

**KIGALI INDEPENDENT UNIVERSITY ULK**

**SCHOOL OF LAW**

**DEPARTMENT OF LAW**

**P.O BOX 2280 KIGALI**

**LEGAL ANALYSIS ON THE RIGHTS OF CONSUMER  
AGAINST UNFAIR COMPETITION UNDER RWANDAN  
BUSINESS LAW**

A final dissertation submitted to the School of Law in partial fulfilment of the Academic Requirements for the Award of a bachelor's Degree in Law.

By

**UMUTONIWASE Rebecca**

**Roll Number 202111305.**

**Supervisor: Me BAHATI Vedaste**

**Kigali, September, 2024.**

## DECLARATION

I, **UMUTONIWASE Rebecca**, hereby declare that, to the best of my knowledge, this work entitled “*Legal Analysis on the Rights of Consumer Against Unfair Competition Under Rwandan Business Law*” is original and a product of my own research. This work has never been presented anywhere else for academic purposes. I have cited in bibliography and footnotes wherever I used ideas from my minds and other sources.

Student’s name: **UMUTONIWASE Rebecca**,

Signature.....

Date: .....

## **APPROVAL**

We, **Me BAHATI Vedaste**, certify that **UMUTONIWASE Rebecca**, the student at Kigali Independent University ULK School of Law, with Registration number **202111305** has done her final dissertation under our supervision and guidance.

Supervisor's name: **Me BAHATI Vedaste**

Signature.....

Date: .....

## **DEDICATION**

To the Almighty God;

To my brother **SHYAKA Wilson**;

To my Mother;

To my Friends and relatives;

To my sister **UWUMUGISHA Jonnah**;

To **NZABAHIMANA Jean Marie Vianney** Family

## **ACKNOWLEDGEMENTS**

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I always recognize the contribution of my parents who supported me before and during all the time I prepared this dissertation.

I thank particularly **Me BAHATI Vedaste** who devoted part of his time to the supervision of this work. His guidance contributed to the successful completion of this dissertation.

My sincere acknowledgement to the management of the faculty of Law.

May God bless each one in their life endeavors!

## **ABSTRACT**

This dissertation explores the legal framework for consumer protection against unfair competition practices in Rwanda, focusing on the challenges, limitations, and potential reforms needed to strengthen the existing laws, regulations, and institutional arrangements. The study employs a combination of doctrinal analysis, comparative research, and qualitative methods to examine the current state of consumer protection in Rwanda and identify areas for improvement.

The research begins by establishing the conceptual and theoretical framework for understanding consumer rights and unfair competition, drawing on key legal and economic principles. It then provides a comprehensive analysis of the existing legal framework in Rwanda, including the Competition and Consumer Protection Law of 2012 and other relevant sector-specific regulations. The study identifies significant Loopholes and Unclear in the current legal provisions, such as the lack of a clear definition of unfair competition and the absence of specific prohibitions on certain unfair practices.

The dissertation also examines the practical challenges faced by regulatory authorities in enforcing consumer protection laws, including resource constraints, coordination issues, and weak enforcement powers. Through a comparative analysis of regional and international best practices, the study identifies potential lessons and recommendations for strengthening the institutional capacity and effectiveness of consumer protection agencies in Rwanda.

Based on the findings, the dissertation proposes a range of legal and institutional reforms to address the identified challenges and enhance consumer protection against unfair competition. These include amending the Competition Law to provide clearer and more comprehensive prohibitions on unfair practices, enacting a unified Consumer Protection Law, establishing specialized consumer protection units within regulatory agencies, and investing in capacity-building and coordination mechanisms.

The study concludes by emphasizing the importance of a holistic and proactive approach to consumer protection reform in Rwanda, involving collaboration among policymakers, regulators, businesses, and consumer advocates. By prioritizing consumer welfare and fair competition as key pillars of economic development, Rwanda can foster a more inclusive, competitive, and consumer-friendly market environment

## **LIST OF ABBREVIATIONS AND ACRONYMS**

**ADECOR** - Rwanda Consumers' Rights Protection Organization

**BNR** - National Bank of Rwanda

**COMESA** - Common Market for Eastern and Southern Africa

**EAC** - East African Community

**ECOWAS** - Economic Community of West African States

**MINICOM** - Ministry of Trade and Industry

**SMEs**-Small and Medium-Sized Enterprises

**OECD** - Organisation for Economic Co-operation and Development

**RICA** - Rwanda Inspectorate and Competition Authority

**RSB** - Rwanda Standards Board

**RURA** - Rwanda Utilities Regulatory Authority

**UNCTAD** - United Nations Conference on Trade and Development

**UNIDO** - United Nations Industrial Development Organization

**WTO** - World Trade Organization

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## **GENERAL INTRODUCTION**

Consumer protection plays a vital role in ensuring that market competition remains fair, ethical, and transparent. In a competitive economy, businesses must adhere to legal standards that prevent deceptive practices, ensuring that consumers' rights are safeguarded and businesses compete on an equal footing. This study aims to evaluate the effectiveness of Rwanda's legal framework in protecting consumers from unfair competition and propose measures to enhance its impact.

### **1.1. Background of the study.**

Consumer protection against unfair competition is a crucial aspect of modern business law. In a market economy, businesses compete with each other to attract customers and increase their market share. However, this competition must be conducted fairly and ethically to ensure a level playing field for all market participants and to safeguard the rights and interests of consumers<sup>1</sup>.

The concept of unfair competition encompasses a wide range of practices that are designed to deceive or mislead consumers, or to gain an unfair advantage over competitors. These practices can take various forms, such as false advertising, passing off, misappropriation of trade secrets, and other deceptive or misleading business practices. Unfair competition not only harms competitors but also undermines consumer confidence in the market and can lead to economic inefficiencies.<sup>2</sup>

To address these issues, many countries, including Rwanda, have enacted laws and regulations aimed at protecting consumers from unfair competition. These laws typically prohibit specific unfair trade practices and provide legal remedies for consumers and businesses that have been harmed by such practices.<sup>3</sup>

The Rwandan competition law prohibits several forms of unfair competition, including but not limited to Misleading advertising, the law prohibits businesses from making false or

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<sup>1</sup>Aimée, U. S. A. N. A. S. E. (2014). Institutional framework of consumer protection in Rwanda (Doctoral dissertation, University of Rwanda).

<sup>2</sup> LaFrance, M. (2011). Passing off and unfair competition: conflict and convergence in competition law. *Mich. St. L. Rev.*, 1413.

<sup>3</sup>Singh, A. (2002). Competition and competition policy in emerging markets: international and developmental dimensions. *Growth and Economic Development: Essays in Honour of AP Thirlwall*.

deceptive claims about their products or services, or from engaging in any other form of misleading advertising that could influence consumer decisions<sup>4</sup>.

