



Capacity Building Workshop on Drafting, Revising and  
Implementing Competition Regulations in Air Transport Services in  
Africa

# *Competition in African Air Transport*

*Legal & Institutional Framework under YD & SAATM*

Presenter: AFCAC Secretariat | 06 May 2026 | Kampala, Uganda

AFRICAN CIVIL AVIATION COMMISSION



# *Objective of the Session*

This session provides participants with a comprehensive understanding of the legal and institutional framework governing competition in African air transport, with particular focus on the Yamoussoukro Decision and the Single African Air Transport Market.

01

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## *Legal Framework*

Present the legal framework governing competition in African air transport under the YD and SAATM architecture.

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## *Institutional Roles*

Clarify the roles and responsibilities of AFCAC, the African Union, RECs, and member States in enforcement.

02

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## *YD Competition Provisions*

Explain the Yamoussoukro Decision and its specific provisions relating to market access, pricing, and fair competition.

04

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## *Annex 5 Deep Dive*

Examine the Competition Regulations in Annex 5 and highlight implementation challenges and priorities for the continent.



AFCAC · CAFAC

# *Vision, Mission & Values*

AFCAC – the African Civil Aviation Commission – serves as the **Specialized Agency of the African Union** on all matters of civil aviation and as the **Executing Agency of the Yamoussoukro Decision**. As the continent's premier aviation body, AFCAC works to align African States around shared goals of safety, connectivity, and sustainable growth.

## ***Our Vision***

To foster a safe, secure, efficient, cost-effective, sustainable, and environmentally friendly civil aviation industry across all African States – connecting the continent and the world.

## ***Our Mission***

We facilitate cooperation and coordination among African States toward the development of integrated and sustainable air transport systems, and foster the implementation of ICAO Standards and Recommended Practices (SARPs) across the region.

## ***Core Values***

- Good Governance and Impartiality
- Transparency and Accountability
- Professionalism and Integrity
- Collaboration and Inclusivity
- Innovation and Agility





# AFCAC OBJECTIVES ARTICLE 3

Ensuring adherence to and implementation of Decisions of the Executive Council and Assembly.



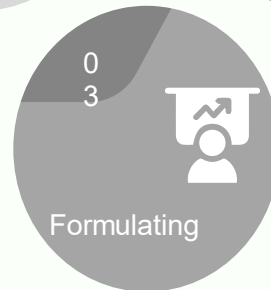
Coordinating civil aviation matters in Africa and cooperating with ICAO and all other relevant organizations and other bodies which are involved in the promotion and development of civil aviation.

Fostering inter alia, the implementation of ICAO SARPs for the safety, security, environmental protection and regulatory of the aviation sector.



Facilitating, coordinating and ensuring the successful implementation of the YD by supervising and managing Africa's liberalized air transport industry.

Promoting understanding on policy matters between its Member States and States in other parts of the world.



Examine specific problems which may hinder the development and operation of the African civil aviation industry and, where possible, take corrective and/or preventive actions in coordinating with Member States as required.



# AFCAC MAIN FUNCTIONS ARTICLE 4

01 Undertake studies on technical regulatory and economic developments in air transport, with particular focus on their implications for Africa.

02 Support Member States on civil aviation matters.

03 Foster and coordinate programmes for the development of training facilities in Africa and to encourage and support the training and development of personnel in all fields of civil aviation.

04 Encourage and support the creation of autonomous civil aviation entities.



05 Ensure advocacy and defence of common positions of Member States at international fora relating to civil aviation.

06 Ensure seamless and close cooperation with RECs and Organizations concerned with civil aviation matters.

07 Act pursuant to provisions of Article 9 of the Yamoussoukro Decision to discharge its duties of Executing Agency of as the African Air Transport in Africa Executing Agency

08 Harmonize existing and, where necessary, adopt common rules and regulations for safety, security, environmental protection, fair competition, dispute settlement, and consumer protection in air transport.



# *AFCAC STRUCTURES ORGANS OF AFCAC*

## **1. THE PLENARY (Article 10)**

- Supreme organ of AFCAC and is composed of duly accredited representatives of Member States (DGs/55 AU States).

## **2. THE BUREAU (Article 12)**

- Composed of the President and five (5) Vice-Presidents
- President is selected on a rotational basis and shall serve one term of three (3) years (Normally, the DG of the host State/CONGO).
- Each AU region shall designate a member State as its Vice-President. (NORTH -ALGERIA, SOUTH - NAMIBIA, EAST - KENYA, WEST - MALI and CENTER - CAMEROON)
- AFI Group Coordinator at ICAO Council attends meetings in an ex-officio capacity.

## **3. THE SECRETARIAT (Article 14)**

- Composed of a Secretary General and assisted by AFCAC Staff.
- SG is the Chief Executive Officer and legal representative of AFCAC.
- SG is appointed by the Plenary upon the recommendation of the Bureau by considering competence, qualification, experience, high integrity, and geographical distribution of posts.



