*, Art. 2.

¹²⁴ ADECOR, *The Statutes of the Association for the Defense of the Rights of Consumers in Rwanda*, "ADECOR" a.s.b.l. *Official Gazette*, (2009), p. 24

¹²⁵ Ghosal, V., & Mitra, S. 'Adoption and Reform of Competition laws and their Enforcement: a crosscountry perspective. In M. S. Pradeep, *Evolution of Competition laws and their enforcement: a political economy perspective*, (2012), p. 2.

II.2.1. Advantages of competition law on economic growth

II.2.1.1. Promoting wellbeing of consumers

Poverty and low standards of people lives are generally challenges to most of developing countries. Low prices of goods and services should be low, in order to facilitate poorest people to buy them.¹²⁶ When competition law prohibits anti-competitive practices, such as price-fixing or output-restricting agreements, it facilitates the reduction of goods and services.¹²⁷

It has been found that the core objective of competition is to make marked advantaging consumers through its main elements that include law enforcement and advocacy. For enforcement, competition law deals with all anti-competitive practices that may happen from the acquisition or using excessive market power by businesses. This hurt the consumers in terms of high prices, low quality, few choices and lack of innovation practices. Enforcement helps in providing solutions to avoid any situation that can decrease the level of competition in market like the prospective of creating mergers or cartels. The enforcement doesn't focus only on punishment on the competitive practices in place it also help in avoiding the occurrence of anti-competitive practice in the future.

128

Numerous literature reviews in economics show that is there is a competition among firms, the first beneficiaries are consumers.¹²⁹ It benefits them by the availability of different varieties of products, good quality of products and advanced innovation practices where all of those lead to the growth of productivity and increasing the living standards.¹³⁰

¹²⁶ Maher , D. M, *International and Comparative Competition Law.* , (2010). 301.

¹²⁷ Noonan, C. *The Emerging Principles of International Competition Law*, (2008), 64.

¹²⁸ Organization for Economic Cooperation and Development (OECD), *Consumer Policy Toolkit*, Paris 2010, 52.

¹²⁹ Kovacic, William E. and Carl Shapiro. "Antitrust Policy: A Century of Economic and Legal Thinking." *Journal of Economic Perspectives* (2000) p 43

¹³⁰ Aghion, Philippe, Nick Bloom, Richard Blundell, Rachel Griffith, and Peter Howitt. "Competition and Innovation: An Inverted-U Relationship." *Quarterly Journal of Economics* 2005.120(2): p 701

II.2.1.2. Advantaging producers

It is argued that competition law contributes to the entry of new people into the market. It is through the entry of these new people into the market that jobs are generated.

For example, as upstream companies compete with each other for the ability to sell a service to a downstream small business or entrepreneur, entrepreneurs may gain. If a businessman markets his products to downstream companies rather than end users, he will benefit from a greater number of downstream companies to which he can sell products the greater the number of downstream companies. The greater the number of downstream customers to which the company can sell products, the better the ability to negotiate a good price for the products it sells. Therefore, whether an entrepreneur's business model is business-to-business or business-to-consumer, rivalry between upstream companies and downstream companies allows the entrepreneur to expand his or her business by generating and capturing interest in the company.

A business with market power when purchasing products and recruiting employees will, at least in the short run, be able to exploit that market power. On the labor market, "monopsony control" could lead a business to limit jobs, reducing wages below what they would be in a competitive market. In the classic example of isolated "company towns" in the late nineteenth and early twentieth centuries, employees had only one option to sell their labor and this company could therefore be manipulated, at least in the short term. In the short run, Boal finds some signs of monopsony influence from coal mining companies in the early 1900s, which controlled industrial towns. However, in the longer term, when wages are too low, it seems that employees migrate to find better paying jobs. This dynamic illustrates how resource mobility human, money, or even digital can help mitigate market power.