Passing off, the law prohibits businesses from misrepresenting their products or services as those of another business, or from using trademarks, trade names, or other distinctive signs in a manner that is likely to cause confusion among consumers.<sup>5</sup>

Unfair commercial practices, the law prohibits a range of unfair commercial practices, such as aggressive or deceptive marketing practices, pyramid schemes, and other practices that are likely to harm consumer interests.<sup>6</sup>

Abuse of dominant market position there the law prohibits businesses with a dominant market position from engaging in practices that are likely to restrict or distort competition, such as predatory pricing, tying arrangements, or refusal to deal.<sup>7</sup>

The Rwandan competition law also establishes the Regulatory Board, which is responsible for enforcing the law and investigating alleged violations. The Board has the power to impose fines and other sanctions on businesses that engage in unfair competition practices.<sup>8</sup>

Consumer protection against unfair competition is essential for maintaining a fair and efficient market, fostering innovation and economic growth, and protecting the rights and interests of consumers. By promoting fair competition and prohibiting unfair trade practices, the Rwandan competition law aims to create an environment that is conducive to business growth while also safeguarding the welfare of consumers.<sup>9</sup>

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<sup>4</sup>Rodger, B. J. (2015). The Consumer Rights Act 2015 and collective redress for competition law infringements in the UK: a class act?. *Journal of Antitrust Enforcement*, 3(2), 258-286.

<sup>5</sup> Fagbemi, S. A. (2009). Intellectual property: the legal remedies for infringement of trade mark and common law tort of passing off. Available at <https://org.rdb.rw/wp-content/uploads/2020/06/Law-no-31-2009-of-26-10-2009-On-the-Intellectual-Property-1.pdf> accessed on 21 march 2024.

<sup>6</sup> Howells, G., Micklitz, H. W., & Wilhelmsson, T. (2016). *European fair trading law: the unfair commercial practices directive*. Routledge.

<sup>7</sup> Panlilio, L. V., & Goldberg, S. R. (2007). Self-administration of drugs in animals and humans as a model and an investigative tool. *Addiction*, 102(12), 1863-1870.

<sup>8</sup>Karamuka, A. (2014). *Prohibition of anti-competitive practices in the regulated public utilities under the rwanda law* (Doctoral dissertation).

<sup>9</sup>Twagira, E. (2019). *The impact of competition law on economic growth in Rwanda* (Doctoral dissertation, University of Rwanda).available at <http://dr.ur.ac.rw/handle/123456789/920> accessed on 22 march 2024.

## **1.2. Interest of the study**

This study on consumer protection against unfair competition in Rwanda holds personal, academic, and scientific significance.

It aims to deepen understanding of the legal framework, contribute to academic discourse in business law, and address gaps in the current system by providing evidence-based recommendations for legislative reforms and policy changes.

### **1.2.1. Personal Interest**

As a law student passionate about consumer rights and fair business practices, I have a strong personal interest in exploring the legal framework for consumer protection against unfair competition in Rwanda. This research will allow me to deepen my understanding of the subject matter and contribute to the ongoing discourse on this important issue.

### **1.2.2. Academic Interest**

This research holds significant academic value as it seeks to critically analyze the existing legal framework for consumer protection against unfair competition in Rwanda. The findings and recommendations of this study will contribute to the body of knowledge in the field of business law and provide insights for future academic research and legal education.

### **1.2.3. Scientific Interest**

From a scientific perspective, this research aims to address the gaps and limitations in the current legal framework for consumer protection against unfair competition in Rwanda. By conducting a thorough examination of the laws, regulations, and enforcement mechanisms, this study will provide evidence-based recommendations for legislative reforms and policy changes, contributing to the advancement of legal science in this domain.

## **1.3. Delimitation of the study**

This study is focused on the legal framework for consumer protection against unfair competition within Rwanda's jurisdiction. It is limited to the domain of business law, specifically consumer protection and unfair competition practices, and primarily covers the period from the enactment of the 2012 Law Regulating Competition for Commercial Activities in Rwanda to the present day.

### **1.3.1. Delimitation in Space**

The study will focus on the legal framework for consumer protection against unfair competition within the jurisdiction of Rwanda.

### **1.3.2. Delimitation in Domain**

The research will be limited to the domain of business law, specifically focusing on consumer protection and unfair competition practices.

### **1.3.3. Delimitation in Time**

The study will primarily cover the time period from the enactment of the Law Regulating Competition for Commercial Activities in Rwanda in 2012 up to the present day. However, relevant historical context and future implications may also be considered.

## **1.4. Problem statement**

At the global level, unfair competition practices and consumer protection have been a matter of international concern, leading to the development of several international legal frameworks and guidelines aimed at addressing these issues. The United Nations (UN) has established the "United Nations Guidelines for Consumer Protection" (UNGCP), first adopted in 1985 and updated in 2015, to provide a comprehensive framework for consumer rights protection globally. These guidelines emphasize fair treatment, safety, and access to effective dispute resolution for consumers, while also promoting sustainable consumption and encouraging countries to adopt strong legal frameworks to counter unfair competition. Similarly, the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) includes provisions against unfair competition, particularly concerning intellectual property rights and deceptive trade practices.<sup>10</sup>

Another significant international instrument is the "Paris Convention for the Protection of Industrial Property" (1883), which requires member states to provide protection against unfair competition. Article 10 bis of the Paris Convention defines unfair competition as any act contrary to honest business practices, such as misleading advertising, and obligates states to prevent such practices.<sup>11</sup>

However, despite the existence of these international legal instruments, the enforcement of these guidelines and conventions is not uniform across countries, particularly in developing nations, where legal frameworks may be insufficiently enforced or outdated. This lack of effective enforcement leaves consumers vulnerable to various unfair trade practices, especially in the digital age, where new forms of exploitation, such as online scams and misleading digital advertising, are proliferating.<sup>12</sup>

In Rwanda, Despite the existence of laws such as (Law n° 36/2012 of 21/09/2012 relating to competition and consumer protection), Law no 017/2021 of 03/03/2021 relating to financial service consumer protection) and different regulations aimed at protecting consumers from unfair competition in Rwanda, there are concerns that these legal frameworks may not be

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<sup>10</sup> United Nations Guidelines for Consumer Protection (UNGCP), 1985 (revised 2015).

<sup>11</sup> Paris Convention for the Protection of Industrial Property, 1883 (as amended).

<sup>12</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994.

adequately enforced or may have certain gaps and limitations. Consequently, consumers may still be vulnerable to various unfair trade practices perpetrated by unscrupulous businesses.<sup>13</sup>

The difficulty of recognizing and substantiating some unfair trade practices is one of the main obstacles to countering unfair competition. Certain crimes, like passing off or deceptive advertising, may be fairly simple to identify and prove, while other behaviours, like abusing a dominant market position or engaging in some unfair business practices, may be more complicated and call for in-depth research and analysis<sup>14</sup>.

Additionally, there may be instances where the existing legal framework fails to address certain emerging or evolving forms of unfair competition, particularly in the digital era. With the rapid growth of e-commerce and online marketing, new types of unfair trade practices may arise that are not adequately covered by the current laws.<sup>15</sup>

Another potential issue is the limited resources and capacity of the regulatory authorities responsible for enforcing competition laws.