# *AFCAC STRUCTURES ORGANS OF AFCAC*

## **Plenary's Policy Role:**

- The Plenary offers policy orientation and endorses frameworks representing Member States' collective decisions.

## **Bureau's Oversight Function:**

- The Bureau ensures oversight and follow-up, turning policies into coordinated actions across regions.

## **Secretariat's Technical Assistance:**

- The Secretariat provide technical support, engages with national authorities and RECs, and facilitates capacity building.





# *AFCAC as Executing Agency of YD*

## Continental Coordination:

- AFCAC coordinates civil aviation matters across Africa to harmonize policies and standards continent-wide.

## Legal Authority:

- The Yamoussoukro Decision (YD) and Annex5 provides AFCAC with the legal mandate to oversee competition-related matters continent-wide.

## Role in Competition Regulation:

- Ensures competition regulation aligns with continental goals like economic integration and Agenda 2063.

## Hub for Expertise and Dialogue:

- AFCAC strengthens cooperation among Member States and RECs bodies to harmonize competition principles.





# *Why Competition Matters in Aviation*

Liberalisation is a necessary but not sufficient condition for a functioning market. Without robust competition rules, open skies can produce new forms of market failure rather than the consumer benefits they promise.

## *Market Risks*

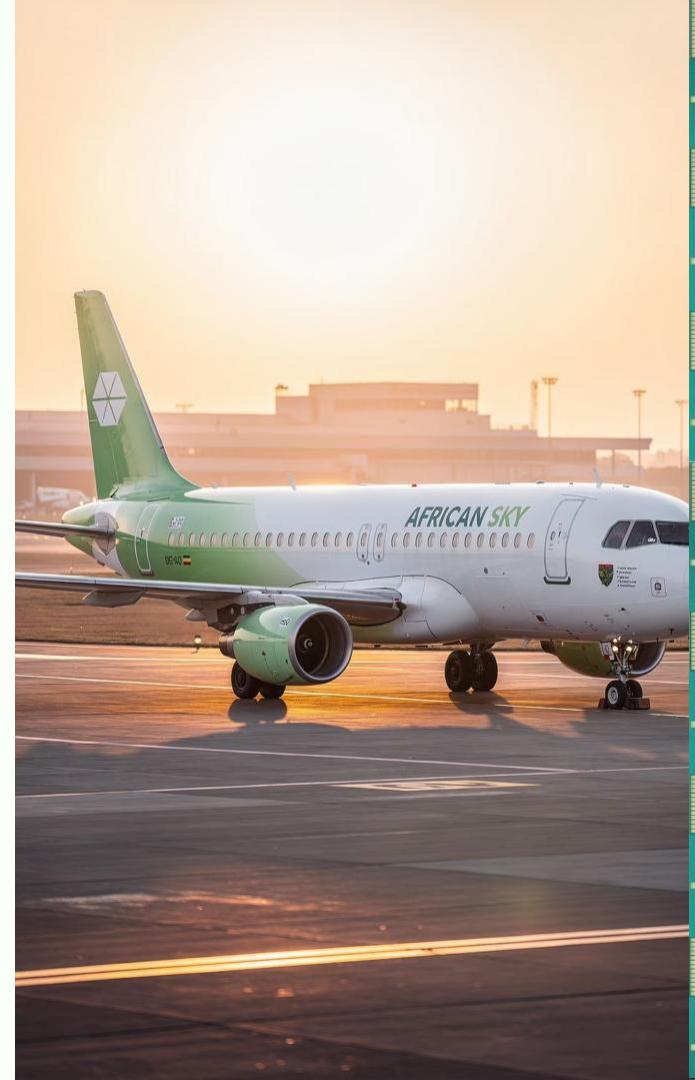
Dominance, predatory pricing, discriminatory access, and state-backed market distortion can all emerge in a liberalised but unregulated environment.

## *Competition Benefits*

Effective competition drives lower fares, improved connectivity, greater innovation, and genuine choice for passengers and freight shippers.

## *Policy Question*

In your view, what is the bigger obstacle in African aviation today – **lack of liberalisation** or **lack of competition enforcement**?





# *African Air Transport Market Context*

## *Structural Constraints*

African aviation operates in one of the most fragmented regulatory environments in the world. Small individual traffic volumes, restricted bilateral agreements, and limited fifth freedom operations suppress route development and airline growth.

- Fragmented markets and thin traffic volumes
- Restrictive BASAs limiting market entry
- Limited fifth freedom operations across borders

## *Cost & Connectivity Pressures*

High operating costs and protectionist policy choices compound the structural challenges, resulting in poor connectivity outcomes relative to other world regions.

- Elevated taxes, airport charges, and fuel costs
- Weak intra-African connectivity indicators
- Protectionist national policies shielding incumbents
- Under-served secondary and regional routes



# *Key Competition Challenges*

Even where liberalisation measures are formally in place, a range of structural and regulatory barriers continue to distort competition across African air transport markets.

## ***Market Dominance***

A small number of carriers exercise significant market power on key intra-African routes, restricting new entrant viability and suppressing competitive pricing.

