UNIVERSITY OF RWANDA

CONSUMERS PROTECTION IN FINANCIAL SECTOR

WITHIN EAST AFRICAN COMMUNITY

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CONSUMERS PROTECTION IN FINANCIAL SECTOR WITHIN EAST AFRICAN COMMUNITY

Thesis submitted in partial fulfillment of academic requirements for the award of the Master's degree (L.L.M.) in Business Law

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CERTIFICATION

I, the undersigned certify that I have read and hereby recommend for Presentation a thesis entitled "**Consumers protection in financial sector within East African Community**" in fulfillment of the requirements of a Master's Degree in Business Law from University of Rwanda

……..

Prof.Dr. Alphonse M. NGAGI

DECLARATION

I, **Marie Josée UWAMAHORO,** declare that this thesis is original. It has never been presented to any other university or institution. Where other people's works have been used, references have been provided, and in some cases, quotations made. In this regard, I declare this work as originally mine.

Signature…….

DEDICATION

To the Almighty God;

To my family;

To my colleagues.

ACKNOWLEDGEMENTS

First of all, I express thanks to my creator (God Almighty) who gave me the capability to further my studies, and to have accomplished my thesis.

Concluding an assignment successfully is always a demanding task which can never become fruitful without active participation of a large number of people. The success of this thesis depends on several factors. The singling out of few names cannot exhaust my moral and intellectual debts. I have benefitted from the contribution and support of many people. I therefore wish to express my gratitude to them all.

I would like to extend a sincere thank you to my supervisor, **Prof.Dr. Alphonse M. NGAGI** for all of the support, assistance and expertise. Your immense knowledge on the subject and positive feedback made the whole process informative and straightforward.

I also thank my family who have kindly supported me, and stood by me, during and until the completion of my LLM studies.

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Above all, glory to God!

Marie Josée UWAMAHORO

LIST OF ABBREVIATIONS

Art. : Article
BITs : Bilateral investment treaties
COMESA : Common Market for Eastern and Southern Africa
CSO : Civil Society Organization
C.U. : Customs Union
G.AT.S : General Agreement on Trade and Services
EAC : East Africa Community
EACJ : East African Court of Justice
EALA : East African Legislative Assembly
EC : European Community
ECJ : European Court of Justice
GDP : Gross Domestic Product
Ibid : *Ibidem* (Same book, same author same page)
ICC : International Chamber of Commerce
Id : *Idem* (Same book, same author, and at different pages)
M.F.N : Most Favored Nation
NGO : Non-Governmental Organization
N° : Number
Op.cit : *Opere citato* (cited above)
P. : Page
REC : Regional Economic Community
SADC : Southern African Development Community
ULK : *Université Libre de Kigali (*Kigali Independent University)
UNICTAD :United Nations Conference on Trade and Development
Vol : Volume
W.T.O. :World Trade Organization
www : Word wide web

TABLE OF CONTENTS

ABSTRACT

The main objective of this study was to propose an efficient legal framework on how the interest of consumers of financial services must be protected for the sustainability of the EAC country's economy. The main interest of this study was to let consumers of financial services know their interest, to advise the financial firms to refrain from abusive conduct and for the government to know how strong the protection of consumers in this sector is in as far as its economic stability is concerned.

As the Governments offer smart environment to run a business, currently, competition can be perceived in nearly all parts of business in EAC. Taking in mind that developing a financial sector raises varieties of consumers of financial services and reduces the cost of services as well, we can realized that consumers in this area need an exceptional kind of protection contrary to any abusive conducts of financial establishments that are in competition towards the realization of their particular interests.

We have found that there is shortage of a consumer redress measures which forms a significant portion of consumer well-being. In the occasion of a disagreement on the understanding of the EAC treaty or a grievance on the dispute concerning consumer protection in financial matters, the EAC treaty does not stipulate the procedures to be tracked.

For the consumer safety ,we come to an agreement that financial growth is essential, however it must go hand in hand with consumer protection which is not only restricted to access on financial services and products but also the correctness in that process is needed.

Key words: Consumer protection, East African Community, financial services.

GENERAL INTRODUCTION

I.BACKGROUND OF THE STUDY

As Cristos Velasco stipulated in his book, back to 1962, enforcing consumers rights in current time started. Consumers Bill of Rights was proclaimed by the then president of United States (John Kennedy) on 15 March 1962, which combined the right to choice, the right to information, the right to safety and the right to be heard.[1]

Irrespective of race, class or profession, consumer protection is a concern that touches the day-to-day lives of everybody. Gil S Beltran, further said that consumers should catch "what they pay for", be assured of the quality of goods and services they buy and benefit, and have alternatives in cases of abuses by businesses that deliver those goods and services.[2]

Once it originates to consumers of financial services, it should be a must to have an effective legal framework providing for how consumers should always obtain from the service supplier accurate, simple and comparable information of a financial product or service before and after buying it. This is to allow consumers to know their rights for them to make sensible and educated resolutions whether to buy or not.

It was stated by many authors that the origins of the worldwide financial disaster, lie partly in a failure to legalize in as far as consumer protection in financial sector is concerned. It was noted that one of the main roots of the excessive financial crisis of 2007/2008 was the mis-selling of subprime secured loan in the USA and their securitization which extent the sub-prime crisis all over the world[3].

Actually, in the words of Patrice Muller, if consumers in the US had been better protected against predatory lending practices and mis-selling of credit products, especially mortgage products, the whole subprime market would not have advanced as it did and would not have been

[1]Cristos Velasco, *The Legal Framework for Consumer Protection in Mexico*, Paper Presented in Conference of North American Consumer Project on Electronic Commerce, (May 2007).
[2] Gil S Beltran, *Microfinance Consumer Protection Guidebook*, October (2007), p. 1.
[3]*Ibid.*

able to nourish the securitization accomplishments as it did, particularly from 2003 to 2007. More usually, the financial crisis evidently displayed that consumer protection in some financial markets was extremely lacking in the approach to financial crisis of 2007/2008.[4]

Competition encourages innovation, production and affordability, contributing to an effective business atmosphere. Competition consequently raises a country's attraction as a business place, generating national and external investments. Competition as wellbrings profits on behalf of consumers through lesser prices, value-added services and bigger choice. In this logic, competition creates entire consumer well-being.[5]

To create a facilitating atmosphere in which enterprises function is one of the significant purposes of Government. Strong policies and regulations have to be put in place to raise a competitive environment for business enterprises, in this manner growing effectiveness in the economy to the decisive advantage of together consumers then producers.[6]

Competition and consumer protection law arises in just to defend consumers from behavior that is anticompetitive, misleading, or imbalanced. It distinguishes between totally inappropriate manner for which no protection is suitable (per se violations) and ways that is legitimate if the indication shows that it really progresses competition (rule of reason analysis).[7]

As the Governments offer smart environment to run a business, currently, competition can be perceived in nearly all parts of business in EAC. Taking in mind that developing a financial sector raises varieties of consumers of financial services and reduces the cost of services as well, we can then say that consumers in this area need an exceptional kind of protection contrary to any abusive conducts of financial establishments that are in competition towards the realization of their particular interests.

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[4] Patrice Muller, ShaanDevnani, Richard Heys and James Suter, *a study on Protection Aspects of Financial Services Consumer*,published by European Parliament in (February 2004).
[5]UNICTAD,Why competition and consumer protection matterhttp://unctad.org/en/Pages/DITC/CompetitionLaw/why-competition-matters.aspx
[6] Rwanda Competition and Consumer Protection Policy of July 2010
[7]William M. Sage,Why competition law matters to health care quality,http://content.healthaffairs.org/content/22/2/31.long

Consumer protection is a quite new scope of law in Rwanda. It is the law Nº 36/2012 of 21/09/2012 relating to competition and consumer protection. It came into force in 2012 and its purpose was to boost competition in the economy by leaving out practices that dent the ordinary and reasonable course of competition practices in commercial substances and to guarantee consumer's interests promotion and protection.

As stated above the law Nº 36/2012 of 21/09/2012 relating to competition and consumer protection has two key parts, one is approximately competition and the other part is about consumer protection. Consumer protection, part of this law talks about protection in general, the question is then to know if the protection offered by this law is adequate in as far as the protection desired for consumers of financial services is worried.

For the consumer safety ,we come to an agreement that financial growth is essential; however it must go hand in hand with consumer protection which is not only restricted to access on financial services and products but also the correctness in that process is needed.

Bearing in mind that due to information inequality; customers have fewer information around their financial dealings than do the financial organizations providing the services area, we considered it indispensable to carry out a study on the issue entitled "**Consumers protection in financial sector within EAC".**

II.RESEARCH PROBLEM

The crisis in the US subprime mortgage market underlined that flaws in the US governing and regulatory framework permitted financial companies to deal dangerous products to consumers with insufficient revelation of the threats, use third party agents (mortgage brokers) that required appropriate misunderstanding, and repackage the subsequent debt into unwell unspoken organized securities.[8] A World Bank review draft on good practices for financial consumer protection proposes that financial consumer protection must fix pure rules of manner for

[8] FSB,*A Report On Consumer Finance Protection with Particular Focus On credit* by Financial Stability Board (FSB) and the Organization for Economic Co-operation and Development (OECD) p. 3 - 4 available on http://www.financialstabilityboard.org/publications/r_111026a.pdf

financial firms regarding their retail customers[9]. It aims to ensure that consumers receive information to allow them to make informed decisions, to safeguard again that consumers are not subject to unfair or deceptive practices and finally to ensure that consumers have access to recourse mechanisms to resolve disputes.[10]

The following are examples of abusive clauses under loan contracts in Rwanda. "According to regulations in force, this credit will be subject to the following conditions until further notice, having agreed that we have the right, if needed, to modify these conditions without changing this contract*"* this clause means that the bank obviously reserves for it the right to change the conditions of the contract without the need to inform the client and the client accepts such a clause due to poor knowledge about the future effects of that clause.

The guarantee in a loan contract whereby because of poor knowledge, the surety can accept an abusive clause is another example of abusive clause "*the surety declares to constitute joint guarantee without right for discussion and division and he guarantees to the repayment of all debts that the principal debtor has or may have in the future to the bank for any reason whatsoever*"[11].This clause was in loan contract between a bank in Rwanda with its client and for him to be granted such a loan, the bank imposed him to provide someone who stands as guarantee and when himself fails to repay the debt then that person will pay in his place.

The client provided that person and the latter accepted the above mentioned clause. The loan guaranteed for was paid and principal debtor took another loan within the same bank and failed to repay that new loan, then the bank asked the surety to pay back in place of the principal debtor being reminded that he accepted to pay back current debt and other future debts of the principal debtor at time when he signed the above mentioned clause.

[9]World Bank, good practices for financial consumer protection, retrieved at http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Good_Practices_for_Financial_CP.pdf,on 2th April 2016.
[10]The World Bank consultative draft on good practices for financial consumer protection of March 2011, p. 1
[11] The orginal version of this clause was in French and was translated by the author"la caution déclare se constitue de caution solidaire et indivisible avec renonciation à tout bénéfice de discussion et de division et garantir le remboursement intégral de tous les engagements que ci-après dénommé "débiteur principal" a ou pourrait avoir actuellement ou à l'avenir envers la Banque pour quelque cause que ce soit"

The surety refused to pay and the bank sued him to court together with the principal debtor and the high court of commerce in case nº RCOM 0087/12/HCC ruled in favor of the bank that the surety has to repay the new loan jointly with the principal debtor.

With these two abusive clauses you can see how a clear and adequate law on consumer protection in financial sector is needed so as the financial consumers make informed decisions towards the services and products offered by their financial institutions because their knowledge about financial issues and associated risks is very poor.

When a client wishes to open a bank account, is another example.Only few or almost no bank informs the client how to use the account, if there are charges on given transactions on the account, this cause problems to consumers because once the bank charges a given transaction the client come to the bank to claim and this occasion becomes the appropriate time for the bank to explain to the client that for instance the an amount that is charged monthly, charged for the use of ATM cards, charged for withdraw, charged for electronic banking system, etc., which the client would have initially be informed of before he opens an account may be if he knew that information he would have not opened that account in that bank because banks do not charge same amount on same transactions.

Another case is when the bank informs the client about how much the transaction is charged but after a given period of time, the bank changes the amount of transaction without informing the client. There are many abusive behaviors that banks or other financial institutions do against which consumers must be protected. To ensure that consumers are efficiently protected because even if EAC have a law that deals with consumer protection in general, then clear rules on the conduct of financial institutions in EAC must be put in place, as far as efficient protection of consumer of financial services is concerned ,however many issues need to be addressed .

The work seeks to answer the following questions:

1. To which extent consumers are protected in financial sector within EAC?
2. Which problems are faced by consumers in financial sector within EAC?
3. What are legal remedies to consumer protection in financial sector within EAC?