131

II.2.1.3. Promoting investment decision

Investment decision and acquisition of foreign direct investment (FDI) are the result of how competition law is well implemented in a county. FDI is important for economic growth,

¹³¹ Boal, William M. "*Testing for Employer Monopsony in Turn-of-the-century Coal Mining.*" The RAND Journal of Economics (1995) p 519-536.

advancing technology, improving the quality of goods and services, rising employment opportunities and facilitating the country's entry into the world market.¹³² In most developing countries, only few foreign companies are willing to enter the local markets for different reasons, therefore it causes a lack of foreign capital inflow.¹³³ Only strong competition law and policy would encourage foreign investors to establish businesses in developing countries,¹³⁴ particularly if competition is regulated in a similar fashion as it is regulated in major jurisdictions such as the US and European Union.

II.2.1.4. Fostering economic development

It has been found competition law stimulates economic growth of nations. Numerous studies found that there is positive correlation between competition nations and per capita GDP rate in the economy. To that international organization like OECD and UNCTAD favor the policies of those countries and condemn trade policies that may lead to economic decline.¹³⁵

The domestic markets have benefited from globalization where they have been opened to the world and borders stayed as physical since many economic relations are being formed. Developing countries at time were vulnerable to the dominance of few cartels in the world. It has been proved that the power of setting higher prices has undermined the economies of developing countries.¹³⁶

Some people on the other hand, argued that there is no any relationship between competition law and economic growth. According to them, the degree of economic growth by a country due to the implementation of competition law is depending on its level of economic development prior

¹³² Maher, op cit. note 54 at 299, 2010.

¹³³ Ghosal, V., & Mitra, S. Adoption and reform of competition laws and their enforcement: a crosscountry perspective'. In M. S. Pradeep , *Evolution of competition laws and their enforcement: a political economy perspective*, (2012), p 2.

¹³⁴ Azinge , E., & Ani, L. *Competition Law and Policy in Nigeria*. Nigeria Institute of Advanced Legal Studies, (2012), p 14

¹³⁵ Mc Mahon, K. *Competition Law and Developing Economies: between Informed Divergence and International Convergence*. In A. Ezrachi, *Research Handbook on International Competition law*, (2012), p. 210.

¹³⁶ *Ibidem*

to adopting the law. Therefore, competition law does not have a big influence for contributing to the economic growth of a country.¹³⁷

For other people, who contest the relationship between competition law and economic growth, argued that if in a developing economy the competition law is strongly enforced, this will restrict activities that in normal instances may not be considered anticompetitive. The nature and scope of the law may be too stringent.¹³⁸ This situation may discourage investment in a country, because some investors will choose to invest in other countries where competition law is not aggressive. This as a result may stunt growth of a country's economy¹³⁹.

II.2.1.5. Development of commerce

Competition policy complements the liberalization of trade and the relaxation of legislation. Although trade policy removes government obstacles to international trade and deregulatory reform eliminates domestic regulation which prevents entry and exit, competition policy seeks to conduct business that limits market access and reduces actual and potential competition.¹⁴⁰

Vertical contracts between domestic producers and distributors may well limit the ability of importers to compete. Domestic companies may also engage in tactical actions to create new barriers. The extent to which exclusionary practices obstruct trade after the liberalization of trade is an empirical issue, as is the question of whether the benefits of intervention are worth the cost. Business complaints about exclusionary policies are often complaints from less productive companies.¹⁴¹

¹³⁷ *Ibidem*

¹³⁸ *Ibidem*

¹³⁹ Mc Mahon, K. *Competition Law and Developing Economies: between Informed Divergence and International Convergence*. In A. Ezrachi, *Research Handbook on International Competition law*, (2012), p. 210.

¹⁴⁰ Yamawaki , H., Sleuwaegen , L., & Weiss , L. *Industry Competition and the Formation of the European Common Market*. In L. Weiss, *Concentration and Price*. MIT Press. L.W. (ed. (1989), p 22

¹⁴¹ Chang, R., Kaltani, L., & Loayza, N. Openness is Good for Growth: The Role of Policy Complementarities. *Journal of Development Economics*, (2009). p 33

Competition law may be appropriate when privatization measures do not result in anticipated efficiencies due to collusion or exclusion by an entity with significant market power. Again, actions should only take place if it is possible to improve the outcome in a cost-effective manner.