## ***State Subsidies & Preferences***

Publicly owned carriers frequently benefit from state subsidies, preferential airport access, and government traffic channelling, distorting the competitive playing field.

## ***Barriers to Entry***

Slot allocation opacity, lengthy licensing approvals, restrictive ownership and control rules, and cabotage restrictions deter new market participants.

## ***Weak Enforcement Capacity***

Administrative discrimination and insufficient technical and institutional capacity within Civil Aviation Authorities limit effective competition oversight at the national level.



# *Yamoussoukro Decision (1999): Legal Foundation*



The Yamoussoukro Decision represents the cornerstone legal instrument for intra-African aviation liberalisation. Adopted in November 1999, it establishes the continental framework within which SAATM now operates.

## ***Market Liberalisation***

Liberalises intra-African air transport markets by granting freedoms of the air between signatory states on a reciprocal basis.

## ***BASA Override***

Overrides provisions of existing bilateral air services agreements that are incompatible with its liberalisation objectives, establishing continental primacy.

## ***SAATM Foundation***

Serves as the legal and policy foundation upon which the Single African Air Transport Market was constructed and launched under Agenda 2063.



# *Core Liberalisation Pillars of the YD*

The Yamoussoukro Decision rests on five interlocking liberalisation pillars that together define the operational freedoms available to airlines within the SAATM framework.



## ***Traffic Rights***

Grants 1st through 5th freedom traffic rights to eligible airlines operating on intra-African routes between participating states.



## ***Free Pricing***

Removes regulatory controls on tariff setting, allowing airlines to price services according to market conditions and competitive dynamics.



## ***No Capacity Restrictions***

Abolishes pre-approval requirements for capacity and frequency, enabling airlines to deploy resources where market demand exists.



## ***Multiple Designation***

Permits states to designate more than one airline per route, opening markets to competition from multiple national carriers.



## ***Operational Flexibility***

Provides airlines with the operational flexibility to adapt schedules, equipment, and routing to commercial requirements without undue regulatory interference.

# *What the YD Says About Competition*

## *Key Provisions*

1

### *Article 7 — Fair Opportunity*

Guarantees airlines a fair and equal opportunity to compete on intra-African routes on a non-discriminatory basis, regardless of nationality or ownership.

2

### *Article 5 — Capacity & Fair Competition*

Subjects capacity deployment to fair competition rules, preventing predatory flooding of routes to undermine new entrants or weaker competitors.

3

### *Article 9 — Executing Agency*

Establishes an Executing Agency vested with the powers necessary to supervise the liberalised market and enforce the Decision's competition obligations.

## *Discussion Point*

What does "fair opportunity" actually mean in practice for airlines operating in your countries?

Consider: slot access, ground handling choice, fuel supply, approvals timelines, and state aid to incumbents.

This question underpins the entire enforcement agenda of AFCAC under Annex 5.





# ***SAATM: Operationalising the YD***



The Single African Air Transport Market was launched in January 2018 as a flagship project of AU Agenda 2063. It transforms the Yamoussoukro Decision's aspirations into an operational, institutionally supported continental air transport market.

1

## ***YD (1999)***

Legal mandate for liberalisation adopted at continental level

2

## ***SAATM Launch (2018)***

AU Agenda 2063 flagship project operationalising the YD

3

## ***Single Market***

Unified continental air transport market with regulatory annexes

4

## ***Full Implementation***

Ongoing – institutional texts, enforcement machinery, harmonisation





# *Key Legal Instruments of the SAATM Architecture*

SAATM is supported by a suite of legal and regulatory instruments that together constitute the operational framework for the continental market. Each instrument addresses a distinct dimension of market governance.



## ***Yamoussoukro Decision (1999)***

The primary legal authority establishing liberalisation obligations and the institutional mandate for the continental market.



## ***Annex 4***

Executing Agency – defines the constitution, mandate, and governance of AFCAC as the supervisory and enforcement body.



## ***Annex 5***

Competition Regulations – the continental competition law framework applicable to airlines, states, and service providers.



## ***Annex 6***

Consumer Protection – establishes passenger rights standards and remedies across the continental market.



## ***Dispute Settlement - Annex 3***

Mechanism for resolving disputes between states, airlines, and other market participants arising under the YD and SAATM instruments.

## ***AFCAC as Executing Agency***

AFCAC serves as the designated Executing Agency under Article 9 of the Yamoussoukro Decision, vested with continent-wide authority to supervise and enforce the liberalised market.

As an AU Specialised Agency, AFCAC derives its mandate from both the YD and its own constitutive instruments, giving it a dual source of legal authority to act.

## ***Core Mandate***

### → ***Market Supervision***

Oversight of the liberalised continental market to ensure compliance with YD obligations by states and carriers.

### → ***Competition Enforcement***

Investigation and adjudication of competition violations under Annex 5, including anti-competitive practices by airlines and states.

### → ***Fair & Equal Opportunities***

Ensuring that all eligible airlines enjoy non-discriminatory access to routes, infrastructure, and commercial opportunities within the SAATM area.