III. OBJECTIVES OF THE STUDY

This research aims at proposing an efficient legal framework on how the interest of consumers of financial services must be protected for the sustainability of the EAC country's economy.

IV.JUSTIFICATION OF THE RESEARCH

The main interest of this study is to let consumers of financial services know their interest, to advise the financial firms to refrain from abusive conduct and for the government to know how strong the protection of consumers in this sector is in as far as its economic stability is concerned.

V.SCOPE OF THE STUDY

For practical reasons and in order to get relevant results, this research will be limited to consumer protection especially consumers of financial in financial sector within EAC as a whole.

VI.METHODOLOGY

Carrying out any scientific research requires use of different methods and techniques. The method is a concentrated operation so that the researcher reaches objectives of the study. Norms allow selecting and coordinating techniques whereas techniques on other hand are the means that allow the researcher to gather data information on the subjects of the research.[12]

I opted and followed to use and analyze legal texts, textbooks, as well as electronic sources that are in relation to financial consumer protection in order to obtain a fruitful result.To obtain opinion from various people including lawyers, lecturers…,the simplified interview technique enabled the researcher.

[12] M. Grawitz, *Methode des sciences sociales*, Paris, Dalloz, p. 10

VII. OUTLINE OF THE RESEARCH

Apart from a general introduction about the topic, first chapter provides a comprehensive review of existing literature in relation to this topic, chapter two analyses the extent of EAC law on the protection of consumer in financial sector and analyses the impact of an inefficient protection of consumers in financial sector on the EAC countries economy, chapter three suggests the international good practice that may be adopted for the adequate protection of consumers in financial sector, then the conclusion and recommendations are made at the end.

CHAP.I. GENERAL CONSIDERATIONS ON KEY CONCEPTS

As previously noted, the core aim of this research is to establish how consumer protection will assist in establishing an EAC regional integration. Following the same route, this chapter attempts to provide an insight into understanding the concept of the research.

I.1.Generalities on EAC Competition Act

Firstly, it is important to talk about the genesis of this legal text which is one of the most important legislations enacted by the EALA. Secondly, in a separate paragraph, we will examine the objectives of the EAC Competition Act in which we will see how it has regulated competition in order to make it fully play its role of promoting and protecting fair competition.

As stated by P.M.Njoroge, apart from being an implementation of the provisions of the EAC Treaty and the two protocols on the Customs Union and the Common market, the EAC Competition Act is also a concrete measure of enforcing a resolution of the Council of Ministers of EAC Partner States during its first summit held on 8-13 January, 2001, decided that[13]:

(a) An EAC Competition Policy and Law be developed the activities of which should be determined by the principle of subsidiary which emphasizes multi-level participation of a wide range of participants in the process of economic integration. The objective of the Competition Policy, which should cover all economic sectors, shall be to ensure, protect and promote free competition;
(b) The secretariat be mandated to facilitate the process of developing a model EAC Competition Policy and Law on the basis of the existing Partner States Competition Policies and Laws and other relevant materials;

[13]P.M.,Njoroge, *Enforcement of competition policy and law in Kenya including case studies in the areas of mergers and takeovers, prevention of possible future abuse of dominance and collusion/price fixing*,p.5.Available at http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Conferences_CompetitionPolicyTanz_Peter%2BNjoroge.prn.pdf/$FILE/Conferences_CompetitionPolicyTanz_Peter%2BNjoroge.prn.pdf, accessed on 7/1/2016.

(c) A competent, strong, independent and autonomous regional authority should be established to implement the Community's Competition Policy and law; and
(d) The EAC Competition Policy and Law should be concluded in tandem with the Protocol on the Establishment of the East African Customs Union.
In order to implement that decision, EAC adopted East African Policy in 2004, and subsequently a competition Act was enacted in 2006.[14]

I.1.1.Objectives of the EAC Competition Act

The objectives of the EAC Competition Act are those contained in the title of the Act which is an **"**Act of the Community to promote and protect fair competition in the Community, to provide for consumer welfare, to establish the East African Community Competition Authority and for related matters'', which also are in the line of those of the competition policy as provided for by article 3 of the EAC Competition Act.

These objectives include[15]:
- Protecting all market participants' freedom to compete by prohibiting anti-competitive practices;
-Providing consumers access to products and services within the Community at competitive prices and better quality;

- Promoting economic integration and development in the Community;

- Enhance the competitiveness of Community enterprise in world markets by exposing them to competition within the Community.

[14]EAC, East African Community Competition Act, the title of the document is: *''The East African Community Competition Act, 2006. An Act of the Community to promote and protect fair competition in the Community, to provide for consumer welfare, to establish the East African Community Competition Authority and for related matters''*, available on www.eac.int/trade/index, accessed on 22nd April 2015.
[15] EAC Competition Act, sect.3.,2006,

I.1.1.1.Promotion and protection of fair competition

This part shows how the EAC Competition Act is intending to achieve the aforementioned objective. Firstly, we will see what inspired the drafters of the EAC Competition Act, then secondly, we will analyze what kind of trade practices have been regulated in that perspective.

In drafting the EAC Competition Act, the experts took into account best international practices, as a way of ensuring that the EAC region shall develop into an international competitive single market and investment area. In that perspective, they have referred to the internationally accepted minimum requirements. [16]

In this regard, EAC Competition law is compatible with the UNCTAD model law on competition,[17] which requires that an effective Competition Law should:
(i) Control or eliminate restrictive agreements or arrangements among enterprises;
(ii) Control mergers and acquisitions;
(iii) Control abuse of dominant positions of market power;

The EAC Competition law addresses adequately these areas since it covers them as follows: restrictive agreements in part II, abuse of dominance in Part III, and mergers and acquisitions in Part IV. In addition to the above trade practices, EAC Competition law also regulates partner States subsidies[18] and public procurement[19], since if applied with abuse they may distort competition.

I.1.1.2.Consumer welfare

Competition goes always with consumer protection. However, unlike a national legislation, which regulates all aspects related to consumer protection, the EAC Competition Act has limited itself to consumer welfare. The rationale of this restriction may be found in the Act itself, as it

[16]P.M Njoroge, *op.cit.*, p.14.
[17]UNCTAD, UNCTAD Model law on competition, chapter I .Available on http://r0.unctad.org/en/subsites/cpolicy/docs/Modelaw04.pdf, accessed on 8th April 2015.
[18] EAC Competition Act, Part V.
[19]*Idem*, Part VI.

states that it shall apply to all economic activities and sectors having cross-border effect, and shall not apply to any conduct of persons acting in their capacity as consumers.[20] Consumer welfare aspects regulated under the Act include[21]:

- Prevention of false representations of goods;
- Prevention of unconscionable conduct in consumer transactions;
- Product safety standards and unsafe goods;
- Publication of dangerous goods ;
- Product information standards with regards to goods of a particular kind (such as performance, composition, contents, methods of manufacture or processing, design, construction of the goods).
- Liability for defective goods causing injury or loss**.**

I.1.2.Competition in EAC

To protect consumer rights, it is essential to define the legitimateacts that havebeen introduced by the EAC governments. These laws will explain all the ways that give sufficientauthority to administrative branches and experts to implement those laws.

I.1.2.1. Regulation of competition in EAC financial sector

The significance of services trade in global and regional trade cannot be understated and as such liberalization efforts in services sectors must be assumed not only increasingly but prudently, with a fine-expressed framework and procedure in place

Robinson S et al, also view that recommendations have been through to the point that dropping protection of services trade by way of even half would affect in advantages that are five times upper than related liberalization of goods trade.[22]Another study by Mattoo et al[23]advocates that countries that successfully liberalized their financial and telecommunications sectors grew on

[20]*Idem*, Sect. 4.
[21]*Idem*, Part IX
[22] Robinson S, Wang Z and Martin W ,"Capturing the Implications of Services Trade Liberalization" *Paper presented at the Second Annual Conference on Global Economic Analysis*, GL Avernaes conference Centre, Ebberup, Denmark, June 20-22, (1999).
[23]Mattoo A, Rathindran R, Subramanian A, "Measuring services trade liberalization and its impact on economic growth" *Journal of Economic Integration,* (2005).

average 1.0% point faster than other countries. Hence, Hoekman B acknowledges that the starring role of regulation, competition and further associated disciplines is vital in the reorganization processes commenced by states. Much study has resolved that procedure reforms that rise competition and develop governing oversight result in value-added performance of the businesses concerned. In turn, the output of the services sector is significant on behalf of the long term evolution prospects of nations.[24]

Despite this point, these advantages cannot be by the automatic liberalization of the services sectors. The reform programs undertaken for liberalization must be carefully created in order to totally capitalize on the gains. In consequence, nations would have to combine features of competition and appropriate national regulation framework in the alleged reforms.[25]One of these encounters is that the reforms must reveal the country's obligation to its liberalization obligations without looking for advance the country's national political and economic agenda.[26]

Ultimately, states must guarantee that any reforms they embark on should meet the sense of balance between raising the nation's trade and not raising some obstacles to trade for other states. To this end, Article 20(1), EAC Common Market Protocol provides that*"PartnerStates may regulate their services sectors in accordance with their national policy objectives provided that the measures are consistent with the provisions of this Protocol and do not constitute barriers to trade in services".*

I.1.2.2.The role of regulation

The starring role of regulation on the other hand is not restricted to handling inadequate competition but then also extends to protecting the benefits of the consumer of services. Due to the natural surroundings of services trade (intangible), there is variation of information concerning consumers of services on the one hand and fabricators thereof on the other hand. Consumers have trouble securing the complete quality of service being bought.

[24]Hoekman B, "Liberalizing trade in services: a survey" *World Bank policy research working paper*, (2006).
[25]*Ibid.*
[26]*Ibid.*

McGuire, G. further argues that they cannot simply access the competence of specialists such as doctors and lawyers. They also cannot assess the welfare of transport services nor the reliability of banks or insurance companies. They depend on totally on what the supplier of the service conveys to them. This consequently makes it vital for services trade to be well regulated so by way to safeguard the protection of customers. Taking into consideration the point that goods exports are the higher basis of exports of emerging nations, then suitable and fine regulated competition is extremely essential for these nations[27].

Goods on the hand are regulated through use of quotas, tariffs and associated limitations in that way making them easier to display specifically at the facts of entrance and departure of nations. In order consequently to realize fixed goals, states must wisely articulate the required guidelines and principles, mainly those that are to be incorporated in trade treaties.[28]

In views of Chanda R et al, such guideline is vital for all areas but more so for the intermediary services which are critical for the production, distribution and consumption practices of both goods and services.[29] Such sectors consist of, however are not restricted to, financial services, telecommunication services, transport and storing services, and specialized services.

Since it is necessary that assets are available in order to purchase other features of production or to finance in a sector or industry, the financial sector for instance, is very dangerous for all other sectors. On their own however, these similar services sectors contribute vastly to the economic development of a nation and it's GDP. In the finance and telecommunications sectors, (like in all other sectors), the share of employment of persons in banks and communications corporations cannot be overlooked.

[27] McGuire, G. ,"Trade in Services-Market Access Opportunities and the Benefits of Liberalization for Developing Economies" *Policy Issues in International Trade and Commodities Studies Series No. 19*, United Nations, www.unctad.org (accessed 05/3/2015)
[28]*Ibid.*
[29]Chanda R and Gupta P "*Trade Liberalization in Producer Services: Case Study of India" Asia-Pacific Trade Economists' Conference,* 'Trade led growth in times of crisis' United Nations Economic and Social Commission for Asia and the Pacific, www.... accessed 13/2/2015.