II.2.2.6. Increase of competitiveness

In developing countries there is worry that competition law can limit international competitiveness of domestic commerce by introducing unnecessary restriction on fusion of businesses. Businesses may need to reach economies of scale by fusing themselves in order to be capable to compete with international companies. Strong merge regulation also can impede the growth of the minimum size of businesses or companies in less developed countries.

Besides, it can be said that monopolies and concentrated oligopolies are more advantageous in less developed countries because of the existence of minimum performance. As the outcome, the optimal number of businesses could be small before the openness of export corridors. However, it has been proved that businesses lose their profits due to the issue of being small and having less validity.

II.2.1.7. Social impacts of competition

It is contended that though trade policies are the origin of unemployment and may cause dangers to working companies. However, because competition leads small companies out of the business, shutdown and loss of jobs happen immediately. Socially those losses from competition can't be treated with higher attention. Incapacity of not considering the impact of competition policies and law can hinder their acceptance in the future.

Nonetheless, defense of inefficient enterprises imposes a strain on customers and user sectors in terms of higher costs and/or lower quality in the longer term. A more positive approach would be to improve national economic well-being by, on the one hand, enforcing competition policy while, at the same time, introducing policies to offset any negative impacts. For example, training and policies to encourage job mobility and provide short-term unemployment benefits may help minimize short-term dislocation.

II.2.1.8. Advantages of competition on Rwandan economic growth

It is hard to measure the importance of competition law on Rwandan economic since there are no published data on government institutions that shows the impact of any competition policy. But in series of interviews that were held with some selected persons in charge of implementing some of competition policies and laws the following were revealed.

The secretary of state in ministry of commerce provided the following: The Government of Rwanda has taken different initiatives that facilitated the foreigners to do investment in Rwanda and their contribution in economic growth is apparent. They pay taxes that are used to build different infrastructure, they hire different people for job where this help in reducing the level of unemployment and their exports help in equilibrium of the balance of payment of Rwanda.

Not only that the person who is working with RURA revealed the following:

Favoring the competition in business environment of Rwanda is a key to economic development and efficiency in service delivery. When there is a competition, the hope of seeing more innovation in the future increases. Competition helps in producing quality goods where this help in increasing the capability of the home enterprises.

Apart from those views of state persons, one of the elite ordinary people to who I was contacted in this research he told me the following:

The competition forms in Rwanda doesn't work in the way favoring small business except in their small businesses but in big profitable business the competition in Rwanda is characterized by being monopoly or duopoly where you can find few companies doing the same thing and there are barriers or restriction of newcomers in the business. Hence in Rwanda there is no pure competition and its importance on economic growth is not clear what is in place is asset of societies that form something like cartels for protecting their interests.

1. Increase of businesses and exports

The Government of Rwanda has built its economy and reformed its financial and business sectors, raising its ranks from 139th to 62nd position in the annual World Bank Doing Industry

Survey. In 2012 Doing Business Survey, Rwanda ranked 45th in the Business Regulations, rising an incredible high from its 148th ranking four years ago. Among African countries Rwanda has the third place in heritage foundation/ Wall Street/ Journal for Index of Economic Freedom.

Rwanda has also increased significantly in terms of business growth and freedom of trade and is now considered to be one of the most improved economic environments in Africa. This is noteworthy for extensive liberalization, the most important area of reform being the register of wealth, the security of investors, the transparency of trade between African countries and access to credit. Rwanda's exports increased by 7.4% in 2016, reaching \$621.6 million according to UN COMTRADE results. Commodities, in particular gold, tin, tea and coffee, produced more than 48% of Rwanda's export earnings and earned \$73.5 million in tea exports in 2016, which was 9 percent higher than in 2015.

