

# Second ICAO Meeting on the Sustainable Development of Air Transport in Africa

Session 3 – Long-Term Vision for Sustainable Air Transport in Africa

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# Content

- How can we achieve convergence in our regulatory practices especially with respect to Competition Rules and Consumer Protection Regulations?
- Why are States not using the documents developed by the AU and AFCAC especially the African Civil Aviation Policy?
- How can we improve the situation?

# Regulatory Convergence – The Positives

- Why Convergence? – Minimise duplication; Achieve Consensus; Implementation secured; Happy Faces.
- Antecedents –
  - 2004 ECOWAS/UEMOA/CEMAC Conference on Competition Regulations, Gabon
  - 2002 SADC; COMESA; EAC; SADC/COMESA/EAC (*Vic Falls; Lusaka; Leiden; Maputo, Mombasa, Lusaka; Pretoria*) 2013 Bujumbura, Harare, Johannesburg JCA Implementation Programme **??????**;
- At what regulatory level? Horizontal or Parallel? National or?
- Good regulatory practices – Comparative analysis

# Regulatory Convergence – Comparative analysis

COMPETITION	COMESA	COMESA/SADC /EAC	AU	
YD 1999	COMESA LN2	YD		
CONSUMER PROTECTION	Mauritius	Nigeria	UEMOA	South Africa

# Competition – Doc 1003/7 Competition Regulation

- Art. 2: The purpose ..... is to **promote and guarantee free and fair competition in Intra-Africa air transport services** in order to develop the air transport industry and to contribute to the **welfare of the citizens** of the State Parties.

# Competition Regulation

- Art. 3: apply to scheduled and non-scheduled **intra-Africa** air transport services, including any practice, agreement or conduct thereto which might have an anti-competitive effect within the separate and joint territories of the regional economic communities and within the entire African continent

# Competition Regulation

- Key Point of Convergence - Commonality of Regulation and Enforcement
- Art 9 - 1 The Executing Agency shall be responsible for supervising and implementing the regulations
- Art 9 – 2 The Executing Agency may delegate its functions or powers of investigation to the regional competition authority or a State Party
- Convergence is thus secured in the commonality of the applicable principles, the institution of interpretation and the necessary leadership engendered in the structuring of competition regulation.

# Consumer Protection Regulation – Doc 1004/17 -

- Art. 9.6 of the YD (Consumer Protection)
- CPReg Art. 2 -prescribes rights of consumers originating from or destined for the territory of a State Party ..... and lays down responsibilities of air transport undertakings.
- Art 3: objective .... is to protect the consumer of air transport services provided in the territories of State Parties of the YD against unfair treatment in the provision of services
- provides .. for compensation ...for breach of the rights of the consumer .... And a mechanism for redress.



# Consumer Protection

- Complaints to State Party, RECs and Executing Agency (19)
- Same Agencies may investigate at respective level (20)

# Regulatory Convergence

- The rules, their interpretation, supervision of compliance & enforcement are all provided for.
- Regulatory implementation is normalized at State, REC and Regional Level
- Implementation procedures are clearly outlined and may be applied as needed
- No conflict need exist vis-à-vis national or REC legislation
- Given the focus of the welfare of the consumer, the Executing Agency will not be hampered from extending the ambit of the Comp Proct where necessary.

- Why are States not using the documents developed by the AU and AFCAC especially the African Civil Aviation Policy?
- Why divergence in Regulatory Practices

# WHY ..... Negatives

1. Lack of Awareness

**2. Whye Syndrome**

3. Questionable Focus – Banjul Accord

4. Lack of Specific Goals

5. Excessive Generalisation

6. Speculative Ventures

7. Lack of funding? – An excuse

8. ICAO Dependence Syndrome - Montreal says ...

# How To Fix It

- **KYC** – Know Your Client
- The ‘C’ is **NOT ICAO; NOT GOVERNMENT; NOT AIRLINES; NOT ANSP; NOT AIRPORT; NOT ATC; NOT THE BANK; NOT DONORS; NOT FUEL SUPPLIERS; NOT FOREIGN CARRIERS; NOT NATIONAL/DOMINANT CARRIER**
- **C = STATE = SHAREHOLDERS = the People**
- Aviation Stakeholders are Regulatory **OBJECTS, FUNCTIONS & TOOLS**
- Regulatory **Foci** – Geographic and Sole Beneficiary
  - Geographic – **Africa**
  - Beneficiary – **The People**

# Fix It - 2

- Lets be - A bit **detailed in our regulations**
- Lets be - Slightly original
- Lets envision ourselves firstly as **Africans** dealing with **African issues for the African people**
- Lets **call a spade a spade – We love to talk, Not bad, but stop pretending!!**
- Lets recognise that the object of regulation goes one step beyond adoption of the regulation - **Whye ko**
- Lets learn to adopt **SPECIFIC AND PRAGMATIC IMPLEMENTATION MEASURES**
- Lets not be afraid to differ in our views, especially – implementation measures

# Fix it - 3

- There is nothing wrong with an African Solution
- African institutions like AFCAC, AFRAA, NPCA, AfDB and AU are good
- African experts are good. They lead Global organisations so when they decide in Africa, we dont need any additional Validity Stamp.
- African leadership must learn to Market their products – AFCAC could have published drafts long ago
- Lets create African ownership of YD like
- PROTECT or LIBERALISE ? Choice has been made
- Lets learn to **PAY for Our Own Lunch**
- **AFCAC To PUBLISH**



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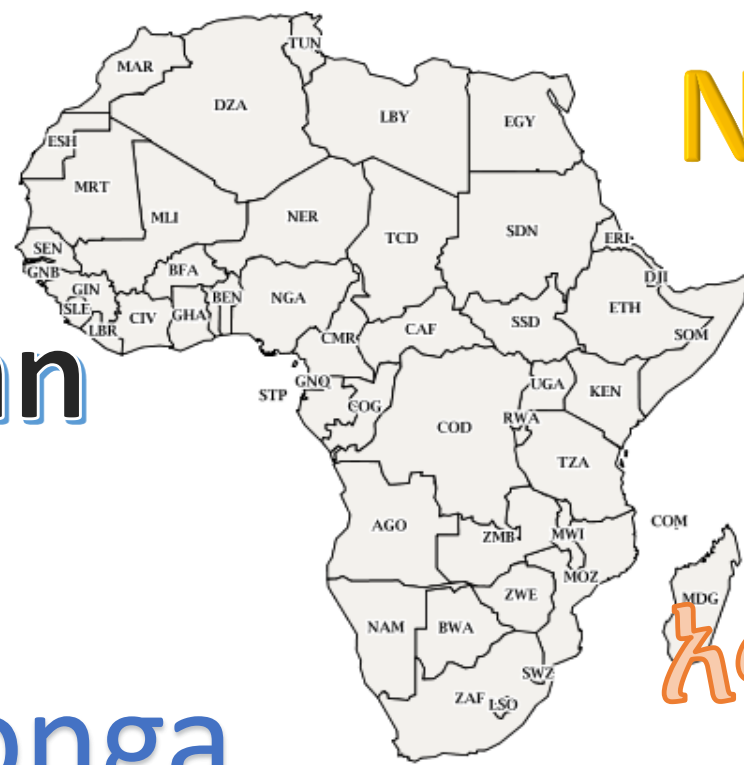
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