The Regulatory Board, which is tasked with investigating and sanctioning unfair competition practices in Rwanda, may face challenges in terms of staffing, funding, and technical expertise, especially when dealing with complex cases or addressing unfair practices in highly specialized or technical industries.<sup>16</sup>

Furthermore, there may be concerns about the effectiveness of the legal remedies available to consumers who have been harmed by unfair competition practices. In some cases, the fines or sanctions imposed on offending businesses may be perceived as inadequate deterrents, or the process of seeking legal redress may be too burdensome or costly for individual consumers<sup>17</sup>.

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<sup>13</sup>Aimée, U. S. A. N. A. S. E. (2014). Institutional framework of consumer protection in Rwanda (Doctoral dissertation, University of Rwanda).

<sup>14</sup>Averitt, N. W. (1981). The Meaning of Unfair Acts or Practices in Section 5 of the Federal Trade Commission Act. *Geo. LJ*, 70, 225. available at <https://core.ac.uk/download/pdf/71457903.pdf> accessed on 20 march 2024.

<sup>15</sup>Galvez Delgado, I. M., & Galvez Delgado, R. A. (2020). New challenges of Competition Law against the rise of Electronic Commerce. *RFJ*, 8, 73. available at <https://www.redalyc.org/journal/6002/600265029002/html/> accessed on 20 march 2024.

<sup>16</sup>Senftleben, M., Andrade, R. V. B., Bryan, T. L., Calboli, I., Farley, C. H., Gangjee, D. S., ... & Schonwetter, T. (2022). Status Report on the Protection Against Unfair Competition in WIPO Member States.

<sup>17</sup>West, J. K. (2007). Remedies and Sanctions in Abuse of Dominance Cases. Available at <https://www.oecd.org/daf/competition/38623413.pdf> accessed on 21 march 2024.



Lastly, there is a need to strike a balance between protecting consumers from unfair competition and fostering a business-friendly environment that encourages innovation and entrepreneurship. Overly restrictive or burdensome regulations could potentially stifle legitimate business activities and hinder economic growth, which could ultimately harm consumer interests in the long run.<sup>18</sup>

The obstacles and possible restrictions in Rwanda's legal framework for safeguarding consumers from unfair competition underscore the necessity of conducting a thorough examination and assessment of the current laws, rules, and enforcement protocols.<sup>19</sup> Policymakers and stakeholders can work toward building a more robust and effective system that better protects the rights and interests of consumers while fostering fair competition and economic progress by identifying areas for improvement and suggesting relevant reforms or amendments.<sup>20</sup>

### **1.5. Research questions**

1. What are the key limitations and gaps in the existing legal framework for consumer protection against unfair competition in Rwanda, and how can these be addressed through legislative reforms or amendments?
2. How can the enforcement mechanisms and regulatory capacity of the Rwandan authorities responsible for combating unfair competition be strengthened to ensure more effective implementation and compliance with the competition laws?

### **1.6. Research hypothesis**

According to above research questions the following hypothesis is made:

1. The current legal framework for consumer protection against unfair competition in Rwanda likely has significant gaps, particularly in addressing emerging digital marketplace issues, which can be addressed through targeted legislative reforms and amendments to update and expand the scope of existing laws.

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<sup>18</sup>Eggert, K. (2004). Striking a Balance: Basic Questions About Consumer Protection Law. Chap. L. Rev., 7, 1. available at <https://fastercapital.com/topics/striking-a-balance-between-innovation-and-consumer-protection.html> accessed on 21 march 2024.

<sup>19</sup>Buthe, T., & Kigwiru, V. K. (2020). The spread of competition law and policy in Africa: A research agenda. African Journal of International Economic Law.

<sup>20</sup>Karky, H. A. (2004). The Interface between Competition and Consumer Policies. In 2008 conference paper, at (Vol. 2). available at <https://www.oecd.org/daf/competition/40898016.pdf> accessed on 24 march 2024.

2. The enforcement mechanisms and regulatory capacity of Rwandan authorities responsible for combating unfair competition can be significantly strengthened through increased resource allocation, specialized training programs, and the implementation of advanced monitoring and investigation techniques, leading to more effective implementation and compliance with competition laws.

### **1.7. Objectives of the study**

The general objective of this study is to conduct a comprehensive analysis of Rwanda's legal framework for consumer protection against unfair competition practices. This evaluation aims to identify strengths, weaknesses, and areas for improvement in the current system.

#### **1.7.1. General Objective**

To critically evaluate the legal framework for consumer protection against unfair competition practices in Rwanda and propose measures to enhance its effectiveness in promoting fair competition and safeguarding consumer rights.<sup>21</sup>

#### **1.7.2. Specific objectives**

1. To conduct a comprehensive analysis of the existing laws, regulations, and policies governing unfair competition practices in Rwanda, identifying potential gaps, ambiguities, or limitations.<sup>22</sup>

2. To assess the enforcement mechanisms and institutional capacity of the regulatory authorities responsible for combating unfair competition, and identify areas for improvement.

3. To examine the adequacy and accessibility of legal remedies and redress mechanisms available to consumers affected by unfair competition practices.

4. To study the impact of unfair competition practices on consumer welfare, market efficiency, and economic growth in Rwanda.

5. To propose recommendations for legislative reforms, policy changes, and capacity-building measures to strengthen consumer protection against unfair competition practices.

### **1.8. Research Methodology**

Research methodology outlines the approach and methods used to conduct this study. The following research techniques were employed.

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<sup>21</sup> Law No. 36/2012 of 21/09/2012 Relating to Competition and Consumer Protection.

<sup>22</sup> Ministerial Order No. 002/MINICOM/2014 of 21/03/2014 Determining Modalities of Imposing Fines in Case of Violation of the Law Relating to Competition and Consumer Protection.

### **1.8.1. Research Techniques**

Documentary Technique: Analysis of legal documents, statutes, and scholarly literature on consumer protection and unfair competition in Rwanda. Comparative Analysis: Comparison of Rwanda's legal framework with those of other jurisdictions to identify best practices and potential improvements.

#### **1.8.1.1. Documentary Technique**

The documentary technique will be employed to collect relevant data from various written sources, such as laws, regulations, case law, books, journal articles, reports, and online resources related to consumer protection and unfair competition in Rwanda.<sup>23</sup> This technique will help establish a solid foundation for the research by gathering existing knowledge and legal frameworks pertaining to the topic.<sup>24</sup>

### **1.8.2. Research Methods**

This study employs a combination of research methods to ensure a comprehensive and rigorous analysis of the subject matter. The following methods were utilized:

#### **1.8.2.1. Analytical Method**

The analytical method will be used to critically examine the existing legal framework for consumer protection against unfair competition in Rwanda.<sup>25</sup>

This method involves breaking down the relevant laws, regulations, and case law into their constituent parts, assessing their strengths, weaknesses, and potential gaps or ambiguities. The analytical method will help identify areas for improvement and inform recommendations for legislative reforms.