2. Achievement of 2020 Vision goals and EDPRS

The aim of Rwanda is to transform economy from agriculture to economy based knowledge and this is well defined in Vision 2020 which is long term development target with the key word as competitiveness. Through the strategic development of Vision 2020, the Rwanda is expected to be a middle income country. That would be achieved through EDPRS which is known as Economic Development and poverty Reduction Strategy. The last one focuses on four areas meaning economic transformation, rural transformation, growth and job creation and accountability in governance activities.¹⁴²

3. Implementation of Millennium Development Goals

By the end of 2015, it has been reported that Rwanda had achieved most of MDGs goals and the same time there was an improvement in standard of living and the decrease of mortality by two-third. The different domestic policies initiated by the government of Rwanda helped to have access to quality services and improved human development indicators. Also, it has been reported that poverty in Rwanda has dropped from 44% in 2011 to 39% in 2014.¹⁴³

¹⁴² *Ibidem*

¹⁴³ *Ibidem*

II.2.3. Disadvantages of competition law on economic growth

According to Powell and Arregle, sometimes businesses fail to get the opportunities, fail to use surrounding resources and become unable to solve their issues. The continuity of those errors creates disequilibrium in their performance and brings impact on their competitive advantages. Though, the competition is known to happen in two forms where the first is when performance happens not using the same resources and capabilities where small enterprises can't imitate big companies and the second is failing to use resources and activities that are available for all companies or firms and fail to solve their problems. These failures need not be due to bounded rationality, causal ambiguity, isolating mechanisms, mobility barriers or other cognitive or market failures. Even the most powerful, highly-resourced, and fully-informed firms allocate resources inefficiently and neglect sound business practice. Thus, errors produce performance variation and failures which should not be attributable to competition but to strategy theory and management practices of those firms.¹⁴⁴

II.3 How competition law and policy effectively impact on the economic growth

Competition law and policy play a great role in economic growth especially in the country where the industry is on its early stage. Any government should encourage competition in whatever means. Below programs show in which manners competition law and policy can influence economic growth effectively

II.3.1 Increasing the innovation capability

According to Aghion and Ai in their research, the relation between competition and innovation is not linear but hill-shaped. They prove that incremental benefit from innovation is increased by competition, which they called the "escape competition effect." At the same time, competition may also decrease the creativity opportunities for laggards, which they called the "Schumpeterian Effect." Therefore, there may be both good and bad sides of competition. In their paper "Competition and Innovation: An Inverted-U Relationship" Aghion et al argue that the average

¹⁴⁴ Thomas C. Powell & J. Luc Arregle, *Firm Performance and the Axis of Errors*, (2006), p 4

technical gap between leaders and followers is that with rivalry and that the inverted-U shape is steeper.¹⁴⁵

The inverted U-shape as defined by Aghion et al is the balance between the escape effect and the Schumpeterian effect that generates the U-shape at its heights and lows. Schumpeterian Theory attempts to argue that entry and exit criteria will have a positive impact on innovation and growth. Aghion highlights this in his paper "Appropriate Growth Theory: A Unifying Structure." In this article, Aghion writes:".. Schumpeterian theory implies that entry, exit and turnover all have a positive effect on innovation and productivity growth, not only in the economy as a whole, but also with existing firms. Aghion goes on to write in his paper that"... if inventions are a step-by-step operation. Formal implications of Aghion's argument are that increased entry and exit in an industry is healthy for innovation and productivity growth and hence, competition because incumbent firms may seek to innovate more at the threat of a potential entrant into the industry.¹⁴⁶

II.3.2 Increase of growth per capita

According to Porter, there is a positive relationship between the intensity of local competition and the effectiveness of national antitrust policy on the growth rate of GDP per capita.¹⁴⁷ This was supported by Nicoletti et. al¹⁴⁸ also by using data from OECD countries, who confirm the fact that competition is positively affecting the growth. In their study, Nicoletti et. al used OECD data from the early 1990' s to prove that the deregulation of industries at that time helped OECD economies to enjoy the highest growth rate per capita in

¹⁴⁵ Aghion, P., Bloom, N., Blundell, R., Griffith, R., Howitt, P. , "*Competition and Innovation: An Inverted-U Relationship*", *Quarterly Journal of Economics*, (2005), p701.