# ***Powers of AFCAC as Executing Agency***

To discharge its enforcement mandate effectively, AFCAC is vested with a range of formal legal powers that can be exercised against both airlines and member states found to be in breach of their competition obligations.



## ***Investigate Anti-Competitive Practices***

Conduct formal investigations into alleged competition violations by airlines, states, or infrastructure providers, including the power to compel disclosure of evidence.



## ***Impose Sanctions***

Apply proportionate sanctions, including financial penalties and operating restrictions, on airlines or states that fail to comply with competition obligations.



## ***Issue Decisions & Directives***

Adopt binding decisions and directives requiring parties to cease unlawful conduct, restore competitive conditions, or take specific remedial action.

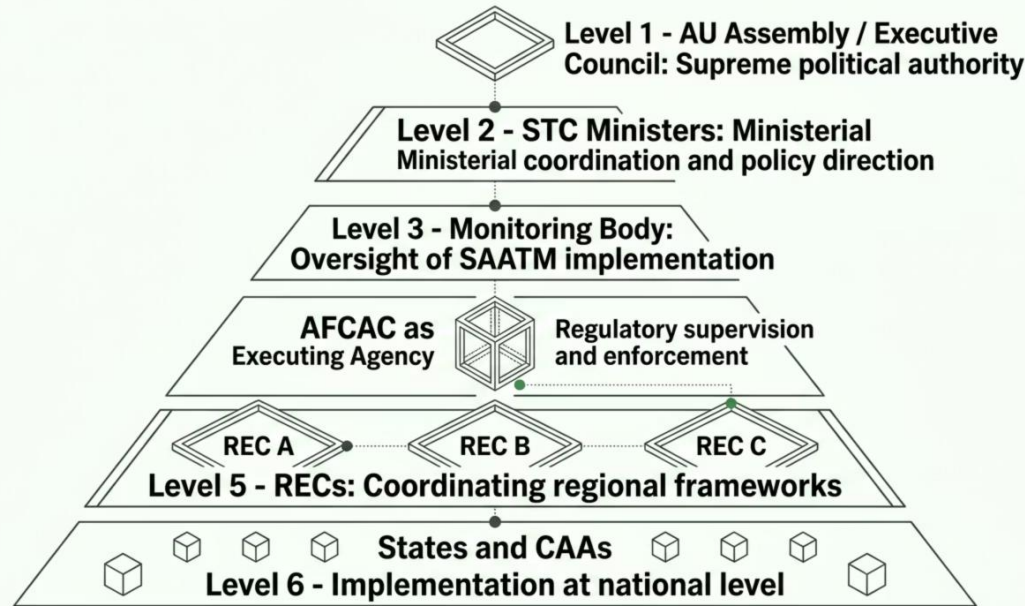


## ***Request Information***

Formally request data, records, and reports from member states, civil aviation authorities, airlines, and airport or air navigation service providers.

## *Institutional Framework*

The SAATM governance architecture distributes authority across multiple institutional levels, from the AU Assembly at the apex through to individual Civil Aviation Authorities at the national level.



Each level of this hierarchy carries distinct responsibilities. Effective enforcement of competition rules depends on coherent vertical coordination – from AU political commitment down to CAA technical capacity on the ground.



# *Role of States vs RECs*

## *Member States & CAAs*

- Align national aviation laws and regulations with YD obligations
- Ensure non-discriminatory treatment of all eligible carriers
- Remove restrictive practices, preferences, and administrative barriers
- Cooperate fully with AFCAC investigations and information requests
- Transpose competition obligations into enforceable national instruments

## *Regional Economic Communities (RECs)*

- Align regional air transport frameworks with the SAATM architecture
- Support enforcement of competition rules at the regional level
- Coordinate cross-border competition cases involving multiple states
- Facilitate regulatory harmonisation among member states
- Serve as a bridge between continental institutions and national authorities



# Annex 5: Competition Regulations

Annex 5 constitutes the dedicated continental competition law framework for African air transport. It fills the gap left by the Yamoussoukro Decision's general principles by providing specific, enforceable rules applicable to all market participants.

## Continental Scope

Establishes a unified legal framework for competition applicable across the entire SAATM area, superseding inconsistent national provisions.

## Broad Application

Applies to airlines, member states, airport operators, ground handlers, air navigation service providers, and other market participants whose conduct may affect intra-African competition.

## Market Integrity

Designed to ensure a fair, transparent, and genuinely competitive market that delivers the full connectivity and consumer benefits promised by SAATM.



# *Prohibited Practices under Annex 5*

Annex 5 identifies specific categories of conduct that are prohibited as incompatible with a fair and competitive continental air transport market. These prohibitions apply to both airlines and, where relevant, to state actors.



## *Price Fixing & Market Sharing*

Agreements between airlines to fix fares, coordinate pricing, or allocate routes and markets between competitors are absolutely prohibited as hard-core cartel conduct.