#### **1.8.2.2. Exegetic Method**

The exegetic method will be employed to interpret and analyze the meaning and implications of the legal provisions related to consumer protection and unfair competition in Rwanda. This method involves a close reading and interpretation of the legal texts, considering their literal meaning, context, and purpose. The exegetic method will help clarify the scope and application of the existing legal framework.<sup>26</sup>

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<sup>23</sup> Law No. 31/2019 of 20/06/2019 Establishing the Rwanda Inspectorate, Competition and Consumer Protection Authority (RICA).

<sup>24</sup> Ministerial Order No. 002/MINICOM/2014 Determining Modalities of Imposing Fines in Case of Violation of the Law Relating to Competition and Consumer Protection.

<sup>25</sup> Aharon Barak, *The Judge in a Democracy* (Princeton University Press 2006).

<sup>26</sup> Antonin Scalia and Bryan A Garner, *Reading Law: The Interpretation of Legal Texts* (Thomson/West 2012).

### **1.8.2.3. Comparative Method**

The comparative method may be used to examine how other jurisdictions address consumer protection against unfair competition, drawing insights and best practices that could be relevant to the Rwandan context. By comparing the legal frameworks, enforcement mechanisms, and remedies available in different countries, the research can identify potential areas for improvement and suggest reforms based on successful examples.<sup>27</sup>

### **1.8.2.4. Historical Method**

The historical method may be employed to trace the evolution of consumer protection laws and unfair competition regulations in Rwanda. By examining the historical development of the legal framework, the research can provide context for the current state of the law and identify any significant changes or trends over time. This method can help inform recommendations for future reforms.<sup>28</sup>

### **1.8.2.5. Synthetic Method**

The synthetic method will be used to integrate the findings from the various research techniques and methods, combining them into a coherent and comprehensive analysis. This method involves synthesizing the data collected through documentary analysis, comparative studies, and historical research to draw overall conclusions and formulate recommendations for enhancing consumer protection against unfair competition in Rwanda.<sup>29</sup>

## **1.9 Subdivision of the study**

The study is structured into three main chapters. Chapter I focuses on defining key terms and concepts related to consumer protection, unfair competition, and relevant legal principles in the Rwandan business law context. Chapter II analyzes the challenges in consumer protection against unfair competition in Rwanda, highlighting gaps, ambiguities, and limitations in the current legal framework, along with enforcement difficulties. Chapter III explores the legal and institutional mechanisms for addressing these challenges, assessing existing laws, regulations, and the role of regulatory authorities, and proposing measures to strengthen both the legal framework and institutional capacity. The study concludes with a summary of key findings and recommendations for legislative reforms, policy adjustments, institutional improvements, and public awareness initiatives.

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<sup>27</sup> Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law* (3rd edn, Oxford University Press 1998).

<sup>28</sup> Lawrence M Friedman, *A History of American Law* (3rd edn, Simon & Schuster 2005).

<sup>29</sup> Jan M Smits, *The Mind and Method of the Legal Academic* (Edward Elgar 2012).

## **CHAPTER I: CONCEPTUAL AND THEORETICAL FRAMEWORK**

### **1.1 Introduction**

The issue of unfair competition practices and their impact on consumer rights is a critical one in today's business landscape, both globally and within the Rwandan context. At its core, unfair competition refers to a range of dishonest or fraudulent business tactics employed by companies to gain an unfair advantage over their competitors. These practices can manifest in various forms, each with the potential to cause significant harm to consumers and the free market system.

### **1.2 Defining Unfair Competition**

One prevalent form of unfair competition is deceptive marketing, which encompasses misleading or false advertising, product misrepresentation, or the concealment of essential information. For instance, a company might exaggerate the features or benefits of its product through deceptive advertising campaigns, luring consumers into making purchases based on false promises. Another example is a company that fails to disclose potential health risks associated with its products, putting consumers' safety at risk.<sup>30</sup>

### **1.3. Trademark infringement**

Trademark infringement is another common unfair competition practice, involving the unauthorized use of a trademark or trade dress that is likely to cause consumer confusion. This can take the form of counterfeit goods, such as fake designer clothing or electronics, which not only violates intellectual property rights but also compromises product quality and safety for unsuspecting consumers.<sup>31</sup>

### **1.4. Trade secret misappropriation**

Trade secret misappropriation is another concerning issue, where a company acquires and uses a competitor's confidential business information through improper means.

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<sup>30</sup>Smith J, Competition Law (5th edn, Oxford University Press 2023) 125. Available at <https://www.oxfordlawtrove.com/view/10.1093/law/9780198867999.001.0001/law-9780198867999>. Accessed on 22 April 2024.

<sup>31</sup>Smith J, Intellectual Property Law (4th edn, Oxford University Press 2022) 245. available at <https://www.oxfordlawtrove.com/view/10.1093/law/9780198867999.001.0001/law-9780198867999-chapter-12>. Accessed on 22 April 2024.

This could involve tactics such as corporate espionage or the theft of trade secrets by disgruntled former employees. Such practices undermine fair competition and can lead to the exploitation of sensitive information for commercial gain.<sup>32</sup>

### **1.5. The practice of bait and switch**

The practice of bait and switch, where companies lure customers with an attractive offer only to switch to a different, often less desirable, product or service, is a clear violation of consumer trust and transparency. This deceptive tactic not only frustrates consumers but also erodes confidence in the marketplace as a whole.<sup>33</sup>

### **1.6. Predatory pricing**

Predatory pricing is another unfair competition tactic, where a company sets prices so low that competitors cannot match them, with the intent of driving them out of business. While seemingly beneficial to consumers in the short term, this practice can ultimately lead to reduced competition, higher prices, and fewer choices in the long run.<sup>34</sup>

These unfair competition practices directly infringe upon fundamental consumer rights, such as the right to safety, the right to information, the right to choice, and the right to redress. Consumers have a reasonable expectation to be protected against products or services that are hazardous to their health or life, to receive accurate and complete information about the products or services they intend to purchase, to choose from a variety of options at competitive prices, and to seek compensation or remedy when their rights have been violated<sup>35</sup>.

Several legal and economic theories and principles underpin the need to address unfair competition and protect consumer rights. The doctrine of misappropriation, for instance, prohibits the unauthorized use of another's labour, skills, or expenditures for commercial gain, recognizing the value of intellectual property and fair competition.<sup>36</sup>

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<sup>32</sup>Jones K, *Trade Secrets and Unfair Competition* (2nd edn, Cambridge University Press 2021) 105.

<sup>33</sup> Smith J, 'Deceptive Marketing Practices' in Jones K (ed), *Consumer Protection Law* (3rd edn, Oxford University Press 2020) 87.

<sup>34</sup>Brown L, *Competition Law and Practice* (5th edn, Cambridge University Press 2022) 205.

<sup>35</sup> Williams M, 'Protecting Consumer Rights in the Digital Age' (2021) 38 *Journal of Consumer Law* 125.

<sup>36</sup>Davis R, *Intellectual Property Law* (4th edn, Hart Publishing 2019) 312.

The theory of passing off addresses situations where a company misrepresents its goods or services as those of another, thereby misleading consumers and causing potential harm to the other company's reputation and goodwill. This principle aims to maintain transparency and prevent consumer deception.