¹⁴⁶ *Idem*, p 708

¹⁴⁷ Porter, M. E. *Competition and Antitrust: Towards a Productivity-based approach to Evaluating Mergers and Joint ventures*. University of West Los Angeles Law Review, (2001), p 17

¹⁴⁸ Nicoletti, Giuseppe, and Frederic Pryor, "Subjective and Objective Measures of Governmental Regulations in OECD Nations," *Journal of Economic Behaviour and Organization* 59 (2005), p 433

the late 1990s¹⁴⁹. On the contrary, Schumpeter, according to Cohen et al¹⁵⁰ thought that profit from ex-ante market power could serve as a source of internal financial resource for innovation activity by implicitly assuming an imperfect capital market and thereby giving firms little incentive to innovate.

II.3.3 Intensification of the economy

Using three variables (policy–structure–mobility), Dutz and Hayri studied the strength of association between intensity of economy wide competition and growth.

In their research, they prove that the value of the microeconomic incentive system and the enabling legal and regulatory have been captured by policy measures in areas that directly promote competition.

Their study proved also that, the extent to which market structure is concentrated from an economy wide perspective is reflected by the structure variable.

They also proved that, mobility variable measured the ease with which new enterprises could enter and grow in any market. In their conclusion, they noted that the effect of competition policy on growth is robust and goes beyond that of trade liberalization, institutional quality and a generally conducive policy environment.¹⁵¹

¹⁴⁹ Idem, p 449

¹⁵⁰ Cohen, W.M., Levin, R. , *Empirical studies of Innovation and Market Structure*, Handbook of Industrial Organization II edn, , Amsterdam (1989), p 42

¹⁵¹ Dutz, M. and Hayri, A., *Competition Policy Issues in Developing and Transition Markets.*, OECD Discussion Paper, (2002), p 52

II. 3. 4 Efficiency in production

When a competition policy is well implemented, it could boost productivity and consequently the economic growth as shown by empirical evidence.

According to Blundell, Griffith and Van Reenen, competitive companies will be more innovative while firms with higher market share tend to innovate more. In general, they noted that as large market shares produce an increase in the level of concentration of the sector, they can lead to a reduction in the overall level of R&D investment. Therefore, the claim that rivalry encourages innovation so that companies that do not innovate are often left out is true and valid.¹⁵²

II. 3. 5 Increase in productivity

During the period 1972–86, Nickell examined the correlation between competition and total productivity factor for 670 manufacturing companies in the UK.¹⁵³ In his paper, Nickell found that high rent firms have lower labour productivity growth on average as compared to firms of low rent. Firms in less concentrated industries were also found to have higher total factor productivity growth. Competition culture is trained by the adoption of competition policy according to Dutz.¹⁵⁴ By reducing managerial negligence (X-efficiency), a better impact of discipline incentives stimulated companies competitiveness and help local companies to be naturally selected by closing those that are not well managed. These two findings goes to complement the fact that competition compels firms to reduce waste, improve the technical

¹⁵² Blundell, Richard, Rachel Griffith and John Van Reenen “*Market Share, Market Value and Innovation in a Panel of British Manufacturing Firms,*” *The Review of Economic Studies* (1999) 66 (3): p 529 .

¹⁵³ Nickel, S.J. “Competition and Corporate Performance”, *Journal of Political Economy*, Vol. 104, (1996), p 724

¹⁵⁴ Dutz, M. and Hayri, A. *Competition Policy Issues in Developing and Transition Markets,* OECD Discussion Paper, (2002), p 11

efficiency of production, abandon outdated production techniques and operations and invest in new technologies.

II. 3. 6 Restructuring of economic sector

Competition policy instead of economic growth is used as a mechanism to restructure sectors of the economy that have lost their competitiveness. Money and resources were diverted from poor and uncompetitive sectors to more competitive sectors. Competition policy thus drives the effective allocation of resources and contributes to the closing of inefficient firms.¹⁵⁵

¹⁵⁵ Siegfried B. G. Ntiamoah, *The Impact of Competition Policy and its Effect on the Growth of the Economy- EU vs. US Competition Policies*, Aarhus School of Business, University of Aarhus, (2009), p 16