## *Capacity Coordination & Collusion*

Coordinated restriction or alignment of capacity and frequency between competing carriers, whether formal or informal, constitutes a prohibited restriction of competition under Annex 5.



## *Agreements Restricting Competition*

Any agreement, decision, or concerted practice – whether between airlines, between airlines and states, or between service providers – that has the object or effect of restricting competition is prohibited.

⚠ Prohibited practices may attract formal investigation, binding decisions, and financial sanctions by AFCAC under its Annex 4 enforcement powers.



# *Abuse of Dominant Position*

In addition to prohibited agreements, Annex 5 addresses the unilateral conduct of airlines that hold a dominant position on intra-African routes. Dominance itself is not unlawful – but its abuse is.



## *Predatory Pricing & Capacity Dumping*

Setting fares below cost or flooding a route with excess capacity specifically to drive out a competitor, then restoring prices once the threat is eliminated.



## *Refusal to Deal & Exclusion*

Dominant carriers refusing to interline, codeshare, or provide access to essential facilities – such as ground handling or frequent flyer programmes – on commercially reasonable terms.



## *Slot Hoarding & Market Foreclosure*

Accumulating or warehousing airport slots beyond operational need to deny access to competing carriers and foreclose market entry at congested African airports.

- ❏ AFCAC may intervene where dominant conduct forecloses competition, even in the absence of a formal agreement between parties.

# *State-Induced Distortions*

Across the African aviation landscape, governments often intervene in markets in ways that undermine fair competition. These distortions take many forms – from direct financial support to structural advantages – and they raise a fundamental policy question every regulator must confront.

## *Subsidies Favouring National Carriers*

Direct financial transfers, debt relief, or capital injections that allow state-owned airlines to price below cost and crowd out private operators.

## *Discriminatory Charges or Taxes*

Airport fees, navigation charges, or taxes applied unevenly – burdening foreign or private carriers while shielding the national airline.

## *Preferential Access to Infrastructure*

Priority slot allocation, terminal assignments, or ground handling rights granted to national carriers without transparent, competitive processes.

## *Administrative Barriers*

Slow licensing approvals, opaque permit processes, or regulatory delays imposed selectively on competitors to restrict market entry.

❓ Let's be honest – how many States here support their national airline in one way or another? **At what point does support become distortion?**

## *Exemptions: When State Support Is Permitted*

Not all government intervention in aviation is prohibited. Annex 5 of the Yamoussoukro Decision recognises that certain forms of support may be justified – but only when they meet strict cumulative conditions designed to protect the public interest without foreclosing the market.



### *Improves Efficiency*

The measure must generate genuine economic or operational efficiencies – not merely protect incumbents from competitive pressure.



### *Enhances Connectivity*

Support is more defensible where it develops routes, links underserved regions, or builds network capacity that the market alone would not provide.



### *Benefits Consumers*

A fair share of any efficiency gain or connectivity benefit must pass through to end users – in the form of lower fares, better service, or wider access.



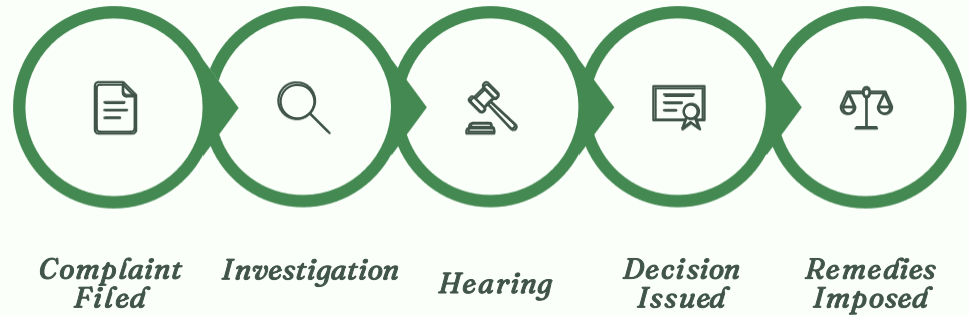
### *Must Not Eliminate Competition*

Even where all other conditions are met, a measure cannot be justified if it substantially eliminates competition on the relevant route or market.

**ⓘ All four conditions must be satisfied simultaneously. Meeting one or two is not sufficient for an exemption to apply.**

## *Enforcement Mechanism*

Effective competition law is only as strong as its enforcement architecture. Annex 5 establishes a structured five-stage process that moves from initial complaint through to binding decision and remedy – ensuring due process while enabling decisive action against anti-competitive conduct.



*Complaint  
Filed*

*Investigation*

*Hearing*

*Decision  
Issued*

*Remedies  
Imposed*

Each stage carries procedural safeguards to ensure fairness – but the process is designed to be conclusive. Delays at any stage weaken deterrence and undermine market confidence in the regulatory framework.

# *Sanctions and Remedies*

A credible enforcement regime requires a proportionate and effective toolkit of sanctions. Annex 5 empowers competent authorities to deploy a range of remedies – calibrated to the severity of the infringement and the need to restore competitive conditions in the market.