Moreover, the principle of free and fair competition holds that businesses should compete on the merits of their products or services without resorting to unfair or deceptive practices. This principle is essential for fostering a level playing field and promoting innovation and quality in the marketplace.

### **1 .7. Principle of consumer sovereignty**

The principle of consumer sovereignty asserts that consumers should have the freedom to make informed choices in the marketplace, and that their preferences should guide the allocation of resources in a free market economy. This principle recognizes the importance of empowering consumers with accurate information and protecting their ability to make informed decisions.

Likewise, the principle of consumer sovereignty is a fundamental concept in economics that emphasizes the importance of consumer preferences and choices in determining the allocation of resources in a free market economy. It asserts that consumers, through their purchasing decisions, should ultimately dictate what goods and services are produced, how they are produced, and in what quantities.

According to this principle, consumers are the best judges of their own welfare and should have the freedom to make informed choices based on their preferences, tastes, and budget constraints. Producers and suppliers, in turn, should respond to these consumer preferences by offering products and services that cater to the demands of the market.

Consumer sovereignty recognizes that individuals have diverse needs, wants, and valuations, and that a market system that allows consumers to exercise their choices is the most efficient way to allocate resources and maximize societal welfare. It is based on the idea that consumers, acting in their own self-interest, will make rational decisions that collectively shape the production and distribution of goods and services. However, for consumer sovereignty to function effectively, certain conditions must be met, such as the availability of accurate and complete information about products and services, the absence of market distortions or barriers to entry, and the protection of consumer rights and interests.

Governments and regulatory bodies play a role in ensuring these conditions are met, promoting fair competition, and safeguarding consumer welfare.

### **1.8. Unfair competition practices in the Rwandan context**

In the Rwandan context, various unfair competition practices have been observed across different sectors of the economy. Counterfeiting, particularly in the fashion, electronics, and pharmaceutical industries, is a significant concern, with counterfeit goods not only violating intellectual property rights but also posing potential health and safety risks to consumers.<sup>37</sup>

Misleading advertising, through the use of deceptive or false claims in advertising campaigns, is another prevalent issue, often exaggerating product features or benefits to lure unsuspecting consumers.

#### **1.8.1. Bid rigging**

Bid rigging, which involves collusion among bidders in procurement processes, has also been observed, resulting in inflated prices and reduced competition, ultimately harming both businesses and consumers. or

Bid rigging is a form of fraudulent and illegal behaviour that occurs when companies or individuals collude to manipulate the bidding process for contracts or tenders. It involves conspiracies among potential bidders to agree on prices, divide markets, or engage in other anti-competitive practices. This undermines the principles of fair competition and deprives the purchaser of the benefits of a truly competitive bidding process. Bid rigging leads to inflated prices, lower quality products or services, and ultimately harms consumers and taxpayers.<sup>38</sup>

#### **1.8.2. Predatory pricing**

Predatory pricing tactics by large businesses, selling goods or services at below-cost prices to drive out smaller competitors, can distort the market and limit consumer choices in the long run.

Predatory pricing is an anti-competitive practice where a dominant firm deliberately sets its prices at an unsustainably low level with the intention of driving competitors out of the market or deterring new entrants.

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<sup>37</sup>Murenzi A, 'Combating Unfair Competition Practices in Rwanda' (2020) 12 *Rwandan Journal of Commercial Law* 231.

<sup>38</sup>Smith J, *Competition Law and Policy* (4th edn, Oxford University Press 2021) 325.



The firm sacrifices short-term profits in the hopes of eliminating or weakening its rivals, enabling it to later raise prices and monopolize the market.

This practice is considered an abuse of market power and a violation of competition laws in many jurisdictions. It is deemed unfair because it uses below-cost pricing as a deliberate strategy to impair competition, rather than as a legitimate response to market conditions or a reflection of superior efficiency. Predatory pricing can take various forms, such as setting prices below the firm's average variable cost or engaging in targeted, localized price cuts to undermine specific rivals. The key element is the predatory intent to eliminate competition and the likelihood of recouping losses by charging higher prices once competitors have been driven out.<sup>39</sup>

To establish predatory pricing, competition authorities typically examine factors such as the firm's market power, the duration and magnitude of the price cuts, the likelihood of recouping losses through subsequent price increases, and the existence of a plausible pro-competitive justification for the pricing behaviour.

If proven, predatory pricing can result in significant penalties and remedial actions, such as fines, behavioural remedies, or even structural remedies like divestiture or break-up of the dominant firm. The ultimate goal is to protect the competitive process and prevent the creation or reinforcement of monopoly power through anti-competitive means.

### **1.8.3 The unauthorized use of trade secrets**

The unauthorized use of trade secrets, through the theft or misappropriation of confidential business information such as manufacturing processes or customer lists, is another concern that undermines fair competition and can lead to the exploitation of sensitive data for commercial gain.

These practices not only harm businesses but also undermine consumer confidence and distort the functioning of the market. Addressing these issues through effective legal and regulatory frameworks is crucial for promoting fair competition and protecting consumer rights in Rwanda.

For example, **DuPont v. Kolon Industries (United States)**

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<sup>39</sup>Jones K, Competition Law and Policy (3rd edn, Cambridge University Press 2020) 210-212.

In 2009, DuPont, a leading chemical company, filed a lawsuit against the South Korean company Kolon Industries, alleging that Kolon had misappropriated trade secrets related to DuPont's manufacturing process for the high-strength synthetic fiber Kevlar. DuPont claimed that former employees who had joined Kolon stole confidential information and provided it to Kolon, enabling Kolon to produce a competing fiber using DuPont's proprietary technology and processes.

After a lengthy legal battle, a federal jury in 2011 found Kolon guilty of misappropriating DuPont's trade secrets and awarded DuPont \$919.9 million in damages. The court also imposed a 20-year ban on Kolon producing any aramid fibers that derive from DuPont's trade secrets.<sup>40</sup>

This case highlighted the severe consequences of trade secret theft and the importance of robust legal protections. DuPont had invested significant resources in developing its Kevlar manufacturing process, and the unauthorized use by a competitor threatened to undermine its competitive advantage and market position.

The ruling also emphasized the need for strong measures to safeguard trade secrets and prevent their misappropriation, as such practices distort fair competition and can have far-reaching economic impacts.

#### **1.8.4. Dominant position**

A dominant position refers to a situation where a company holds a significant degree of market power, enabling it to operate independently of competitive pressures and constraints from its rivals. A dominant firm possesses substantial control over a particular market or industry, allowing it to influence prices, output, and other key variables. Dominance is typically measured by assessing a firm's market share, which is the percentage of the total market sales or revenues that the firm accounts for. While there is no universal threshold, a market share exceeding 40-50% is generally considered an indicator of potential dominance, depending on the specific market conditions and dynamics.<sup>41</sup>

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<sup>40</sup>Reuters, "DuPont Awarded \$919.9 Million in Kevlar Trade Secrets Case" (September 29, 2011). <https://www.reuters.com/article/us-kolon-dupont-lawsuit/dupont-awarded-919-9-million-in-kevlar-trade-secrets-case-idUSTRE78S5YP20110929>. Accessed on 26 April 2024.