GENERAL CONCLUSION AND RECOMMENDATIONS

Conclusion

The effect of competition law on economic growth is undisputable especially in developed countries according to the previous literature. Legal enforcement of competition law and policy has an influence on economic growth through the increase of internal investment and foreign investment where foreigners bring their capital in country with the motivation of getting adequate legal services in case there are disputes hindering their operation in the country or other challenges that may happen. By exploring the literature on the nature of competition and reason of having or initiating competition law, Rwanda like other most developing countries does not have competition laws that are highly enforced in practice; the Government of Rwanda did more towards the encouragement of competition. For example the law n° 39/2001 of 13/09/2001 establishing Rwanda Utility and Regulatory Agency in chapter V deals with anti-competitive practices. This law empowers the Agency to regulate certain public utilities to take measures in order to promote effective competition in public utility sectors. Apart from Rwanda Utility Regulatory Agency, the law N° 31/2017 of 25/07/2017 (Official Gazette n° Special of 18/08/2017), established National Standards Inspectorate, Competition and Consumer Protection Authority (NICA) where article 6 shows that the main responsibility of NICA is advising the Government on matters related to standardization, competition and consumer protection and to ensure the implementation of State policy, laws, strategies and decisions related to its mission. Not only have the above steps that were taken by government of Rwanda, MINICOM also used to encourage competition in different manner as well RDB without forgetting the role of private sector and civil society. Even if those institutions and different signs of strengthening competition policy are in place; to measure their impact on economic growth on Rwanda was not easy but different reports revealed that Rwanda economy is growing fasters due to different policies including the encouragement of investment especially foreigners where some said institutions related to the initiation of competition policy have contributed more. It has been found also the current completion policy is influencing the economic growth of Rwanda through the increase of businesses operating in Rwanda and this lead to the equilibrium of balance of payment. The competition policy is helping in fostering the implementation of Vision 2020 and EDPRS without forgetting the Millennium Development Goals.

Recommendations

Even if the government of Rwanda, in recent days has done more for improving the climate of business, the competition law and policy still shows gaps or its effectiveness, through that the following are recommended for improving it and stimulate more people to be involved in entrepreneurship related activities.

- Creating competition law that promotes entrepreneurship: existence of market with various characteristics and hardening legal and enforcement difficulties, it is not easy for developing countries to put in place effective competition law. Hence implementing efficient competition law will help domestic enterprises and consumers at the same time.
- Promoting the competition culture; this should be done through the mobilization of the people on the necessity of competition on the economy and providing subsidies to young enterprises where those may increase the choice of consumers.
- Promoting international cooperation through integration and enforcing competition law at high level. Here bilateral and multinational agreements are signed and regional integrations are given opportunities to do exchanges by removing entry barriers on domestic market.

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APPENDICES

Appendix 1: Interview guide

1. What do you understand by competition law in Rwanda?

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2. How competition law and policies are applied in Rwanda?

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3. How competition law is enforced in Rwanda?

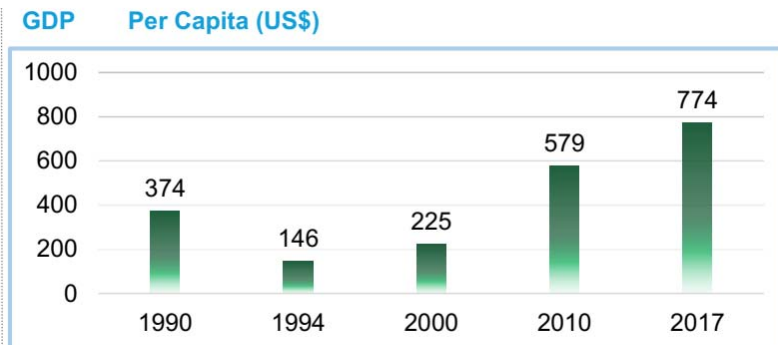
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4. What do you understand as the benefits of competition on economic growth of Rwanda?