According to Peng S., in a competitive market place, the words "market access" is not identical with "competitive market".[30] A market could be "open" in that it does not limit entry of external companies and persons unless as is realistically needed. On the other hand, the same market may not be a preferred destination for the foreign companies and persons due to the great costs thus making profits insignificant. In order to escape this, the internal policies of nations have a duty to promote admission of new companies in the marketplace by removing the needless blocks, for instance, high costs of entrance.[31]

For example,Cali M et al. say that opening the financial sector to foreign participation could result in efficiency of the domestic banks and allocation of capital as well as dynamism. However, countries must adopt proper policies and have in place the necessary institutional infrastructure in order to achieve this, with minimal risk.[32]

The negative consequences of liberalization cannot be overlooked. In the financial sector for instance, the entrance of foreign banks could effect in the reduction of incomes of homegrown banks.[33]It could be reasoned that new entrance is easier to achieve where the incumbent is an ineffective operator. This consequently imposes the regulation of services. Regulation in services, as in goods, arises basically from market failure attributable to three types of problems: natural monopoly; insufficient consumer information; and reflections of equity and defending the poor.[34]

I.2.Financial sector landscape in East Africa Community

In the financial sector, chapter 14 of the EAC Treaty is committed to undertakings on monetary and financial cooperation. Obligations include:[35]facilitating economic integration through establishing monetary stability by harmonizing macroeconomic policies (Art 82(1) a);

[30]Peng, S., "Trade in Telecommunications Services: Doha and Beyond" *Journal of World Trade*, (2007), pp. 29-31.
[31]*Ibid.*
[32] Cali M, Ellis K and Willlem Velde D, "The Financial Sector" briefing Note 3, January 2008, www.oecd.org/investment/gfi-7 (accessed 13/2/2015)
[33]Herfindahl, E. and Brown, R.W., "WTO Negotiations in Financial Services: Standing Offers Disappoint" *Journal of World Trade,* (2007), pp. 12-17.
[34]Mattoo A "Economics and Law of Trade in Services", 2005, www.siteresources.worldbank.org/INTRANETTRADE/Resourc-2005-05-19 (accessed 10/02/2015)
[35]EAC Treaty, Chapter 14 (Arts 82-88).

maintaining the existing convertibility of currencies (Art 82(1)a); harmonization of macroeconomic policies especially in exchange rate, interest rate, monetary and fiscal policies (Art 82(1)b); removing problems to free movement of goods, services and capital (Art 82(1)c); removing all exchange limitations on import-export (Art 83(2)a); maintaining free market exchange rate and growing levels of international reserve (Art 83(2)b); liberalizing financial service of members (Art 83(2)d); harmonizing banking acts (Art 85(b)); promoting the establishment of regional stock exchange (Art 85(h)); ensuring unrestricted flow of capital through elimination of controls (Art 86(a)); ensure acquisition of shares and other securities by residents (Art 86(b)); and encouraging cross border trade in financial instruments (Art 86(c)).

By adopting national measures (Art 104(2)) and a regional protocol on the area (Art 104(2),[36],members have undertaken to allow free movement of persons, labor, service and right of establishment and residence Development of financial markets is one of the focuses of the present development strategy of the integration.[37]

1.2.1 Tanzania

According to Nasongo, J., and Musungu, the Tanzanian government monitored intensely socialist policies until the 1980s, and its financial system was structured with the aim of making Tanzania a wholly self-reliant state[38]. However, since the liberalization of the sector in 1991,the financial sector in Tanzania has undertaken significant structural change.

The author Sarangi, S.argue that the financial scene in Tanzania covers mostly banks, pension funds, insurance companies and other financial mediators. The sector is controlled by banking institutions that account for about 75 per cent of the total assets of the financial system, followed by pension funds whose properties account for about 21 per cent, the insurance sector accounts for 2 per cent of the total assets, while the remaining financial intermediaries hold about 2 per cent.[39]

[36]The articles in the paragraph and the preceding on refer to the EAC Treaty.
[37]4th EAC Development Strategy, p. 15.

[38]Nasongo, J., and Musungu, The implications of Nyerere‘s theory of education to contemporary education in Kenya, *Journal of education research and review, vol. 4(4),* (2009), *pp.111-116.*
[39]Sarangi, S., Macroeconomic stabilization and economic growth: analysis of reform policies in Tanzania,*Journal of Policy Modeling,* (2002), pp 50–52.

By end of June 2010, the banking sector was made up of 41 banking institutions, out of which 19 were foreign owned. The banking system revealed a high awareness of total assets (57 percent) being held by four big banks. Commonly, foreign owned banks in Tanzania account for about 48 percent of the banking industry‘s total assets.

The effects of the Global Financial Crises (GFC) had a limited direct impact to foreign owned banks, despite this significant market share, aside the credit crisis suffered by some of their parent companies in Europe and America.[40]With five companies controlling about 70 percent of the total market share in terms of total assets, the insurance business in Tanzania comprised 22 insurance companies. As of June 2010, the State owned NIC alone accounted for about 39 per cent of the sector‘s total assets.

According to Zingoni, T, an extra component of Tanzania‘s financial sector reform programme was the reinforcement of the Bank of Tanzania‘s starring role in observing and administering banking regulations,. There are regulations on large credit revelation, capital suitability, liquidness ratios, and exposed foreign exchange locations, provision for bad debt, limited loaning and credit insurance[41].

He further states that there is a money market in setup containing of short-term deposits, inter bank borrowings by commercial banks over the clearing-house and treasury bills. The Dar Es Salaam Stock Exchange was propelled in 1998 with two listings, Tanzania Breweries and Tanzania Oxygen. The stock exchange was used as a privatization vehicle for these two corporations to guarantee a quota of local possession. [42]

Tanzania is a member of the East African Securities Exchanges Association (EASEA), which was established in 2004. The development of the EASEA is part of a larger strategic plan related to East African Community (EAC), which covers capital markets and free trade across BURKT.

[40]*Ibid.*
[41]Zingoni, T., *Regional integration in East Africa- towards a united state of Africa,* (unpublished PhD Thesis, University of Stellenbosch, Stellenbosch, USA, 2010),p.23.
[42]*Ibid.*

1.2.2. Burundi

As said by the author Mburu, T. ,ten years of civil war from 1993 to 2003 has taken a heavy toll on Burundi‘s economy, destroying economic infrastructure and virtually halting investment.[43]Commercial banks dominate Burundi‘s financial sector with 75 percent of total financial system assets. The financial sector comprises eight commercial banks, two financial establishments, six insurance companies and two social security organizations.[44]

Approximately 2 per cent of the population has a bank account and less than 0.5 per cent use bank credit facilities. All of these establishments are concentrated in the capital and in a few provincial administrative centres, with 45 per cent of bank agencies located in Bujumbura.[45]

Due to insolvency, the following three banks filed for bankruptcy, too many non-performing loans and lack of liquid assets: Meridien Biao Bank (MBB) (in 1995), Banque de Commerce et de Développement (BCD) (in 2003), and Banque Populaire du Burundi (BPB) (in 2006). The same was true of three financial establishments: Crédit Vente Service, Caisse de Mobilisation et de Financement (CAMOFI), and CADEBU (Caisse d‘Épargne du Burundi)[46].

A new bank, Diamond Trust Bank (Kenya), opened its doors in 2009. With new regulations from the Banque Centrale requiring that the shareholders‘equity be raised from BIF 3 billion to BIF 10 billion in 2010, this movement was fostered.[47]With no set of regulations for either the industry or an insurance supervisor, Burundi’s insurance industry is minimally developed.

The sector remains minute, highly concentrated and with a density rate (as measured by premium/inhabitant) about fifty times below the African average. Other financial services include national pension system, microfinance and housing finance. The national pension system

[43]Mburu, T., A *Political and Economic Assessment of the Feasibility and Desirability of an East African Monetary Union,* (Unpublished PhD Thesis, Claremont Graduate University, Claremont, USA, 2006), p.26.
[44]Gurukwigomba, A., Domestic Resource Mobilization in Sub-Saharan Africa: The Case of Burundi. *North South Institute Technical Papers*, 2010, p.43.
[45]*Ibid.*
[46]*Ibid.*
[47]*Ibid.*

(INSS) covers only 5 percent of the population and accounts for a mere 5 percent of total financial assets.

Lack of access to financial services is a severe problem for the majority of the population, particularly in the densely populated rural areas. Only 2 percent of the total population holds bank accounts and less than 0.5 percent use bank lending services. This is incomparable with a country like German whose population that‘s unbanked stands at 4 per cent.

Microfinance, however, plays a larger role, with 4 percent of Burundians being members of microfinance institutions (a larger share of the population than that reached by banking and postal services combined). Housing finance in Burundi faces unmet demand, high prices and a deteriorating housing stock that makes housing unaffordable for the bulk of the population. The largest provider of housing finance remains the National Housing Promotion Fund (FPHU).

1.2.3. Uganda

Uganda‘s financial sector has evolved from the first commercial bank established in 1996, the National Bank of India, which later became the Grindlays Bank and is now the Stanbic Bank, to the 22 commercial banks, six credit institutions and three Microfinance Deposit-taking Institutions (MDIs) in the year 2014. These are in addition to the rapidly growing semi-formal and informal financial sector in the country. The sector has also undergone several policies, legal and regulatory reforms with various degrees of results. The evolution of the financial sector has been characterized by bank closures, mergers and acquisitions.

Beck, T. argue that before the country‘s independence in 1962, the financial sector was dominated mainly by foreign owned commercial banks .[48] In addition to the National Bank of India, Standard Bank was opened in 1912 and the Bank of the Netherlands was opened in 1954 and later merged with Grindlays Bank.

In 1965 by an Act of Parliament, Uganda Credit and Savings Bank, which became Uganda Commercial Bank (UCB) in 1969 was established. This was the first local commercial bank established in the country. Bank of Baroda was established, first in 1953, but regularized as a

[48] Beck, T., Stock markets, banks and economic development: theory and evidence, *EIB Paper, (2003)*, pp.36-54.

commercial bank in 1969 with the enactment of the Banking Act of 1969. This was the first legal framework for regulation of the banking sector following the country‘s independence.[49]

The Bank of Uganda ,country‘s central bank which was established in 1966 under the Bank of Uganda Act (1966), was followed by the establishment of the Uganda Development Bank under the Uganda Development Bank (UDB) Decree (1972). The government-owned banks dominated the banking industry with the establishment of UCB and UDB. UDB received all foreign loans and channeled them to the local companies for development. UCB with the biggest number of branches (about 67 in number) handled the majority of the customers, while the East African Development Bank (established in 1967) handled the East African Community (EAC) business.[50]

The informal sector comprises of a wide range of money lenders, Savings and Credit Cooperative Associations (SACCO), Rotating Savings and Credit Association (ROSCAs), and the Microfinance Institutions (MFIs). In terms of the informal financial institutions, there has been a considerable progress in expanding the outreach of these institutions and improving the access to financial services especially by the rural population.[51]

Nnanna, O., on the other hand maintains that Uganda‘s capital market is not developed enough to play any significant role in furnishing long-term funds to the economy. [52]Similarly, where mobilizing long-term funding is concerned the pension system is very weak. Overall, though financial depth remains low, signs of recovery are encouraging. Playing a limited role in the provision of funds for development finance and dominated by commercial banks, the financial intermediation is low.

Holding in totality at least 88 percent of total sector assets, the banking sector is dominated by international banks. The two biggest banks, namely Standard Chartered and Standard Bank (Stanbic), together hold market share of about 56 percent. In addition, Stanbic Bank, which

[49]*Ibid.*
[50] *Ibid.*
[51] *Ibid.*
[52]Nnanna, O. Economic and Monetary Integration in Africa. *A paper Presented at the G24 meeting in Singapore, on September* 14, 2006, p.34.

acquired Uganda Commercial Bank in 2002, is the largest bank with a market share of about 31 percent on top of boasting the largest branch network in the country of 68.[53]

I.2.4.Kenya

In his article,Odhiambo, N. held that in Sub-Saharan Africa,Kenya has one of the most developed financial system.With control over 50 per cent of assets, the five largest banks, including two majority state-owned banks and two foreign banks.Cutting across the financial, industrial, service and agricultural sectors, the Nairobi Security Exchange (NSE) has about 50 listed firms.

With a limited core of companies with adequate retention capacity and endorsing policies, the insurance market is overpopulated, highly segmented. The establishment of an Independent Insurance Regulatory Authority in April 2008 was made by the 2006 Insurance Amendment Act, which is expected to improve insurance penetration.

Microfinance institutions (MFIs) and the Kenya Post Office Savings Bank, offer deposit and lending services to those segments of the Kenyan population that are underserved by commercial banks, but a clear strategy for developing formal and informal institutions is yet to be formulated[54].

In the service accessible through a partnership between Safaricom and Vodafone through M-Pesa platform, allows a range of money transfer, cash-flow management and banking alternatives through mobile phones. M-Pesa has received extensive praise and many states are working to imitate its successes[55].

In the year 2008, the global economic crisis slowed export growth, tourism receipts, remittances, and private capital flows. The crisis was predicted to continue affecting Kenya‘s economic

[53]*Ibid.*
[54]Odhiambo, N. , Financial development in Kenya: A dynamic test for the finance led growth hypothesis. Journal of Economic Issues, Vol. 13, Part 2, 2008, p.24.
[55]*Ibid.*

performance through the year 2009, leaving the country vulnerable to large current account deficits, high debt levels, increasing fiscal deficits and declining foreign exchange reserves[56].

I.2.5.Rwanda

Regarding financial inclusion, the Rwandan government has made remarkable progress towards achieving its commitment. The government's target is that 80 percent of the nation's adult population has access to formal financial services by 2017 and 90 percent by 2020 as stated in Vision 2020. Formal financial inclusion doubled from 21 percent in 2008 to 42 percent in 2012 according to Finscope study in 2012.

In addition, 72 percent of Rwandan adults are financially included (through formal and informal networks), 23 percent banked and 19 percent are non-bank formally served and 30 percent informally served. In 2012, 70.9 percent of the adult population saved, compared to 54 percent in 2008.