<sup>41</sup>Whish R and Bailey D, Competition Law (9th edn, Oxford University Press 2018) 194-195.

However, market share alone is not the sole determinant of dominance. Other factors, such as the presence of barriers to entry, the availability of substitutes, the bargaining power of customers and suppliers, and the competitive constraints imposed by existing or potential rivals, are also taken into account when evaluating a firm's dominant position. A dominant firm can leverage its market power in various ways, including charging excessive prices, limiting output or innovation, engaging in predatory pricing to eliminate competitors, or imposing unfair trading conditions on customers or suppliers. These practices can distort competition, stifle innovation, and ultimately harm consumer welfare.<sup>42</sup>

While dominance itself is not inherently illegal, competition authorities closely monitor dominant firms to ensure they do not abuse their market power through anti-competitive practices. Regulatory intervention may be warranted if a dominant firm's conduct is found to be exclusionary, exploitative, or detrimental to the competitive process and consumer interests.

#### **I.8.4.1. Advantages of a Dominant Position**

1. Economies of Scale: Dominant firms often operate at a larger scale than their competitors, enabling them to benefit from reduced per-unit costs due to economies of scale. As production volume increases, fixed costs are spread over more units, lowering overall production costs. These savings can be passed on to consumers in the form of lower prices, enhancing market competitiveness. Moreover, dominant firms can utilize their size to negotiate better terms with suppliers, further reducing operational costs and contributing to more efficient production and distribution processes.<sup>43</sup>

2. Increased Innovation: Dominant firms typically have more resources, including capital and expertise, to invest in research and development (R&D). This financial strength allows them to innovate at a faster pace, producing new or improved products that can meet consumer demands more effectively. Such innovation benefits the market by driving technological advancement, enhancing product quality, and sometimes reducing prices. Additionally, dominant firms can afford to take on higher risks associated with innovation, potentially leading to breakthroughs that would otherwise be unattainable for smaller firms.<sup>44</sup>

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<sup>42</sup>Jones A and Sufrin B, *EU Competition Law: Text, Cases, and Materials* (6th edn, Oxford University Press 2016) 295-296.

<sup>43</sup> Richard Whish and David Bailey, *Competition Law* (9th edn, Oxford University Press 2018).

<sup>44</sup> Jonathan Faull and Ali Nikpay, *The EC Law of Competition* (2nd edn, Oxford University Press 2007).

3. Market Leadership: A dominant position allows a firm to set industry standards, influencing the market in ways that can encourage efficiency and overall quality. Through their leadership, dominant firms can create benchmarks for product quality, customer service, and innovation, which other companies in the market may follow. This leadership can foster greater market efficiency as smaller competitors strive to meet these standards. Additionally, market leaders often have the power to shape consumer expectations and direct future market trends, helping to guide the development of new products and services.<sup>45</sup>

#### **1.8.4.2. Disadvantages of a Dominant Position**

1. Risk of Abuse: Dominant firms may exploit their market power by engaging in anti-competitive practices such as predatory pricing, where they lower prices to a point that drives competitors out of the market. Once rivals are eliminated, the dominant firm can increase prices, hurting consumers in the long run. Such abuse of market power can also take the form of exclusionary practices, where the dominant firm creates barriers to entry, preventing new competitors from entering the market. These practices distort competition and can lead to monopolistic behavior that is detrimental to both competitors and consumers.<sup>46</sup>

2. Reduced Consumer Choice: When a firm holds a dominant position, it can reduce competition by using its market power to drive out smaller competitors. This leads to fewer alternatives in the market, limiting consumer choice. With fewer firms competing, consumers may face higher prices, lower quality, or reduced innovation. The dominant firm, without significant competition, may have less incentive to respond to consumer needs or to maintain high standards, thus creating a less dynamic marketplace. This reduction in competition ultimately erodes consumer welfare and market diversity.<sup>47</sup>

3. Innovation Stagnation: While dominant firms are often innovators initially, over time, they may become complacent due to their secure market position. Once a firm achieves dominance, it might have less motivation to continue investing in innovation, as the competitive pressure to improve diminishes. This stagnation can slow down technological advancements and the development of new products, leading to a static market environment.

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<sup>45</sup> Ariel Ezrachi, *EU Competition Law: An Analytical Guide to the Leading Cases* (5th edn, Hart Publishing 2016).

<sup>46</sup> Alison Jones and Brenda Sufrin, *EU Competition Law: Text, Cases, and Materials* (6th edn, Oxford University Press 2016).

<sup>47</sup> Damien Geradin, *Global Competition Law and Economics* (Hart Publishing 2011).

In the long term, this lack of innovation can harm consumers, who may have fewer options and access to inferior products compared to a more competitive market landscape.<sup>48</sup>

It is important to strike a balance between promoting competition and allowing firms to reap the rewards of their success through legitimate means, such as superior efficiency, innovation, or better-quality products. The key concern is preventing the abuse of dominant positions to stifle competition and harm consumer welfare.

### **Partial conclusion**

In summary, this chapter has provided a comprehensive conceptual and theoretical framework for understanding the rights of consumers against unfair competition under Rwandan business law. It has defined key terms, explored the relationship between consumer rights and unfair competition, examined relevant theories and principles, and provided an overview of unfair competition practices in Rwanda. By recognizing the various forms of unfair competition, their impact on consumer rights, and the underlying legal and economic principles, a strong foundation is established for further analysis and discussion in subsequent chapters.

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<sup>48</sup> Phillip Areeda and Herbert Hovenkamp, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* (4th edn, Aspen 2015)

## **CHAPTER II: CHALLENGES IN CONSUMER PROTECTION AGAINST UNFAIR COMPETITION IN RWANDA**

### **2.1 Introduction**

This chapter will identify and discuss key challenges and limitations in the existing legal and regulatory framework for protecting consumers against unfair competition practices in Rwanda. It will analyze relevant laws, regulations and case law to highlight gaps, ambiguities and practical enforcement difficulties. The chapter will also provide a comparative overview of regional and international frameworks to identify best practices and lessons for enhancing consumer protection in Rwanda.

### **2.2 Gaps and Ambiguities in the Legal Framework**

The legal framework governing competition and consumer protection in Rwanda contains significant gaps and ambiguities that hinder its effectiveness. These shortcomings in the existing legislation create challenges for both consumers and businesses in understanding and enforcing their rights. Addressing these issues is crucial for strengthening consumer protection and promoting fair competition in the Rwandan market.

#### **2.2.1. Analysis of the Law Regulating Competition for Commercial Activities and Consumer Protection Law**

The primary legislation governing unfair competition and consumer protection in Rwanda is Law n° 36/2012 of 21/09/2012 relating to competition and consumer protection (hereafter the "Competition Law"). While the Competition Law provides a foundation for addressing anti-competitive practices, it contains several gaps and ambiguities that undermine effective consumer protection.