## *Financial Penalties*

Monetary fines proportionate to the gravity and duration of the infringement. Designed to deter repeat conduct and reflect any illicit gain derived from the anti-competitive practice.



## *Orders to Cease Practices*

Immediate prohibition of the conduct found to infringe competition rules, with compliance timelines and monitoring obligations attached.



## *Corrective Measures*

Positive obligations imposed on the infringing party – such as granting access to infrastructure, adjusting pricing practices, or modifying contractual arrangements.



## *Structural Remedies*

Where behavioural remedies are insufficient, authorities may require divestiture of assets, slots, or subsidiaries to restore competitive market structure. Applied only where strictly necessary.

# Dispute Resolution

When competition disputes arise between States – rather than between operators – a dedicated resolution pathway is essential to maintain the integrity of the Yamoussoukro framework and ensure legal certainty for all market participants.

## *Step 1: State-to-State Negotiation*

The first port of call is direct diplomatic negotiation between the affected States. This preserves sovereignty, encourages cooperative resolution, and avoids costly formal proceedings wherever possible.

Time-bound negotiation windows prevent indefinite delays that create regulatory uncertainty for airlines and investors operating across those markets.

## *Step 2: Arbitration Mechanisms*

Where negotiation fails or stalls, structured arbitration provides a binding resolution process. Arbitral panels bring technical expertise and independence, producing enforceable outcomes.

## *Why This Matters*

Legal certainty is a prerequisite for investment. Airlines and their financiers require confidence that disputes will be resolved predictably and that market access commitments will be honoured.

- ✔ A functional dispute resolution pathway transforms political commitments into enforceable obligations – the difference between a declaration and a legal framework.

# Implementation Challenges

The legal framework exists. The political declarations have been made. Yet implementation of competition rules across African aviation remains uneven and fragile. Understanding why is the first step toward addressing it.

1

## ***Weak National Competition Frameworks***

Many African States lack dedicated aviation competition legislation or have general competition laws that do not adequately address the specificities of the air transport sector.

2

## ***Limited Coordination Between Authorities***

Cross-border markets require cross-border enforcement. Without structured coordination between national competition authorities and AFCAC, anti-competitive conduct easily falls through jurisdictional gaps.

3

## ***Capacity Constraints***

Regulatory agencies in many States face acute shortages of trained competition economists, lawyers, and sector specialists capable of conducting complex aviation market investigations.

4

## ***Political Resistance and Data Gaps***

National airlines carry political weight. Enforcement action against a state-owned carrier or its government sponsor requires institutional independence that is difficult to sustain under political pressure. Compounding this, reliable traffic and financial data – essential for any investigation – is often unavailable.

① **Reflection:** What is the ONE biggest barrier in your country to implementing competition rules in aviation? Name it – because naming it is the beginning of solving it.



## *Key Priorities for Action*

Translating the Yamoussoukro Decision's competition framework from paper to practice demands coordinated action across four mutually reinforcing priority areas. Progress on all four is required – sequential or partial implementation will not be sufficient.



### *Domestication of Annex 5*

States must incorporate Annex 5 provisions into national aviation and competition legislation. Without domestication, the continental framework lacks the legal hooks needed for national enforcement authorities to act.



### *Coordination with RECs*

Regional Economic Communities – COMESA, EAC, ECOWAS, SADC – already possess competition enforcement infrastructure. Aligning their frameworks with SAATM creates a multi-level enforcement architecture that is more resilient and responsive.



### *Strengthening AFCAC Enforcement*

AFCAC requires a dedicated competition enforcement unit with adequate resources, technical expertise, and a clear legal mandate to investigate and decide cases – not merely facilitate dialogue.



### *Capacity Building and Data Systems*

Investing in human capital – trained investigators, economists, and lawyers – alongside robust market data systems is the foundation on which all enforcement ultimately rests.