Similarly, in 2012 the percentage of adults who borrowed was 58.5 compared to 27 in 2008.According to the report of the World Bank, there are 171 accounts at commercial banks per 1000 adults and 5.5 bank branches per 100,000 adults. Furthermore, a significant proportion of Rwandan population still uses informal mechanisms to manage their money. Informal inclusion increased from 39 percent in 2008 to 58 percent in 2012.[57]

While innovative payment mechanisms are being introduced by banks and telecom companies, penetration of banking services remains on a relatively low level. When matched to the percentage of the total population saving or obtaining loans in the past year, the use of formal financial mechanisms to save money and obtain loans is quite low.

There is potential for further improvement as these figures have similar trends in comparator countries. Mobile banking and mobile money transfer (MTN) services have become widely available, and there is a new agency network for banks and MMT service providers. The number

[56] *Ibid.*
[57] World Bank, Diagnostic Review of Consumer Protection and Financial Literacy, Kigali, November, 2003.

of accounts at commercial banks per 1000 adults is 171, and the number of bank branches per 100,000 adults is 5.5. In terms of number of non-cash transactions, credit transfers and payment cards are the top two payment instruments; and in terms of value, checks and credit transfers.[58]

Although having doubled from 2006–2011, insurance penetration is very low and the market is at an early stage of development, insurance penetration in Rwanda was just 2.3% in 2011 and is low even compared to some of its regional peers in East Africa. The government of Rwanda's goal is to increase insurance penetration to 7% under Vision 2020.

The fact that 45 percent of the population still lives in poverty, the reasons for a low insurance penetration seem varied. Other reasons also include what some cite to be a lack of skilled financial sector staff members, little levels of awareness of insurance in the community and low levels of advertising by insurers. As a key limitation for the sector's development, the existence of 8 percent VAT on insurance premiums has also been cited, a charge that does not apply somewhere else in the East African community.[59]

[58] *Ibid.*
[59] *Ibid.*

CHAPTER II. LEGAL ANALYSIS ON INEFFICIENCY PROTECTION OF CONSUMERS IN FINANCIAL SECTOR ON THE EAC COUNTRIES ECONOMY

Legislative outfits such as merger control guarantee that competition is not restricted through market foreclosure, while the exclusion of preventive business practices guarantees that anticompetitive conduct is tackled in the interests of consumers and competitors.

Basing on the research made by Tom Mutei,as harmonization of laws regionally is unlikely to be effective where municipal laws and national institutions are themselves weak, the study of municipal laws in the context of regionalism is important ,it is significant to identify the strength of national laws in facilitating enforcement and capacity of such institutions, further, enforcement of proposed regional law would be achieved in the respective nations [60].

II.I. Consumer protection and Competition regulation within EAC financial framework

Competition for investors in East Africa is space heating up following the introduction of the Common Market, which permits free movement of goods, capital and people in the region. Competition matters in EAC have been provided for since the EAC treaty was established and during its implementation in various protocols establishing the Customs Union and the common market. Thus it is essential to affirm the importance of the matter in the success of regional integration[61].

[60] Tom Mutei,*Regional integration and consumer welfare: an appraisal on the East African Community laws*,LLM thesis, University of Nairobi ,(2009),p.19, retrieved at https://pdfs.semanticscholar.org/60e0/8f6fe21eebeff9506213c05b9c533548802d.pdf, accessed on on 5/11/2015

[61] A. Hazelwood, *op.cit,* p.7.

II.1. 1.Legal Instruments providing for Consumer protection in EAC

The Consumer protection in EAC region has been provided for the following EAC legal instruments:

- The Treaty for the establishment of the East African Community signed on 30th November 1999;

- The protocol on the establishment of the Customs Union on the 2nd March 2004;

- The protocol on the East African Common Market signed on 20/11/2009;

- The East African Competition Act 2006.

The tripartite agreement among COMESA, SADC and EAC is the best example. As three pillars of the integration, the tripartite specified market integration, infrastructural development and industrialization.[62]Negotiations are undergoing indicating that it could be realized in 2016 though the objective of forming EAC-SADC-COMESA Tripartite FTA in 2012 did not materialize[63].[64]The tripartite agreement, which is of specific importance to deal with the diversity of membership common in the regions, has trade in services as its second stage of integration.[65]Additionally, among the COMESA-EAC-SADC tripartite initiative there are arrangements to guarantee harmonization of financial and competition policies.[66]

[62]Declaration Launching the Negotiations for the Establishment of the Tripartite FTA, 12 June 2011, preamble. See also Sindiso Ngwenya (The Secretary-General, COMESA), Opening Remarks at the Opening of the 31st Meeting of the Intergovernmental Committee, 15 November 2012, Uganda, retrieved at www.mtic.go.ug/comesa2012/index.php?option=com_joomdoc&task=doc_download&gid=23&Itemid=85 on Oct 30, 2014.

[63]COMESA-EAC-SADC Tripartite Framework: State of Play, retrieved at http://www.eac.int/index.php?option=com_content&view=article&id=581&Itemid=201 on Oct 30, 2012.

[64]COMESA (Oct 2012) 'Regional Integration and Foreign Direct Investment in COMESA', COMESA Investment Report 2012, p. 6.

[65]Declaration Launching the Negotiations for the Establishment of the Tripartite FTA, 12 June 2011, par. 5.

[66]COMESA (2011) 'Report of the Thirtieth Meeting of the Council of Ministers on Harnessing Science and Technology for Development' 10-11 Oct 2011, CS/CM/XXX/2, par. 70.

II.1.1.1.EAC Treaty

The EAC treaty provides for Consumer protection in line with the establishment of the Customs Union. According to article 75, all Partner States agree to form a Customs Union, details of which shall be contained in a Protocol which shall include competition inter alia.[67]

II.1.1.2. Protocols on Customs Union and Common Market

Customs is, for instance, totally involved in controlling goods which cross borders, determining goods' arrangement and origin, and collecting revenue as well as assembling trade policies. Consequently, the manner in which Customs operates infinitelydisturbs international trade either negatively or positively. In other words, the way in which Customs mechanisms can alsomake complications or make things easier the international trade in goods. And this presents us to the notion of trade facilitation.

The Common Market, absolutely, means that there is going to be a mainalteration in the way we do business as East Africans in general and as singular partner states in particular. Given that the principles of the Common Market require partner states to guarantee equal treatment to nationals of other partner states in all matters of business and employment, the East African partner states will be able to regularly promote investment as one coalition rather than as individual states, which will advance the region's competitiveness[68].

Harmonized investment incentives are a *bonus* aftermath of the Common Market Protocol. For that reason, competition among partner states will be reduced as we will all have an unchanging management. In addition to this, East Africa is a large market, and big markets make and potential investors and Investment Promotion Agencies (IPAs) happy.

According to article 21 of the protocol on Customs Union, the Partner States shall exclude any practice that unfavorably touches free trade containing any agreement, duty or combined practice

[67]EAC Treaty, art 75(1 i).
[68] A. HAZELWOOD, *op.cit*, p.7.

which has as its objective or effect the prevention, constraint or alteration of competition within the Community[69].

The same article permits however such practices when their purpose is to increase production or spreading of goods, stimulates technical or economic development or which has the effect of promoting consumer well-being and does not enforce limitations inconsistent with the achievement of the purposes of the Customs Union or has the outcome of removing competition[70].

With respect to the protocol on the EAC Common market, article 5 states that for the purpose of enabling the implementation of the Common Market, the Partner States supplementary reach agreement to co-operate to ensure fair competition and promote consumer welfare[71].

II.1.1.3.EAC Competition Act

Apart from being an implementation of the provisions of the EAC Treaty and the two protocols on the Customs Union and the Common market P.M.Njoroge alleged that during its first meeting held on 8-13 January, 2001, decided that the EAC Competition Act is also a real measure of enforcing a resolution of the Council of Ministers of EAC Partner States[72]:

(a) An EAC Competition Policy and Law be developed the activities of which should be determined by the principle of subsidiarity. The objective of the Competition Policy, which should cover all economic sectors, shall be to ensure, protect and promote free competition;
(b) The secretariat be mandated to facilitate the process of developing a model EAC Competition Policy and Law on the basis of the existing Partner States Competition Policies and Laws and other relevant materials;

[69]Article 21 of the protocol on EAC Customs Union.
[70]CU Protocol, art 21(1&2).
[71]CM Protocol, art 5(3 d).
[72]P.M.NJOROGE, *op.cit*.p.12.

(c) A competent, strong, independent and autonomous regional authority should be established to implement the Community's Competition Policy and law; and

(d) The EAC Competition Policy and Law should be concluded in tandem with the Protocol on the Establishment of the East African Customs Union.

In order to implement that decision, EAC adopted East African Policy in 2004, and subsequently a competition Act was enacted in 2006.[73]

II.1.2.Analysis of the legislative and regulatory issues to financial sector in the EAC

E.MaghaliKangolle in his dissertation, maintains that, consumer protection has been debated by various researchers; neither in consumer protection laws nor banking legislations of E.A.C ,the concept of consumer protection in financial sector has not been adequately explored. In the contemporary world of ICT, the extent of banking and financial institutions implies that it is no longer possible to handle online consumer protection issues without having an effective and efficient regulatory framework and sectorial laws addressing the same[74].

When it comes to finance sector, the E.A.C. legal system does not provide suitable consumer protection. The banking laws do not catch with the speed of these developments even though there is a tremendous technology development in banking services but. In protecting consumers in electronic banking transactions, the consumer protection legislations and financial institution laws of E.A.C. are not sufficient enough[75].

[73]East African Community ,East African Community Competition Act, the title of the document is: *''The East African Community Competition Act, 2006. An Act of the Community to promote and protect fair competition in theCommunity, to provide for consumer welfare, to establish the East African Community Competition Authority and for related matters''*, available on www.eac.int/trade/index, accessed on 2nd January 2015.

[74]E.MaghaliKangolle,*Consumer protection on mobile banking transactions in Tanzania: a critical analysis of the law*,LLMthesis,Mzumbe University,(2016),available on http://scholar.mzumbe.ac.tz/bitstream/handle/11192/2141/LLM-CL-Kangole-Eunice%20Maghali-2016.pdf?sequence=1,accessed on 4/11/2017

[75]*Ibid.*

II.1.2.1.Overlapping issues

On consumer protection in E.A.C., from the above-mentioned, debate of community law in the region, it is clear that the legal and institutional frameworks are disconnected. As a result,E.Maghali Kangolle continues saying that,the relevant matter to be talked is whether the challenges from fragmented legal structure are best talked over harmonization of community rules or are there captivating opinions for recollecting the current arrangement[76].

Financial sector stands at the connection of a number of significant policy matters. In its own right, every issue is complex, and is often related with a diverse regulatory field: as many as four regulators (bank supervisor, payment regulator, telecommunication regulator, and competition regulator) may be complicated in fashioning policy and regulations which touch this sector.

The complex connection of issues makes the very existent risk of management disaster across regulators. Authors like Gaertner, M., S. Sanya, and M. Yabara, confirm that this disappointment may be one of the biggest obstacles to the development of financial sector, at least of the transformational kind.[77]

On the other hand, the report of the International Monetary Fund even deprived of the supplementary difficulty presented by mobile-banking,a lot of these issues need synchronized attention at least in order to increase access. It is possible; though, that financial sector may be valuable because the view of advancing may help to stimulate the vitality necessary among policy makers for the essential management to happen.[78]

[76] T.Mutei,*op.cit*,pp.39-40
[77]Gaertner, M., S. Sanya, and M. Yabara, "Assessing Banking Competition within the Eastern African Community," unpublished manuscript, Washington: International Monetary Fund, 2011, p.33.
[78]International Monetary Fund (IMF), *Regional Economic Outlook: Sub-Saharan Africa, April 2008* (Washington: International Monetary Fund, 2008, p.22.

II.1.2.2.Telecommunications

Normally, we're in the same view with McKinnon, R. that ICT users have an interest in fair network access and transparent revelation of costs and fees and that ICT legislation and regulation cover radio and television broadcasting, as well as the more different forms of communication through fixed line telephony, mobile telephony, and the Internet.[79]

While permitting for economic growth, regulators and industry attempt to uphold an effective system that assists the public needs. Through mobile telephony and associated networks, the EAC financial sector dealings are piloted, and are consequently affected by the governing ICT legislative and regulatory frameworks.

In EAC, there are presently no regional ICT legislation and regulations. However, in all EAC countries, national ICT authorities are operating. Universalrules on ICT services do exist, and could function as valuable points as EAC further advances legislative and regulatory frameworks in the financial and ICT sectors.