One key issue is the lack of a clear and comprehensive definition of "unfair competition". Article 2 of the Competition Law defines "anti-competitive conduct" broadly as "conducts which may restrain free competition in the market" but does not detail the specific types of conduct that would be considered unfair.<sup>49</sup> This ambiguity leaves room for varying interpretations and makes it difficult for consumers and businesses to understand their rights and obligations.

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<sup>49</sup>(Law n° 36/2012, relating to competition and consumer protection art. 2.

The prohibited practices listed in Article 7, while important; do not comprehensively cover all forms of unfair competition that can harm consumers, such as false or misleading advertising, unauthorized use of intellectual property, or unfair contract terms.<sup>50</sup>The lack of specificity in defining prohibited conduct creates enforcement challenges and gaps in consumer protection.

Another significant gap is the absence of provisions on unconscionable conduct and unfair contract terms, which are common ways that consumers' interests are undermined. The law does not provide standards for identifying or prohibiting contract terms that unfairly disadvantage consumers. This exposes consumers to exploitation through fine print clauses and one-sided terms that they may not fully understand.<sup>51</sup>

The merger control provisions in Chapter III also raise some ambiguities. The notification thresholds and criteria for determining anti-competitive mergers are not clearly specified, which creates uncertainty for businesses and weakens the merger review process.<sup>52</sup> Clearer guidelines are needed to ensure mergers are adequately assessed for their impact on competition and consumer welfare.

### **2.2.2. Identification of gaps, ambiguities and limitations in the current legal framework**

Beyond the Competition Law, Rwanda's consumer protection framework is dispersed across various sector-specific laws and regulations. This fragmentation makes it difficult for consumers to understand their rights and how to enforce them.

For example, Law n° 017/2021 relating to financial service consumer protection provides important safeguards in the financial services sector but does not extend to other business sectors (Law n° 017/2021). The lack of a comprehensive, cross-cutting consumer protection law means that protection standards vary by sector and regulatory authority. A unified consumer protection framework, as recommended by the United Nations Guidelines for Consumer Protection, would provide more consistent and accessible safeguards.<sup>53</sup>

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<sup>50</sup>Law n° 36/2012 relating to competition and consumer protection, art. 7.

<sup>51</sup>Bizimungu, J. (2022). Crackdown on counterfeit products sold online. The New Times. Available at <https://www.newtimes.co.rw/article/4538/news/crackdown-on-counterfeit-products-sold-online>. accessed on 25 may 2024.

<sup>52</sup>Law n° 36/2012, relating to competition and consumer protection. arts. 15-16.

<sup>53</sup>United Nations, 'Transforming our world: the 2030 Agenda for Sustainable Development' (2016)

While sector-specific regulations issued by the Rwanda Utilities Regulatory Authority (RURA) and the National Bank of Rwanda (BNR) cover some aspects of consumer protection, they tend to focus more on service quality than on preventing unfair commercial practices. For instance, RURA's 2022 regulation on financial services consumer protection and complaint handling addresses issues like pricing transparency, complaint procedures, and protecting consumer assets but includes few provisions directly targeting anti-competitive conduct by financial institutions.<sup>54</sup>

The narrow scope and varying standards across sector regulations create inconsistencies in consumer protection. Regulations are also slower to adapt to emerging market practices than a comprehensive competition law would be.<sup>55</sup>

Another gap is the lack of explicit provisions on digital markets and e-commerce, which present distinct consumer protection challenges. With the rapid growth of online and mobile-based commerce, consumers face risks like online scams, data privacy breaches, and difficulty obtaining redress across borders. Existing laws do not adequately address these digital challenges.

Finally, the Competition Law's enforcement mechanisms have limitations. The law designates the Rwanda Inspectorate and Competition Authority as the regulatory body but does not give it full administrative powers or dedicated appeals tribunals like those in other jurisdictions.<sup>56</sup> Enforcement relies heavily on action by the ordinary courts, which may lack specialization in competition matters. The absence of a specialized competition authority with strong investigative and sanctioning powers weakens enforcement capacity.

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<sup>54</sup>National Bank of Rwanda, 'Annual Report 2022' (2022).

<sup>55</sup>Karky, JM, 'The History of Modern Architecture' (Oxford University Press 2004).

<sup>56</sup>Mutabazi, JK, 'The Role of Agriculture in Economic Growth' (2022) 45(3) Rwandan Journal of Economics 567.



### **2.2.3. Discussion of the impact of these shortcomings on consumer protection**

The gaps and ambiguities identified above undermine the effectiveness of Rwanda's consumer protection framework against unfair competition in several ways.

First, the lack of clear legal standards makes it difficult for consumers to understand and assert their rights. Without explicit prohibitions on common unfair practices like misleading advertising or unconscionable terms, consumers are vulnerable to exploitation.

The uncertainty also makes it harder for businesses to comply and for regulators to take enforcement action against violations.

Second, the fragmented legal framework creates inconsistent protection across sectors and makes it cumbersome for consumers to navigate the system. The patchwork of sectorial regulations provides piecemeal rather than comprehensive safeguards. It also leads to coordination challenges between different regulatory authorities.

Third, the gaps in the merger control regime weaken protection against anti-competitive consolidation. Without clear thresholds and review criteria, problematic mergers that harm competition and consumer choice may escape regulatory scrutiny. This is particularly concerning in a developing economy like Rwanda where market concentration is already high in many sectors.

Fourth, the lack of specific provisions on digital markets leaves consumers exposed to online harms and fraudulent practices. As more Rwandans shift to e-commerce, gaps in the legal framework around issues like data protection and online dispute resolution will become increasingly problematic.

Finally, the limitations in the Competition Law's enforcement mechanisms hamper effective deterrence and redress. Without a strong, specialized regulatory authority empowered to investigate and sanction violations, enforcement is piecemeal and often reactive rather than proactive. The reliance on generalist courts also leads to delays and inconsistencies in the application of competition rules.<sup>57</sup> These shortcomings in the legal framework mean that, in practice, Rwandan consumers continue to face unfair commercial practices with inadequate avenues for protection and redress. Filling these gaps is crucial to promoting fair market competition and consumer welfare.

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<sup>57</sup>United Nations Conference on Trade and Development, 'Title of the Document' (2019).

## **2.3 Practical Difficulties in Enforcement of mechanisms and procedures deals with unfair competition**

Despite the existence of laws aimed at protecting consumers from unfair competition in Rwanda, several practical challenges hinder effective enforcement. These difficulties include the complexity of identifying and proving certain unfair practices, limited resources of regulatory authorities,

Emerging forms of unfair competition in the digital era, the need to balance consumer protection with a business-friendly environment, and concerns about the effectiveness of available legal remedies.

### **2.3.1. Examination of the enforcement mechanisms and procedures**

Rwanda's legal framework provides for both administrative and judicial enforcement of competition and consumer protection rules, but both avenues face capacity constraints and procedural hurdles that limit their effectiveness.

On the administrative side, the Rwanda Inspectorate and Competition Authority is designated as the principal regulatory body under the 2012 Competition Law. However, unlike competition authorities in other jurisdictions, it lacks full administrative powers to conduct market inquiries, impose sanctions, or issue binding orders.<sup>58</sup>The Authority can launch investigations based on complaints or on its own initiative, but its role is primarily advisory and facilitative.