# *The Strategic Message*

## *Liberalisation Without Competition Rules*

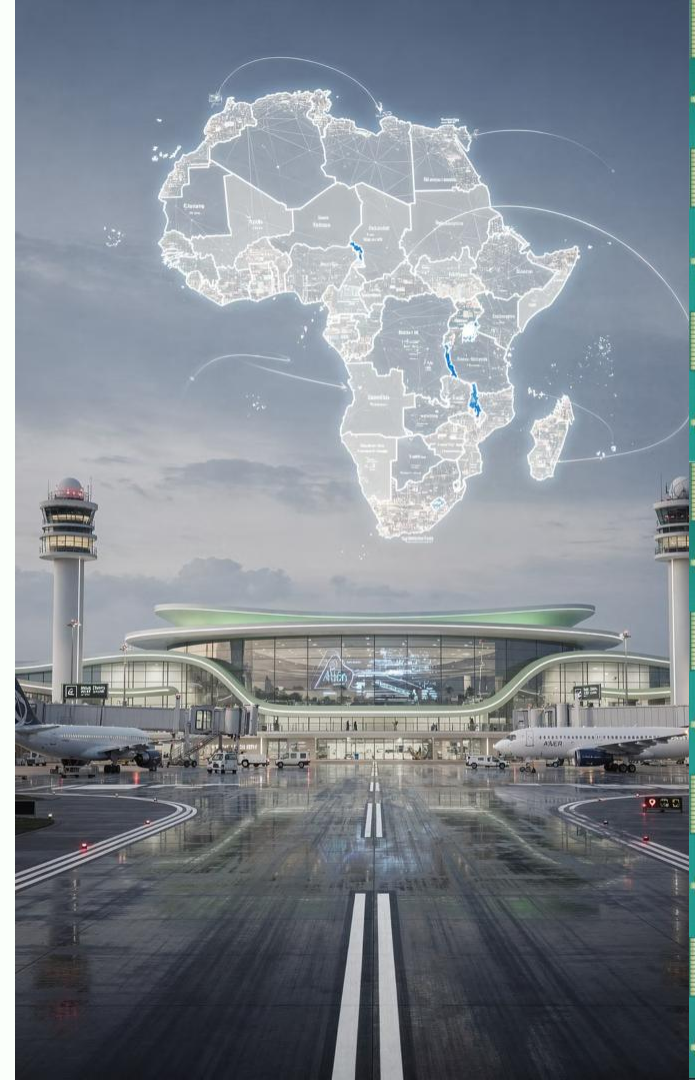
Opens markets but creates no safeguards. The result is a race to capture market power – predatory pricing, market foreclosure, and eventual consolidation that leaves consumers worse off than before liberalisation began.

## *Competition Rules Without Enforcement*

Produces legal text without consequence. Rules that are never applied send a clear signal to operators: the framework is aspirational, not binding. Deterrence collapses. Distortions persist.

## *SAATM Success Requires All Three*

Strong law. Independent institutions. Sustained political commitment. The Single African Air Transport Market will only deliver its promise – affordable, connected, competitive aviation – when all three elements are present and functioning together.



# Final Takeaways

The architecture for competitive African aviation is in place. What follows is a summary of how each element of the framework connects – and why each is indispensable to the whole.



## ***YD — Legal Foundation***

The Yamoussoukro Decision provides the binding continental legal basis for open skies and market liberalisation across Africa. All subsequent frameworks derive their authority from it.



## ***SAATM — Implementation Framework***

The Single African Air Transport Market translates the YD's principles into an operational programme, with timelines, commitments, and accountability mechanisms for participating States.



## ***Annex 5 — Competition Backbone***

Annex 5 of the YD is the specific instrument governing competition in air transport – covering prohibited practices, exemptions, enforcement procedures, and remedies.



## ***AFCAC — Enforcement Authority***

The African Civil Aviation Commission is designated as the competent authority for overseeing compliance and, progressively, for direct enforcement of competition rules at the continental level.



## ***States — Key to Implementation***

Ultimately, every element of this framework depends on States. Domestication, enforcement, data sharing, political will – these are sovereign choices. The framework succeeds when States choose to make it work.



# Thank You

Together, we are building Africa's aviation future

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## Contact

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Commission (AFCAC)

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## Flagship Project

Single African Air  
Transport Market  
(SAATM)

## African Union

Agenda 2063

# *Nigeria – South Africa: Incomplete Liberalisation*

## *Route Background*


The Lagos - Johannesburg and Abuja - Johannesburg corridors are among the highest-demand intercontinental routes within Africa, connecting two of the continent's largest economies. Despite this commercial significance, the bilateral air services agreement (BASA) between Nigeria and South Africa has historically imposed strict capacity and frequency caps – limiting the number of flights each carrier may operate and protecting incumbents from new entrant competition.

## *Market Impact*

The practical consequences are well documented: constrained seat supply drives elevated fares, limits passenger choice, and reduces the incentive for airlines to invest in service quality on the route. Business travellers and diaspora communities bear a disproportionate share of the cost.

## *Key Findings*

- BASA restrictions cap capacity and frequency bilaterally
- Both national carriers – Air Peace and South African Airways – benefit from protection
- Third-country carriers face additional access barriers
- Fares remain significantly above comparable liberalised routes
- Limited competition reduces pressure to improve on-time performance and service standards

 **Key Message:** Incomplete liberalisation – opening routes in name but not in substance – restricts competition just as effectively as a closed market.

## *Kenya – Tanzania: Regulatory Friction as a Distortion*

The relationship between Kenya and Tanzania illustrates how regulatory disputes – independent of formal BASA restrictions – can severely distort competition and connectivity. Intermittent denials of traffic rights, administrative delays in permit approvals, and periods of route suspension have created an environment of chronic instability on one of East Africa's most commercially important air corridors.

### *Denial of Traffic Rights*

Episodes where Kenyan or Tanzanian carriers were denied operating permits or had rights withdrawn at short notice, disrupting schedules and eroding passenger confidence in route reliability.

### *Administrative Delays*

Permit processing timelines used selectively as a de facto barrier – slowing market entry or capacity additions by competitors without any formal regulatory justification.