For example, World Trade Organization, of which all EAC states are Members, has assisted as a development opportunity for the General Agreement on Trade in Services (GATS) Annex on Telecommunications,as well as the 1998 WTO Telecommunication Services Reference Paper (Reference Paper).[80]

The Annex classifiessignificantfeatures of telecommunications regulation that are worth considering in relation to mobile banking. These include transparency in licensing procedures, interoperability/interconnection between telecommunication networks, resource allocation (e.g., with regard to frequencies, numbers, and rights of way), and competitive safeguards. Another important concept identified in the Annex is the need for technical cooperation at international, regional, and sub-regional levels.

In the context of financial sector, the issue of interoperability in relation to ICT networks is highly relevant. Within a particular network, the financial sector platforms are still walled

[79] McKinnon, R. Money *and Capital in Economic Development*, Washington, DC: Brookings Institution, (1999, p.33.

[80] WTO , General Agreement on Trade in Services (GATS) Annex on Telecommunications,Full text available at: http://www.wto.org/english/tratop_e/serv_e/12-tel_e.htm

garden, customers can only exchange mobile money. Within EAC currently, none of the financial platforms interface or directly work with another platform. For example, a user of MTN Uganda's Mobile Money cannot send money that directly ends up in the mobile money wallet of an Airtel Uganda user.

II.1.2.3.Restraints of Competition law in EAC

Generally, in regulated industries, thegoal of competition law is to reserve and promote free market competition and consumer well-being protection. Eiling, E., and Gerard, B. in their book, they further argue that in order to reach these objectives, competition law normally forbids anticompetitive practices and the misuse of dominance by monopolistic businesses such practices contain; destructive pricing, price discrimination and bundling.[81]

On mergers and acquisitions, as well as irrational limitations on competition, competition law as well has an impact. In the EAC, domestic competition laws normally do not spread outside Member State borders. Competition laws are pertinent to the service costs to consumers with regard to mobile money markets, as well as acceptable business practices and market structures under which mobile money operators must function.[82]

At the EAC level, the EAC Competition Act (2006) has been legislated by the East African Legislative Assembly (EALA), with provisions for a regional EAC Competition Authority. In general, handled by sector specific regulators, competition regulation in definite sectors is either uniquely or with shared jurisdiction with competition agencies. Reliant on every case, between the regulators in order to evade potential conflicts, the change is towards adoption of memorandums of understanding (MoUs).

This is not usually the case in the financial sector. So, the number of licenses issued by the ICT regulator compared to the central banks in any EAC Member State is typically much smaller. For

[81]Eiling, E., and Gerard, B. *Dispersion, Equity Returns Correlations and Market Integration*, mimeo, Tilburg University, 2006, p.43.

[82] This is of particular relevance in the ICT/ mobile phone industry, as competition has not historically been an assured feature of this market.

example, in Uganda, as many as 23 licensed commercial banks at the end of March 2011,there were only 6 licensed MNOs,.[83]

Thus, the perception of competition is different in the two sectors. While MNOs are working with partner banks, they are dominating mobile money within walled gardens at the moment and it is not clear how regulators across the two sectors will respond to competition issues given the convergence between their sectors fostered by mobile money.

In addition, in the EAC, competition regulators are a relatively new phenomenon. Even where competition regulators are in place, while determining how best to work with existing regulators in other pertinent sectors, they still need to develop the capacity to monitor, investigate, control and prevent uncompetitive conduct.

Within EAC, dated 1988, Kenya has the oldest Competition Law, known as the Restrictive Trade Practices, Monopolies and Price Control (RTPMPC) Act Chapter 504 Laws of Kenya. It was revised in 2011 as the Competition Act 2009. The new law covers promotion of competition, consumer protection, establishes an independent competition authority and a competition tribunal to enforce it.

The Competition Act 2009 was made operational though Kenya Gazette Supplement Notice No. 59, Legal Notice No. 73 on 1 August 2011.[84]The United Republic of Tanzania also has a competition law in place: the Fair Trading Act, 2003.[85] Burundi passed a process of establishing the accountable institution,[86]whereas Rwanda and Uganda also legislated their own competition regulations.

[83] See http://www.bou.or.ug/export/sites/default/bou/boudownloads/financial_institutions/2011/COMMERCIAL_BANKS_IN_UGANDA_as_at_31_Mar_2011.pdf

[84]X., The Competition Act 2009 at http://www.cak.go.ke

[85] See http://www.competition.or.tz and Tribunal The United Republic of Tanzania's Fair Competitions Tribunal website, http://www.fct.or.tz

[86] See Law No. 1/06 of 25 March 2010 regarding the Legal Regime on Competition (Burundi Official Gazette, No. 3 bis/2010, p. 873. www.iflr1000.com/LegislationGuide/373/Let-the-competition-begin.html.

II.1.2.4.Lack of Legislative and regulatory harmonization

On the ground that unification of law is not an achievable objective with existing different political legal and economic structures, arguments against harmonisation have been advanced . According to T.Mutei,this argument may be valid because, even in the different jurisdictions of member states there exists no harmonised approach to consumer protection with which the EAC model would be based. We find that the laws and enforcement institutions are scattered in the respective municipal law[87].

Further, there exists disparities in developmental levels which would make it difficult in enforcement of provisions like standards, testing and quality assurance provisions which require investment in technology and technical capacity. To cede control over certain aspects of their executive authority, political will amongst member states poses a problem to integration efforts[88].

As it is shown in articles 126 and 47 of the Common Market Protocol, it should be noted that the EAC strongly encourages regulatory harmonization, which call for the harmonization of national legal frameworks.[89]However, in most sectors including the ICT sector, the current regulations in the EAC are still somewhat fragmented across different regulatory areas in the various Member States.

It is important to bear in mind that the EAC strongly supports the sovereignty of its Partner countries As the EAC Partners states continue to advance towards regional harmonization. Thus, in the EAC as a whole can develop in line with intra-regional best practices, the EAC countries should emphasize collaborative efforts and information sharing. Our comment is that harmonization of regulatory frameworks can touch upon all aspects of regulation, and is therefore an important concept to bear in mind as various issues are explored.

[87]T.Mutei,*op.cit, p.41*.
[88]*Ibid.*
[89] See for example: EAC legal framework for Cyber laws is a good example of such a progressive step.

II.1.2.5.Convergence of ICT and financial sectors

As N.Dimgba said, as financial markets develop, the formerly distinct regulatory sectors of telecommunications and finance will stay to interconnect, thus shifting the regulatory setting and possibly raising new questions for regulators to talk. For example, jurisdictional and disagreement resolution questions may arise.[90]

On a consumer or industry level, while mobile money disputes arise either, which sector and corresponding regulatory agency will have jurisdiction over the claim or dispute, and how will dispute resolution procedures be determined? Additionally, as financial services extend across borders, national jurisdictional issues may also arise.[91]

II.2. Challenges facing the achievements of the EAC Competition Act

In this section, we wish to try to see which kind of encounters may affect the implementation of the EAC Competition Act. Besides the issue of the delay in establishing a legislative and institutional framework specific to competition in some Partner States, N.Dimgba identified other challenges which may affect the implementing Institutions when they are established and operational[92].

There are in general linked to the effectiveness of the Competition Authorities. The identification of these challenges will allow us to suggest what mechanisms to be taken in order to defy and avoid them.

II.2.1. Issue of independency or autonomy of the Competition Authorities

Writers who have made an assessment on competition policy implementation in transitional economies have found that Competition Authorities in those states have come across complications which have exaggerated their operative functioning[93].

[90]N.Dimgba,*op.cit, p.12*.
[91]*Ibid.*
[92]*Ibid.*
[93]S.J.Evenett,*op.cit,* p.11.

In considering the institutional efficiency they built their evaluation of the degree of political independence of the Competition Authorities, their transparency, and the efficacy of the appeals process based on relevance of adjudication.[94] The similar authors affirm that their assessment of the independence of Competition Authorities is centered on the occurrence of decisions that the authorities have failed to take or decisions taken that have been overturned for political reasons.[95]

For Dima,N.,he insists that while transparency is based on the point to which decisions and annual reports are publicly accessible as exposed in the awareness by the general public of competition law provisions, appeals are assessed on the extent to which they are judged based on economic content rather than exclusively on due process.[96]

According to their outcomes, some states which have approved their competition laws many years ago have the Competition Institutions less operational than those which have adopted laws or amended them more recently or during the same period.[97]

This assessment made in European transition states may be effective in other developing states including those of EAC. The independence of the competition authorities may not be only a national issue for internal competition; the similar anxiety may apply on regional competition authority.

However, this may be less critical as it is an international institution poised with heterogeneous members coming from different Partner States, and taking decisions collegially as it will be for the EAC Competition Authority. However, the challenge is not negligible taking into account that this regional authority will need to collaborate with national competition authorities which may be influenced by Governments or other forces.

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[94]M.A.Dutz, M.Vagliasindi, *Competition policy implementation in transition economies: An empirical assessment*, in European Economic Review 44, 2000.p.766. Available also at http://www.oecd.org/dataoecd/38/34/39990968.pdf,.p.5 Accessed on 8/3/2015.
[95]Dima, N., The *Challenges of Regional Integration in Africa: The Case of the Intergovernmental Authority on Development.* Global Economic Governance Programme, University College: Oxford, 2010, p.33.
[96]*Ibidem*, p. 5.
[97]Alemayehu, G. Regional Economic Integration in Africa: A Review of Problems and Prospects with a Case Study of COMESA, *Economic Integration in Africa*. Addis Ababa: OAU, 2002, p.15.

The issue of independence of the competition authorities is not only an issue faced in developing countries only. In developed nations like in Europe, the occurrence has been experienced also by observers comprising of famous scholars[98]. Some writers affirm that a significant issue concerning the application of competition law is the location of the body assigned with this implementation assignment.

Basing on the fact that in most Member States, competition authorities have been allowed a further or less independent status from the political scope, they notice that an important advantage of an independent competition authority is that the application and enforcement of competition rules are not subjective by political and instable considerations, but mostly centered upon economic and legal opinions alone.[99]

They point out though that some latest cases, more specifically in the ground of merger control, show that political deliberations can slink into the decision-making process in competition law.[100]Although the independence of the Competition Authorities is guaranteed by laws, the latter should build additional safety measure to protect against unnecessary influence from pressure groups in government and elsewhere.[101] Moreover relevant authorities have to avoid using other elusive ways such as appointing and dismissal powers, etc. in order to control the independence of the Competition Authorities.

II.2.2. Issue of the capacity of Competition Authorities

Among the challenges affecting Competition Authorities, the issue of their capacity is a paramount one. Even in well innovative competition systems, the capacity for the Competition Authorities has been always raised. Indeed, it is not a simply theory, it is rather a really phenomenon that has been attested by Competition Authorities themselves. All of them are common in confirming that the capability of the Competition Authorities involves that they are

[98] Decree G. (1972),*Financial Integration in East Asia*, Cambridge: Cambridge University Press.
[99]*Ibid.*
[100] J. W. VAN DE GRONDEN & S. A. DE VRIES**,** *Independent competition authorities in the EU, Utrech Law Review*, P.1.Available on http://www.utrechtlawreview.org/index.php/ulr/article/view/16/16, accessed on 4/4/2015.
[101]*Ibidem* ,p.11.

sufficiently prepared for their duty, whether in terms of operative enforcement tools, effective arrangements or suitable resources[102].

Such means for effective and sustained operation must be guaranteed, especially in terms of budgetary constraints. As A. Italianer, EU Director General for Competition points out, competition enforcement is always a sound investment and it outweighs its costs.[103]The issue seems to be acute in such a way that in the European Union for instance, Heads of the European Competition Authorities have been obliged to take a resolution appealing for a continued need for effective competition institutions.

They have taken this resolution basing on the fact they have to play a key starring role not only in implementing competition law precisely in the very elusive case of anticompetitive agreements and misuse of leading positions, but also considering that at the national level, they have a vital role as trusted advisors to governments and legislators, advocating pro-competitive tactics and promoting a culture of competition in their jurisdictions.[104]

In developing countries, the matter of the capacity of Competition Authorities has been considered as a global challenge that needs international assistance. In this view, the United Nations has delivered to those states, support in capacity building through UNCTAD.

The Competition Authorities have been recipients of that assistance in the training of officials responsible for implementing national competition policy, increase the aptitude of case handlers to carry out effective antitrust policy, inspect cases and carry out economic analysis necessary for operative enforcement[105]. It is frequently indicated that competition amongst companies is a pioneer to economic development. Competition stimulates innovation, lowers prices and increases the quality and choice of products and services accessible to consumers.