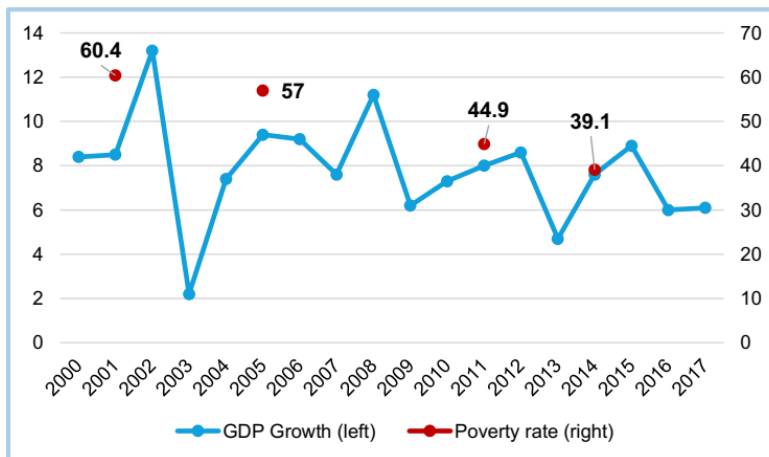
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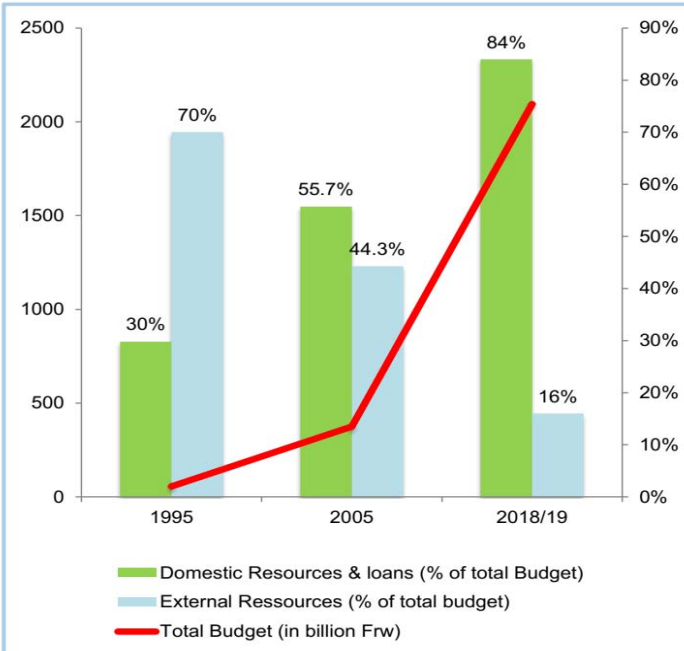
Thank you for participation

Appendix 2: Status of Rwandan economic growth

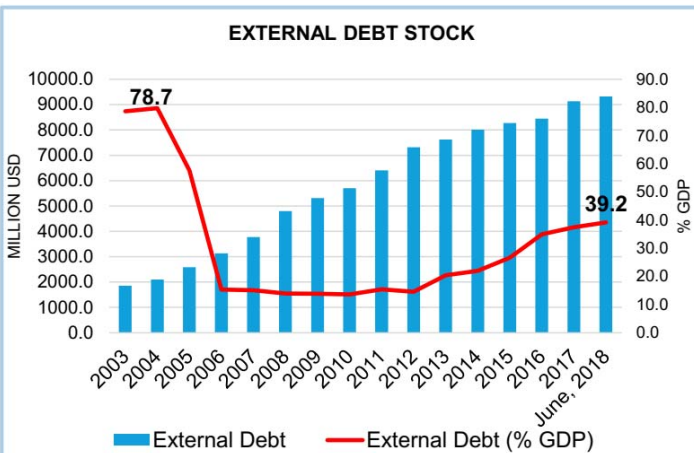


Sustained economic growth has lifted more than 1 million people out of poverty





□ Increasing proportion of the budget is financed from domestic resources and loans as opposed to grants.



□ With prudent borrowing for investment, sustainable debt levels have been maintained since Rwanda accessed debt relief from IMF/WB and other creditors in 2006;

- At end June 2018, **Rwanda's total public debt was estimated at US\$3.9 billion, representing 49.8% of GDP, of with:**
 - **39.2% of GDP is external debt** and mostly concessional (with an original grant element of 25% or more) at 61.6% of total debt;
 - **10.6% of GDP is domestic debt.**

□ The Debt Sustainability Analysis (DSA) of Rwanda indicates that Rwanda has a low risk of external debt distress.



Source: (MINECOFIN, 2018)