### *Impact on Connectivity*

Route suspensions fragment supply, force passengers onto indirect itineraries, and raise costs for businesses operating across the two markets – with knock-on effects for broader East African integration.

⚠ **Key Message:** Regulatory friction – even without explicit protectionist intent – distorts competition as effectively as deliberate market barriers.



# *Ethiopian Airlines: Dominance vs. Abuse*

## *The Ethiopian Model*

Ethiopian Airlines has built the most extensive pan-African route network of any carrier on the continent, serving over 60 African destinations and operating a hub-and-spoke model through Addis Ababa that connects previously unlinked city pairs. Its growth has been supported by strategic partnerships, codeshare agreements, and equity stakes in other African carriers.

## *Connectivity Benefits*

For many smaller African markets, Ethiopian is the primary or sole operator. Its network provides connectivity that the market, left to itself, would not generate. Passengers and economies benefit from this reach – particularly in landlocked and remote markets.

## *The Competition Concern*

Scale and network depth create structural advantages that can, in certain circumstances, tip toward market power. On heavily trafficked routes where Ethiopian competes directly with smaller national carriers, questions of pricing conduct, slot utilisation, and interline policy become relevant competition considerations.

- ① Under Annex 5, dominance itself is not prohibited. What is prohibited is the **abuse** of a dominant position – predatory pricing, exclusionary conduct, or refusal to interline on unfair terms.

## *Regulatory Implication*

African competition authorities must develop the capability to distinguish between competitive success and anti-competitive abuse – a technically demanding but essential distinction.

👉 **Key Message:** Dominance is not illegal. Abuse is. Regulators must build the analytical tools to tell the difference.



## *State Subsidies: When Government Support Distorts Markets*

Across Africa, government financial support to national carriers is widespread – ranging from transparent budget transfers to opaque mechanisms including debt relief, sovereign guarantees, and below-market airport fee structures. The policy rationale is often sound: connectivity, employment, national prestige. The competition effect is frequently harmful.

1

### *Forms of Support*

Direct subsidies and equity injections; debt write-offs and restructuring; preferential airport charges; exclusive ground handling rights; sovereign loan guarantees enabling below-market financing.

2

### *Market Distortion*

Subsidised carriers can sustain prices, frequencies, and capacity levels that commercially funded competitors cannot match – not because of efficiency, but because losses are socialised. Private operators are crowded out or deterred from entering.

3

### *Regulatory Response*

Annex 5 permits support that meets the four cumulative exemption conditions. Support that does not – and most does not – must be subject to investigation, transparency requirements, and, where necessary, remedial action.



**Key Message:** State actions can distort competition just as severely as private anti-competitive conduct – and Annex 5 explicitly addresses both.

# COMESA: A Model for Regional Enforcement

## *The COMESA Competition & Consumer Commission*

Established under the COMESA Treaty, the Competition Commission has jurisdiction over anti-competitive conduct that affects trade between COMESA member States. It is one of Africa's most operationally active regional competition institutions – handling merger notifications, investigating cartel conduct, and issuing enforcement decisions with binding effect across member States.

## *Aviation Relevance*

The Commission has engaged with competition issues affecting regional air transport, providing a practical model for how a regional institution can exercise real enforcement authority over a cross-border sector.

## *Lessons for SAATM*

- ***Jurisdictional clarity is foundational***  
Clear rules on when the regional body has primacy over national authorities prevent enforcement gaps and forum shopping.
  - ***Institutional independence matters***  
The Commission's credibility rests on its ability to take decisions on technical grounds, free from political interference by member States.
  - ***RECs must align with AFCAC***  
Duplication and conflict between REC competition frameworks and the SAATM regime will undermine both. Structured coordination protocols are essential.
- ✓ **Key Message:** Regional Economic Communities are not competitors to continental enforcement – they are its essential partners and first line of implementation.

## *EU Aviation Market: What Full Liberalisation Delivers*

The European single aviation market – created progressively between 1987 and 1997 through three successive liberalisation packages – remains the most instructive global reference point for what genuine liberalisation combined with rigorous competition enforcement can achieve at scale.

### *The Framework*

EU aviation liberalisation rests on three pillars: full freedom of market access across member States; common rules on capacity, pricing, and licensing; and rigorous enforcement of both competition law and state aid rules by the European Commission, with real consequences including large financial penalties and mandated repayment of unlawful subsidies.

### *Measured Outcomes*

# 60%

#### *Fare Reduction*

Average intra-EU fares fell by approximately 60% in real terms following full liberalisation.

# 3x

#### *Passenger Growth*

Intra-EU passenger volumes tripled in the two decades following market opening.

# 100+

#### *New Routes*

Hundreds of new city-pair connections emerged as low-cost carriers entered previously unserved or under-served markets.

☑ **Key Message:** The EU experience is unambiguous – liberalisation paired with strong enforcement delivers lower fares, greater connectivity, and real competition. Africa can replicate this. The framework already exists. The choice is implementation.