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[102]S.J.Evenett,*op.cit*, p.13.
[103]A.Italianer, EU *priorities and competition enforcement*, Institute for European and International Affairs, Dublin, 25 March 2011. p.5. available on http://ec.europa.eu/competition/speeches/text/sp2011_03_en.pdf, accessed on 15/04/2015.
[104]European Union, *Competition authorities in the European Union, the continued need for effective Institutions*, *op.cit.* p.1.
[105] UNCTAD, Capacity-building on competition law and policy for development, report UNCTAD, New York and Geneva, 2008, p.17, available at http://www.unctad.org/en/docs/ditcclp20077_.pdf.

The issue of capacity of Competition Authority has an impact on its efficiency and undertaking it can be a long process. In the European Union for instance, it is only within a half-century that competition policy has developed into a powerful instrument for enforcing a set of fundamental guidelines across Europe.

Although Europe has been at the pole position of competition policy and has been referred to as the world's leading jurisdiction in antitrust matters, it is still fronting some major policy challenges ahead that need to be addressed.[106] Competition is a consequence of trade where many actors are playing, and where, each player who in this framework wishes to have the full clients in order to have the maximum profit. Competition has been regulated not only at internal level within a country, but also at Regional level within the community in case of regional integration.

In South Africa, as T. Bonakele points out, South Africa Competition Commission took five years to become effectively operational, since the first five years were formative, setting up institutions, clarifying procedures and processes, and building up a reputation as an independent authority.[107] National Competition Authority ensures fairness for all market participants. Because it is natural that as competition intensifies, and more players enter the market, firms have affinity to combine, scheme, get together, and form cartels in order to fix prices, allocate market and make it difficult for the other companies to enter the market.

Accepting that this was challenging for it at the beginning, the Commission agrees however that ten years after, it has registered successes in capacity building programmes which are reflected in the successes of the Competition Authority.[108] The National Competition Authority helps to monitor whether the modes used by a supplier to deliver goods and services to consumers

[106] Competition Council – Romania ,*competition survey, studies and researches relating to economic competition Council – ROMANIA*, Patronage and sponsorship by the COMPETITION COUNCIL – ROMANIA, No- 1, 2010 , available on http://www.consiliulconcurentei.ro/documente/Revista%20engleza_18664en.pdf, accessed on 8/04/2015.
[107] T. Bonakele, "*The makings of a successful authority: Reflection on the rise of a competition authority", in Ten years of enforcement by South Africa Competitions Authorities, Unleashing rivalry, 1999-2009",*p.70, available on http://www.comptrib.co.za/assets/Uploads/Reports/unleashing-rivalry.pdf, accessed on 5/042015.
[108] M. Simelane, "*Towards a fair and efficient economy for all", in Ten years of enforcement by South Africa Competitions Authorities, Unleashing rivalry, 1999-2009"*P.71, available on http://www.comptrib.co.za/assets/Uploads/Reports/unleashing-rivalry.pdf, accessed on 5/04/2015.

comply with provisions of the Law. Generally, it conducts in-depth inquiries into mergers and markets and also has certain functions with regard to regulated industries.

With regards to the above challenges which have been an obstacle to the functioning of Competition Authorities in different competition systems, it goes without saying that the same challenges may affect the effectiveness of the EAC Competition Authority and the NCAs, and this will have impact on the implementation of the EAC Competition Act, highlighting the delay in its enforcement which is in reality significant presently[109].

Therefore, pertinent authorities have to know that they must empower the Competition Authorities when established, the latter should know that to be operational, they will not only apply current laws, but also other regulations and rules will be issued frequently so as to allow them to be up to date with the new dynamic forces of the competition.

II.2.3.Challenges affecting implementation of policy and EAC competition law

In this research, we found that article 37 of EAC competition act provides for creation of the East African Community competition authority[110]. This authority is delivered with powers of enforcement of competition act. Article 42 of EAC competition act provides that 'the authority shall have all powers, express and implicit indispensable for and favourable to the implementation and enforcement of the East African community competition law[111]'.

According to the EAC competition act, the competition authority has jurisdiction on all economic activities and sectors having cross-border effect[112].Consequently, limitations at national level are left to national competition authorities. On the other hand, only Tanzania and Kenya have competition authorities. In addition[113], either national authorities or the regional authority faces the challenge of lack of qualified personnel.

[109] T. Bonakele,*op.cit, p.5*.
[110]Article 37 of EAC competition act.
[111] Article 42 of EAC competition act
[112]Article 4 (1) of EAC competition act.
[113]Kizito Safari, Impact of East African Community competition law and policy on regional integration, Bona Fide Law Chambers, 2009.

As enforcement of the same has been hampered or delayed due to inadequate staffing, lack of resources,…. etc, the benefits of having competition law and policy in EAC are yet to emerge[114]. Article 45 of EAC competition act, states that the EAC competition authority shall be funded from the community. One wonders if the competition authority will sufficiently be funded because some national authorities often lack financial resources[115].

Effective competition regime cannot be evolved and/or enforced without adequate human resources, i.e. a staff of sufficient size with adequate technical competence. Kizito Safari also points out that lack of human resources may lead to under-enforcement of the laws. It may also undermine the reputation and standard of the competition authority, especially where it results in incompetent enforcement[116].

Competent and qualified staff are not available in EAC, and even, if available, are difficult to retain. For competition analysis, a multidisciplinary approach is important. Economists, accountants, lawyers and experts in analysis have to constitute a team for analysing the market, the level of competition, extent of dominance, etc[117].

Implementation of competition law in EAC could be improved if consumer associations are actively involved in the process. Equipping consumer associations with further avenues to represent consumers is a significant step in overcoming obstacles faced by individual consumers regarding the representation of their interests in the competition arena. However, it is also important to make sure that EAC consumer associations are capable of using these opportunities effectively and hence being able to fulfil the high expectations of consumers[118].

It is worth noting that in case of disagreement between the Authority and Partner States' authorities or courts, the matter shall be referred to the East African Court of Justice. This thesis does not specify if companies or corporate which are dissatisfied with authority`s decision can

[114] CUTS international 'Competition Policy: Essential Element for Private Sector Development in Eastern and Southern Africa' 38, available at http://www.cuts-ccier.org/7up3/pdf/Comp_Policy_and_PSD_in_ESAfrica.pdf [accessed 28 October 2019].
[115]Article 45 of EAC competition act.
[116]K.Safari, *op.cit.p12*.
[117]*Ibid.*
[118] Orit Dayagi Epstein 'Representation of Consumer Interest by Consumer Associations – Salvation for the Masses?' the competition law review V. 3 2 pp 204-249, avaialble at http://www.clasf.org/CompLRev/Issues/Vol3Issue2Art3DayagiEpstein.pdf [accessed 31 October 2019].

also refer the matter to the East African Court[119].This would increase transparency and efficiency of the authority.

The delays in the harmonization of the relevant policies, laws and programmes continue to undermine effective EAC integration and achievement of the anticipated benefits. Connected to this is a similar lack of harmony in the countries education and training systems[120].

The problems of harmonization policy arise from differing industrial relations contexts, and differing formal labor laws. Formal harmonization of laws may lead to differences in practice in different national environments; substantive harmonization in the practice of Member States may require different laws to be adopted, which can accommodate the different national environments. [121]This is the major obstacle in the process towards harmonization as a matter of policy.

[119]Article 44 (6) of EAC Competition Act.
[120] T. BONAKELE,*op.cit, p.5*.
[121] International Monetary Fund, *International Financial Statistics*, Washington, DC: Author, (2009),p.23.

CHAPTER III.MECHANISMS FOR STRENGTHENING THE FINANCIAL SECTOR ON CONSUMER PROTECTIONWITHIN EAC

This chapter offers for Implementation of the EAC Competition Act at the National Level and Requirements for effective implementation of the EAC Competition Act. To achieve this aim, comprehensive mechanisms should introduce by the EAC governments to protect consumers by involving government administrations and pertinent organizations in applying and enforcing consumer protection law.

III.1. Implementation of the EAC Competition Act at the National Level

The implementation of the EAC Competition Act at the National level is to be assessed into two dimensions. Firstly with regard to the legal framework comprising competition policy and law, secondly to the implementing Institutions. Competition in the regional context is not only governed by the laws as enacted by the legislative organs.

Other regulations and rules implementing those laws are necessary in order to operationalize the Competition Authorities' activities with clear orientations and guidance, not only for themselves, but also for the undertakings in competition, consumers and generally the public, which is a condition for them to be more effective and efficient in their duties.

III.1.1.Legal basis on the establishment of National Competition policies and laws

During the recent years, the EAC Partner States have started a wave of implementing the EAC Act, either by launching the process of adopting competition policies and laws, or by amending the existing competition laws in order to adapt them to the requirements of the various provisions of EAC legal instruments relating to competition[122]. We believe that this is an expression of the commitment by the Partner States in implementing both the provisions of the protocol on the establishment of the EAC Customs Union requiring the Partner States to prohibit any practice

[122]S.J.Evenett,*op.cit,* p.12.

that adversely affects free trade and the East African Competition Act, which assign to the Partner States to cooperate mutually with the Authority in the implementation of the Act.

III.1.2. Prescribing and implementing regulations and other rules

In this paragraph, we want to show that once the East African Competition Authority is established, its work may be challenged by a number of regulations and rules necessary for the fulfillment of its duties, taking into account that prescribing all those regulations is not only in its powers[123].

In fact regulations have to be prescribed by the Council of Ministers whose decisions are politically motivated and are binding in its entirety and directly applicable in all Member States[124], therefore they may take a certain process which may affect the functioning of the Authority.

In the other hand, the level of the capacity of the Authority, human and material, as well as its level of autonomy will affect its ability to adopt regularly the needed rules. With regard to these considerations, the Competition Authority, once established should be aware that it has to be prepared from the beginning, especially taking into account the delay in implementing the Competition laws.[125]

The legal basis of prescribing implementing regulations and rules is the EAC Competition Act itself. It stipulates that ‘’the Council may make regulations generally for the better and carrying into effect of the provisions of this Act’’, on the one hand [126] and on the other hand that’’ the Authority shall prescribe rules for the conduct of its affairs, according to art 49 of EAC Competition Act.[127]

[123] T. Bonakele,*op.cit, p.5*.
[124] EAC Treaty, art.14.2 &3.(d)
[125]Kasekende, L., and Ng‘eno, N., *Regional integration and economic integration in Eastern and Southern Africa,* Macmillan Press Ltd, London, (2000, p.14.
[126] EAC Competition Act, art.40.
[127]EAC Competition Act, art 49.

The examples of regional integration systems which are advanced in competition matters should inspire it. Other regional integration systems have a good experience, but according to the length of its experience compared with a number of regulations taken, one may conclude that the work may be hard for the EAC Competition Act. We are of the view that some most important regulations which may be taken are the following[128]:

- Rules applied to mergers and acquisitions;

- Rules applicable to abuse of market power;

- Rules applicable to anti –competitive concerted practices between undertakings

Such regulations are important in the sense that they give guidelines to the implementation of EAC Competition Act with regard to these anti-competitive practices regulated in the context of competition with cross-border effect, and how cooperation between EAC Competition Authority and national competition authorities has to be organized with regard to the application of EAC Act provisions relating the aforementioned practices. Moreover, such regulations may be many and diversified depending on the nature and categories of the firms intending to engage in concerted practices.

The case of EU is a good illustration of this. In application of articles 81 and 82 of the Treaty establishing the European Community,[129] several regulations have been prescribed among them Council regulation no 17 of 6 February 1962 which was the first regulation on the implementation of the rules on competition laid down in provisions related to the trade concerted

[128] The examples below are indicative of the most important rules commonly prescribed in direct line of the competition regulation in the context of regional integration. EC have taken such regulation by regulation C.1 Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24/1, 29 January 2004, and has been amended several times, with implementing regulation C.2 Commission Regulation (EC) No 802/2004 of 7 April 2004 implementing Council Regulation (EC) No 139/2004 (published in OJ L 133, 30.04.2004, p.1) amended by Commission Regulation (EC) No 1033/2008 of 20 October 2008 (published in OJ L279, 22.10.2008, p. 3).The original text of the regulation is available on http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:024:0001:0022:EN:PDF; and its last amendment on http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:279:0003:0012:EN:PDF , accessed on 4/4/2015.

[129] Article 81 handles all anti-competitive agreements between undertakings, decisions by associations of undertakings and concerted practices, article 82 is relating to any abuse by one or more undertakings of a dominant position within the common market.

practices between undertakings[130] and abuse of dominance and the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 and 102 of the Treaty.[131]

It is important to notice on the one hand that between the two Council Regulations, many other regulations have been adopted in order to update rules implementing the above provisions on concerted practices and abuse of dominance. On the other hand, many other regulations have been adopted in order to implement the above mentioned provisions to different categories of undertakings[132].

The EAC Competition Authority in not established formally five years after the Act establishing it legally, and it is a challenge to the implementation of the Act in itself. The example of the European Union in the implementation of the competition rules within the Community illustrates that, when the Authority is established, it should be well equipped in order to allow it to be fast in addressing all competition issues under its competence.

EAC and relevant national authorities should also be aware of this situation in order to be ready to take necessary actions in the fulfillment of their obligations relating to competition implementing measures. As their activities may increase all the time and are to be always adapted to the situation and the evolution of trade, competition authorities constantly have to update the rules and regulations governing all competition matters, and their internal modus operandi as well[133].

[130] EEC Council Regulation No 17: First Regulation implementing Articles 85 and 86 of the Treaty, available on http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31962R0017:EN:HTML, accessed on 4/1/2014.
[131] EC regulation no 1/2003 of 16 December 2002 is the current regulation implementing rules on decisions by associations of undertakings and concerted practices, article 82 is relating to any abuse by one or more undertakings of a dominant position within the common market.
[132] As illustration we mention the Council Regulation (EEC) No 479/92 of 25 February 1992 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia), available on http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=392R0479&lg=EN, accessed on 4/1/2015.
[133] J. Olanyo, *op.cit,* p.11.

In a nutshell , we concur with this interesting statement :'' in evaluating the effectiveness of Competition Authorities, we should not deem the number of cases handled by a Competition Authority as the key determinant of effectiveness, especially in the restrictive business practice area.[134]This is because we deem the surveillance role of a competition authority to be more important. A comparison can be made with the effectiveness of a police force. In our view, a police force is more effective when its surveillance and preventive role is more successful.[135]

Otherwise, we cannot say that a police force is whose area more crimes have been committed, even though it has been very effective in arresting and convicting all the criminals, is more effective than the police force in whose area there have been very few cases of crime due to its superb surveillance and preventive methods.''

III.1.3. Reinforcement of sanctions in case of violation of the community law

The EAC Member States cannot respect all commitments as it's previewed in the Agreement that is why to give vigor the consumer protection, there must be strict sanctions. We propose those measures in order to give a legal value to the Community law because there is no legal mechanism without sanctions.

For J.M.Warenge's views, it is not enough only sanctions but also to verify the execution of such sanctions the strict sanctions towards the East African Community Member States such sanctions would be executed as in the European Community (ies) as to reach the objectives aimed at[136]. Never-the-less the EAC Agreement never provided strict sanctions to the State that would violate its provision because parliament Organ conducts its function under different policies and interests of the Partner States of the Community. So, we wish to reinforce the sanctions to all people who ignore Community law to put in action the provisions of EAC agreement.

In that regard, the Community law will be supreme to international legal systems of Partner States. To our point of view, sanctions would be aggravated in case EAC gives exact

[134]Kose, M. ,*Effects of financial liberalization on developing countries: some empirical evidence.* Washington DC, International Monetary Fund, 2003, p.33.
[135]As above.
[136] J.M., Warenge, *World Trade Organization (WTO), Legal sections related to economic integration in third world countries,* CPISP, Bruxelles 2000, p. 257.

qualification to the lack fulfillment of obligations and sanctions must be pronounced to the Offender State.

Thus, the free circulation of merchandises and the freedom of trade cannot be achieved in total absence of efficient and effective regulation of the Community. It is the reason why we conclude by saying, liberalization exchange system, harmonization of internal legal systems of Partner States and reinforcement of sanctions.[137]

For example,COMESA Regulations provide for penalties that can be imposed on someone who contravenes or fails to comply with the COMESA Regulations. Where no penalty is provided, the COMESA Competition Commission can also impose a fine.[138]Any persons may bring before the attention of the CCC potential breaches of the law. The CCC in conjunction with the relevant authorities of the Member States will then investigate the complaints, if any. With the powers and expertise to work together with the COMESA Competition Commission, Member States are encouraged to establish their own authorities.[139]

An order of compensation can be made to the persons affected or a fine be imposed for breaching the provisions of the Regulations as a penalty for contravening the COMESA Regulations,in terms of article 8 provisions. In terms of COMESA Rule 11 (Infringement and Penalties), the Member States undertake to introduce legislation, where such legislation does not already exist, making such provision as may be necessary for penalties to be imposed against persons in their own territories.[140]

[137]*Ibid.*
[138]COMESA, consumer protection in Africa, retrieved at http://www.lexology.com/library/detail.aspx?g=f04da1c1-759e-4604-acab-9c4e576c7805
[139]Ndebbio, J. Financial deepening, economic growth and development: Evidence from selected sub-Saharan African countries. *African Economic Research Consortium Research papers* no 142, Nairobi, Kenya: Regal Press, 2004,p.22.
[140]*Ibid.*

III.2. Requirements for effective implementation of the EAC Competition Act

This section emphasizes for Empowering Competition Authorities, Establishment of the EAC Competition Authority and Cooperation between regional and national competition authorities.

III.2.1. Cooperation between regional and national competition authorities

The issue of cooperation between competition authorities is not much provided for under the EAC Competition Act. The Act only stipulates that the EAC Authority and the Partner States shall mutually co-operate in the implementation of the East African Community Competition Law.

Since the EAC Competition Authority is not established, nor any other regulation relating to its functioning set up, we can only refer to other competition system in order to see how cooperation between community competition authority and national competition authorities (NCAs) is organized. To that effect, we shall have a look on how the European Union Competition law provides for that matter, which seems to inspire the EAC law[141].

The above competition issues are those provided for such as anti-competitive practices qualified as such because they adversely affect free trade and include any agreement, undertaking or concerted practice which has as its objective or effect the prevention, restriction or distortion of competition within the Community[142].

According to the competition laws and other related regulations, some of those practices are simply prohibited, while others have to be authorized by the Competition Authorities. The role of the Competition Authorities is therefore to punish firms which are responsible for the crimes related to those prohibited practices, controlling market dominance by some firms and authorize those which intend to make associations notably by mergers and acquisitions.[143]In that perspective, the competition authorities will cooperate in the following ways:

[141] T. Bonakele,*op.cit, p.5*.
[142]European Union**,***op.cit, p.7*.
[143]*Idem,* Part II, III,IV; European Commission treaty, art 81,82,83.

- The regional competition authority shall transmit to the national competition authorities the copies of the most important documents it has collected with a view to handle issues related to the concerted practices, associations of undertakings and abuse of dominant position.

- The national competition authority shall inform the Community competition authority when commencing the investigative measure related to the above mentioned anti-competitive practices prior to taking any formal decision.

- The national competition authorities shall consult the regional competition authority on any case involving the application of Community Law.

- Exchange of information between the Community Competition Authority and NCAs which information may be used in evidencing any matter of fact or of law, including confidential information.

More specifically, within the EU competition law, national competition authorities , when applying domestic provisions related agreements between undertakings, decisions by associations of undertakings and concerted practices , abuse of dominant position in the sense of articles 81 and 82 of the European Community treaty, which may affect trade between Member states , they have also apply these articles.[144]

In addition, the national competition authorities have the power to apply articles 81 and 82 of the treaty in individual cases; for that purpose, acting on their own initiative or on a complaint, they may take decisions such as requiring that an infringement be brought to an end or imposing fines, periodic penalty payments or any other penalty provided for in their national law.[145]

[144]EC Council regulation, arts.11-20).
[145] Council regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in articles 81 and 82 of the Treaty, art 3., Available on http://eur lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003R0001&model=guichett, accessed on 2/4/2015.

III.2.2.Enforcement of Dispute Settlement under the EAC

The Treaty for the Establishment of the EAC places emphasis on the importance of peaceful settlement of disputes within the regional integration bloc[146]. Agreeing with Mwagiru, the EAC strategy of conflict management is based on the functional approach to conflict management. This approach envisages that cooperation among states reduces the occurrence of conflicts and their intensity.

Mwagiru believes that the inclusion of mechanisms for peaceful settlement and the legalistic approaches through provisions of the East African Court of Justice (EACJ) would lead to the collapse of the EAC mainly due to pressures exerted by both sides and the coexistence of the functional and legalistic approaches[147].

The EALA has introduced a bill which introduces a four stage dispute resolution process for a legally enforceable mechanism for the elimination of Non-Tariff Barriers within the EAC enforceable by the EACJ and which is expected to further the gains on the Common Market (CM)[148] .

The assertion on the potential collapse of the EAC is unlikely as the community has continued to exist and has become stronger twelve years on with Rwanda and Burundi joining it in 2007.The regional bloc successfully launched a Customs Union (CU) in 2005, a CM in 2010 and negotiations on the Monetary Union (MU) are at an advanced stage. The EAC unlike ECOWAS however has not been tested in terms on conflict management between its members[149].

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[146] Article 123 (4)d, EAC Treaty

[147]MwagiruM.,Conflict in Africa (Nairobi: Center for Conflict Research ,(2006)p.37

[148]Mumo M, EAC bloc acts to remove non-tariff barriers, Daily Nation, (Nairobi)(Weekly Business Supplement), June,18,2013 p.7

[149]Warui David Njoka, *The East African Community and Dispute Settlement (A Case of MigingoIsland*,LLMthesis,University of Nairobi, May, 2013), retrieved at http://erepository.uonbi.ac.ke/bitstream/handle/11295/52603/Warui%20David%20Njoka_The%20East%20African%20Community%20and%20Dispute%20Settlement%20%28a%20case%20of%20Migingo%20Island%29.pdf?sequence=3&isAllowed=y,accessed on 5/11/2019

According to Schiff and Winters' there is persuasive evidence, that trade will generally foster peace, if not friendly, relations between countries'. He further asserts that trade through economic interdependence and the promotion of free movement of goods may facilitate easier resolution of political and territorial disputes[150]. It can be concluded that the reason why the dispute between Kenya and Uganda has remained fairly low key might be partly due to their trade relations under the auspices of the EAC[151].

[150] Schiff M. and Winters L.A, Regional integration and development (Washington DC: The International Bank for Reconstruction and Development/The World bank, 2003) pp.192.
[151]Warui David Njoka, *op.cit,p24*.

GENERAL CONCLUSION

For consumer protection in financial sector within EAC, this thesis has witnessed several aspects of proposed measures to be amended or incorporated into the legal framework. On the subject of the sufficiency of legal and administrative protection provided for consumers in the EAC, the recommendations have been concluded from the debates all over the chapters of this thesis.

To the safety of consumers in the region, we have seen that the integration procedure in EAC is being carrying out with slender or no concern. As debated in Chapter 2 and 3, insufficient provisions of the treaty for the establishment of the EAC, the Protocol for establishment of the E.A.C. Customs Union and the EAC Competition Act have unambiguously intended to talk Consumer protection matters.

At the EAC Level, there is shortage of an inclusive statutory and regulatory framework. Short of a cohesive legislation covering all the matters regarding consumer protection, it is problematic to thrive operative consumer protection. For the advantage of the municipal consumer, it is consequently imperative that the EAC approves mechanisms that would give tough consumer protection measures .

In light of the initial stages of the integration course in the EAC, a qualified study of further recognized economic unions is suitable to draw lessons which would be useful in resolving the transitory challenges met in the creation of an EAC legitimate framework on consumer protection.

There is shortage of a consumer redress measures which forms an significant portion of consumer well-being. In the occasion of a disagreement on the understanding of the EAC treaty or a grievance on the dispute concerning consumer protection in financial matters, the EAC treaty does not stipulate the procedures to be tracked.

On the process, we have shown that the current fragile non-governmental on consumer groups doesn't support the difficulty of consumers in standings of consumer demonstration. The undertakings of these establishments are minor-scale and there are small levels of community awareness around the presence or the purpose of such body as advocacy groups. The level

of organization of consumer groups is low matched to other commercial coalitions like the EU which have firms involving consumer organizations from all EAC member countries.

Contrary, compared to the consumers who have no voice at all ,manufacturers have a tough say and occurrence in the EAC over the East African Business Council. Structured clusters like companies are capable to porch for absorption of their benefits into legislature over the EABC.

It has been debated that consumption is the solitary drive of production and the advantages of the creator have to be joined to simply in so far-off as it may be indispensable for encouraging that of the consumer. In the framework of EAC consumer protection laws, this reflection has been attested to be extra uncompromising than realistic. Current EAC laws on consumer protection are well-versed on presentation of incorrect doctrines which prioritize profitable integration and growth in trade quite than consumer well-being and protection. Promotion of consumer well-being in the EAC context is subsidiary to economic extension and growth.

For consumer education, we realized that the EAC does not have any guidelines or laws prevailing. To head consumer education in the EAC, there is also no consumer education programme or agency. This has managed to an unaware community consumer in the EAC region who does not know his/her civil rights and later does not look for reparation when their civil rights and privileges are visibly violated.

Objectives of consumer education contain inter alia; proposing direction and support on grievance resolution on consumer civil rights, allowing consumers to get finest importance-for-money and empowering consumers to understand, and examine the information obtainable to them in the marketplace therefore permitting them to make up-to-date verdicts.

Finally, in consumer protection ,we suggest that a strong civil society is key to report consumer issues, impact policy, promotes community awareness then to defend the consumers' civil rights mostly wherever the public and the private sectors miscarry to implement guidelines and laws consequently.

BIBLIOGRAPHY

I.LEGISLATION

1. Law nº36/2012 of 21/09/2012 relating to competition and consumer protection**,** Official Gazette nº 46 of 12/11/2012.
2. Kenya Competition Act, 2010.
3. Law No. 1/06 of 25 March 2010 regarding the Legal Regime on Competition (Burundi Official Gazette, No. 3 bis/2010.
4. Treaty for establishment of the East African Community signed on November 1999 in Arusha , Tanzania (as amended on 14th December , 2006 and 20th august , 2007
5. Draft Protocol to operationalize the Extended Jurisdiction of the East African Court of Justice
6. Protocol on the establishment of the common market signed at Arusha on the 20th November 2009
7. Protocol on the establishment of the common market signed at Arusha on the 20th November 2009
8. The Protocol on the Establishment of East African community customs union , signed at Arusha , TANZANIA , on the 2nd march 2004
9. Council regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition
10. UNCTAD Model law on competition

II.BOOKS

1. Alemayehu, G. Regional Economic Integration in Africa: A Review of Problems and Prospects with a Case Study of COMESA, *Economic Integration in Africa*. Addis Ababa: OAU, 2002.
2. *April 2008* (Washington: International Monetary Fund, 2008.
3. Beltran, Gil S. ,*Microfinance Consumer Protection Guidebook*, October 2007.
4. Boyd, J. H., De Nicoló, G., and Jalal, A.M., Bank Competition, Risk and Asset Allocations, *IMF Working Paper 09/143*, International Monetary Fund, Washington D.C, 2009.

5. Decree G. *Financial Integration in East Asia*. Cambridge: Cambridge University Press, (1972.
6. Dima, N. ,*The Challenges of Regional Integration in Africa: The Case of the Intergovernmental Authority on Development.* Global Economic Governance Programme ,University College: Oxford, 2010.
7. Eiling, E., and Gerard, B. *Dispersion, Equity Returns Correlations and Market Integration,* mimeo, Tilburg University, 2006.
8. Gaertner, M., S. Sanya, and M. Yabara, "Assessing Banking Competition within the Eastern African Community," unpublished manuscript (Washington: International Monetary Fund, 2011.
9. Grawtz, M. ,*Research Methodology*, Paris,Dalloz,1998.
10. International Monetary Fund (IMF), *Regional Economic Outlook: Sub-Saharan Africa,*
11. International Monetary Fund, *International Financial Statistics,* Washington, DC: Author, 2009.
12. Kasekende, L., and Ng'eno, N., *Regional integration and economic integration in Eastern and Southern Africa.* Macmillan Press Ltd, London, 2000.
13. Kose, M., Effects *of financial liberalization on developing countries: some empirical evidence.* Washington DC, International Monetary Fund, 2003.
14. Warenge, J.M., *World Trade Organization (WTO), Legal sections related to economic integration in third world countries,* CPISP, Bruxelles 2000.
15. World Bank Financial integration in two regions of sub-Saharan Africa: How Creating Scale in Financial Markets can Support Growth and Development, Washington DC, 2007.

III.REVIEWS AND JOURNALS

1. Chanda R and Gupta P "Trade Liberalisation in Producer Services: Case Study of India" Asia-Disappoint" *Journal of World Trade,* 2007.
2. Dittus, Peter and Klein, Michael. (2011) "On Harnessing the Potential of Financial Inclusion." BIS Working Paper No. 347, Settlements, Bank for International | Klein, Michael and Mayer, Colin. (2011) "Mobile Banking and Financial Inclusion: The

Regulatory Lessons." Working Paper No. 166, Frankfurt School of Finance & Management.

3. European Union, *Competition authorities in the European Union – the continued need for effective Institutions*.
4. Herfindahl, E. and Brown, R.W. ,"WTO Negotiations in Financial Services: Standing Offers
5. Hoekman B, "Liberalizing trade in services: a survey" World Bank policy research working paper, 2006.
6. Idowu William and OKE Moses; *Theories of Law and Morality: Perspectives from Contemporary African Jurisprudence;* In-Spire Journal of Law, Politics and Societies; vol. 3. No.2; 2008.
7. Mattoo A, Rathindran R, Subramanian A, "Measuring services trade liberalization and its impact on economic growth" *Journal of Economic Integration,* 2005.
8. N.DIMGBA, *Introduction to Competition Law: a sine qua non to a Liberalized Economy,* May 2006, Lagos, Nigeria. Available at www.globalcompetitionforum.org, accessed on 10th January 2015.
9. Peng, S., "Trade in Telecommunications Services: Doha and Beyond" ,*Journal of World Trade,* 2007.
10. United Nations; *Fragmentation of International Law: Difficulties arising from the Diversification and Expansion of International Law*; Report of the Study Group of the International Law Commission; Fifty-eighth session Geneva, 1 May-9 June and 3 July-11 August 2006; Finalized by Martti KOSKENNIEMI; General Assembly Distr.; A/CN.4/L.682; 13 April 2006.
11. Wangwe, S., "Proposals to Address Economic and Social Disparities in the East African Community" Dialogue on the Regional Integration in East Africa», *East African Dialogue,* Number 4, EAC, Arusha, 2001.
12. Zafarullah, H., 'Human Rights, Civil Society and Non-governmental Organisations: The Nexus in Bangladesh' *Human Rights Quarterly, 2002*.

IV.REPORTS AND OTHER DOCUMENTS

1. European Parliament, study on Protection Aspects of Financial Services Consumer by Patrice Muller, Shaan Devnani, Richard Heys and James Suter , February 2004.
2. Ministry of Trade and Industry, *Rwanda Competition and consumer protection policy*, pp 6-7. Accessible on www.eac.int/trade/index.php?option=com_docman&task
3. NSEKELA Harold Reginald; President, *East African Court of Justice; The Role Of The East African Court Of Justice In The Integration Process*; A Paper for Presentation During the 3rd East African Community Media Summit, Imperial Royale Hotel, Kampala, Uganda, 21st – 22nd August 2009.
4. Pacific Trade Economists' Conference, 'Trade led growth in times of crisis' United Nations Economic and Social Commission for Asia and the Pacific.
5. Report On Consumer Finance Protection with Particular Focus On credit by Financial Stability Board (FSB) and the Organization for Economic Co-operation and Development (OECD) p. 3 - 4 available on http://www.financialstabilityboard.org/publications/r_111026a.pdf
6. Robinson S, Wang Z and Martin W ,"Capturing the Implications of Services Trade Liberalization" Paper presented at the Second Annual Conference on Global Economic Analysis, GL Avernaes conference Centre, Ebberup Denmark, June 20-22, 1999.
7. RUHANGISA John Eudes; Registrar, East African Court of Justice; *The Role of the East African Court of Justice in the Realization of the Customs Union and Common Market*; A Paper forPresentation During the Inter-Parliamentary Relations Seminar, (Nanyuki - V -) held atBurundi National Assembly, Bujumbura, Burundi, 27th – 31st January, 2010.
8. Rwanda Competition and Consumer Protection Policy of July 2010
9. The World Bank consultative draft on good practices for financial consumer protection of March 2011.

V.INTERNET SOURCES

1. Bonakele, T. "*The makings of a successful authority: Reflection on the rise of a competition authority", in Ten years of enforcement by South Africa Competitions*

Authorities, Unleashing rivalry, 1999-2009", available on http://www.comptrib.co.za/assets/Uploads/Reports/unleashing-rivalry.pdf,

2. Cali M, Ellis K and Willlemte Velde D, "The Financial Sector" briefing Note 3, January 2008, www.oecd.org/investment/gfi-7
3. Competition Council – Romania ,*competition survey, studies and researches relating to economic competition Council – ROMANIA*, Patronage and sponsorship by the Competition council – Romania, No- 1, 2010 , available on http://www.consiliulconcurentei.ro/documente/Revista%20engleza_18664en.pdf,
4. Council regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in articles 81 and 82 of the Treaty , art 3., Available on http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003R0001&model=guichett**,** accessed on 2/4/2015**.** en.html,
5. Dutz, M.A.M.Vagliasindi, *Competition policy implementation in transition economies: An empirical assessment*, in European Economic Review 44, 2000.p.766. Available also at http://www.oecd.org/dataoecd/38/34/39990968.pdf,.
6. European Union**,** *Competition authorities in the European Union – the continued need for effective Institutions*, Resolution of the Meeting of Heads of the European competition authorities of 16 November 2010 .P.2, *available at http://ec.europa.eu/competition/ecn/ncas.pdf,*
7. Evenett, S.J. *Links between development and competition law in developing countries, University of Oxford*, October 28, 2003. P 6-7,available at www.alexandria.unisg.ch/export/DL/22249.pdf,
8. Italianer, A., EU *priorities and competition enforcement*, Institute for European and International Affairs, Dublin, 25 March 2011. p.5. available on http://ec.europa.eu/competition/speeches/text/sp2011_03_en.pdf,
9. Lane, R. *European and National Enforcement of EU Competition Law: Sharing Sovereignty*?, School of Law, University of Edimburg,p.4. , available at http://www.jean-monnet- coe.keio.ac.jp/workingpapers/robert_lane_01.pdf,
10. Lowe, P. *'EU competition policy and the consumer*, http://europa.eu.int/comm/competition/index_

11. Mattoo A "Economics and Law of Trade in Services", 2005, www.siteresources.worldbank.org/INTRANETTRADE/Resourc-2005-05-19 McGuire, G. ,"Trade in Services-Market Access Opportunities and the Benefits of Liberalisation for Developing Economies" Policy Issues in International Trade and Commodities Studies Series No. 19, United Nations, www.unctad.org
12. Mkocha**,** G. E. *Competition Policy and Law in Tanzania*, paper presented at the Third Annual Competition commission, competition tribunal and Mandela Institute Conference on Competition Law, Economics and Policy in South Africa at the South Africa Competition Commission, 03/09/ 2009**;** available at http://www.google.rw/#pq=tanzania+fair+competition+commission&hl=en&cp=38&gs_id=17&xhr=t&q=Competition+Policy+and+Law+in+Tanzania&pf=p&sclient=psyab&source=hp&pbx=1&oq=Competition+Policy+and+Law+in+Tanzania&aq=f&aqi=&aql=&gs_sm=&gs_upl=&bav=on.2,or.r_gc.r_pw.,cf.osb&fp=82917730e88074ff&biw=1280&bih=598,
13. Mkono, N. E. G.Nibigirwe and H. Ntwari, *Let the Competition begin*, available at http://www.iflr1000.com/pdfs/Directories/24/Burundi.pdf,
14. Mutabingwa, A.,*Should EAC regulate competition? Arusha*, Tanzania, August 2010. Available on www.eac.int/news/index.php?option=com_docman&task=doc,
15. Njoroge, P.M. *Enforcement of competition policy and law in Kenya including case studies in the areas of mergers and takeovers, prevention of possible future abuse of dominance and collusion/price fixing*,p.5.Available at http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Conferences_CompetitionPolicyTanz_Peter%2BNjoroge.prn.pdf/$FILE/Conferences_CompetitionPolicyTanz_Peter%2BNjoroge.prn.pdf,
16. Olanyo,J. ,*Uganda ups competition and consumer policy* , in Busiweek of 13/11/2011. Available on http://www.busiweek.com/11/news/uganda/2074-uganda-ups-competition-and-consumer-policy,
17. Simelane M., "*Towards a fair and efficient economy for all", in Ten years of enforcement by South Africa Competitions Authorities, Unleashing rivalry, 1999-2009"*P.71, available on http://www.comptrib.co.za/assets/Uploads/Reports/unleashing-rivalry.pdf,
18. UN, Country presentation: UN statistics division, retrieved http://unstats.un.org/unsd/default.htm,

19. UNCTAD, Capacity-building on competition law and policy for development, report UNCTAD, New York and Geneva, 2008. p.17, available at http://www.unctad.org/en/docs/ditcclp20077_.pdf.
20. UNCTAD, Model law on competition , chapter I .Available on http://r0.unctad.org/en/subsites/cpolicy/docs/Modelaw04.pdf,
21. UNICTAD,Why competition matters,http://unctad.org/en/Pages/DITC/CompetitionLaw/why-competition-matters.aspx
22. Van De Gronden, J. W. & S. A. DeVries**,** *Independent competition authorities in the EU,* Utrech Law Review. P.1.Available on http://www.utrechtlawreview.org/index.php/ulr/article/view/16/16,
23. X.,financial institutions,http://www.bou.or.ug/export/sites/default/bou/boudownloads/financial_institutions/2011/commercial_ banks_in_Uganda_as_at_31_Mar_2011.pdf

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