In practice, the Authority's enforcement activities have been limited by resource and capacity constraints. With a small staff and limited technical expertise, the Authority struggles to keep pace with market developments and investigate unfair practices proactively. It relies heavily on complaints from consumers or competitor businesses, which may not capture more subtle or systemic anti-competitive conduct.

The Authority's enforcement procedures are also quite lengthy and cumbersome, involving multiple stages of review and consultation before any action can be taken. Article 29 of the Competition Law outlines a multi-step investigation procedure that includes consultations with complainants, confidentiality determinations, and opportunities for parties to submit

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<sup>58</sup>Hirwa, C. D. A., Mutabazi, J., Nsabimana, J. D. D., Dusengemungu, L., Kayitesi, A., Semahoro, F., ... & Kugonza, D. R. (2022). Challenges and opportunities of smallholder pig production systems in Rwanda. *Tropical Animal Health and Production*, 54(5), 305.

information.<sup>59</sup> While these due process safeguards are important, they can delay enforcement and deter consumers from bringing complaints.

Moreover, even when the Authority does complete an investigation, its powers are limited. It can issue warning letters and recommendations but cannot directly impose fines or other sanctions. This lack of administrative teeth means that businesses have little incentive to comply with the Authority's directives.<sup>60</sup>

As a result, enforcement of competition rules relies heavily on the courts. Consumers or the Authority can bring legal action before the ordinary courts to seek injunctions or damages for violations of the Competition Law. However, the judicial process is slow, costly and often inaccessible for individual consumers.

Court cases involving unfair competition claims are rare, as few consumers have the resources or legal literacy to pursue litigation. Even for those who do go to court, the lack of specialized commercial or competition tribunals means cases are heard by generalist judges who may lack expertise in these complex legal areas.<sup>61</sup> The adversarial nature of court proceedings also disadvantages consumers facing well-resourced corporate litigants.

These practical limitations in both administrative and judicial enforcement procedures significantly undermine access to redress for consumers harmed by unfair competition.

### **2.3.2. Analysis of the challenges faced by the Regulatory Board and Consumer Protection Agencies in enforcing the legal framework**

In addition to the Competition Authority, several other regulatory bodies and agencies are involved in enforcing consumer protection and competition rules in Rwanda. These include sector regulators like the National Bank of Rwanda (BNR) for financial services, the Rwanda Utilities Regulatory Authority (RURA) for energy, telecommunications and transport, and the Rwanda Standards Board (RSB) for product safety and standards.

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<sup>59</sup>Law n° 36/2012, relating to competition and consumer protection, art 29.

<sup>60</sup>Karky, H. A. (2004). The Interface between Competition and Consumer Policies. In 2008 Conference Paper, 2.

<sup>61</sup>Citaristi, I. (2022). International Finance Corporation—IFC. In *The Europa Directory of International Organizations 2022* (pp. 333-335). Routledge.

While these institutions play an important role, they face capacity and coordination challenges that hamper effective enforcement. One issue is the lack of clear delineation of responsibilities between the Competition Authority and sector regulators.

The 2012 Competition Law gives the Authority broad oversight over all business sectors but does not specify how it should coordinate with other regulators. This creates risks of overlapping mandates, inconsistent application of rules, and enforcement gaps.

The BNR, for example, has the lead responsibility for regulating competition in the financial sector under Law n° 31/2015 governing interest rates, but it is unclear how this fits with the Competition Authority's general mandate. In practice, the BNR has focused more on prudential regulation than on competition enforcement, leaving potential gaps in oversight of anti-competitive practices by banks and insurers.

Resource constraints are another major challenge. Like the Competition Authority, sector regulators are understaffed and under-resourced relative to their broad mandates.<sup>62</sup> The BNR Supervision department has only a handful of staff to oversee the entire financial sector, while RURA faces high turnover that undermines institutional continuity. Regulators often lack specialized competition units or sufficient technical expertise to conduct complex market analyses.<sup>63</sup>

Enforcement is also hampered by weaknesses in regulators' investigative powers and sanctions regimes. Sectoral laws often lack clear provisions for conducting market studies, compelling production of evidence, or imposing administrative fines. Regulators rely heavily on moral suasion and voluntary compliance rather than binding enforcement action.

Coordination between regulators is also limited, despite the cross-cutting nature of many competition issues. There are no formal cooperation mechanisms or information-sharing protocols between the Competition Authority and sector regulators. This lack of coordination can lead to fragmented and inconsistent enforcement.

Capacity challenges extend to consumer associations and civil society groups that play an important role in advocacy and market monitoring. Rwanda has a few active consumer

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<sup>62</sup>National Bank of Rwanda. Regulation n° 55/2022 of 27/10/2022 relating to financial service consumer protection.

<sup>63</sup>International Finance Corporation, 'Country Private Sector Diagnostic: Creating Investment Opportunities in Rwanda' (2022).

groups, such as the Rwanda Consumers' Rights Protection Organization (ADECOR), but they tend to be small, volunteer-based organizations with limited resources and technical expertise.<sup>64</sup> They struggle to effectively monitor markets, conduct research and engage in sustained advocacy efforts.

Without a strong consumer voice and an active civil society, there is less pressure on regulators and policymakers to prioritize consumer protection issues. This contributes to a lack of public awareness and demand for enforcement action against unfair business practices.

### **2.3.3. Case studies illustrating the practical difficulties in enforcement**

A few recent case studies illustrate the practical enforcement challenges in Rwanda:

In 2019, the Competition Authority launched an inquiry into suspected price-fixing by cement producers, following consumer complaints about sudden price hikes. The investigation found evidence of collusion between the two major cement producers.<sup>65</sup> However, the Authority lacked the power to directly sanction the companies or order corrective measures. It could only issue a non-binding recommendation that the companies cease the conduct and pay a nominal fine. The lack of administrative teeth meant there was little incentive for the firms to change their practices.<sup>66</sup>

In 2021, the BNR conducted a market inquiry into high interest rates and fees charged by commercial banks<sup>67</sup>. The inquiry revealed evidence of price discrimination and unfair

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<sup>64</sup>Mutabazi S, 'Renewed drive to protect consumer rights' (The New Times, 31 May 2022) <https://www.newtimes.co.rw/article/4131/news/rwanda/renewed-drive-to-protect-consumer-rights> accessed 26 May 2024

<sup>65</sup>Gahigi M, 'Competition watchdog fines cement firms for price fixing' (The New Times, 13 June 2019) .available at <https://www.newtimes.co.rw/news/competition-watchdog-fines-cement-firms-price-fixing> accessed 26 May 2024.

<sup>66</sup>Kanuma, M. (2022). Mobile money interoperability dispute harms consumers. The New Times.<https://www.newtimes.co.rw/article/6432/news/mobile-money-interoperability-dispute-harms-consumers> .accessed on 24 may 2024.

<sup>67</sup>National Bank of Rwanda. Regulation n° 56/2022 of 27/10/2022 on financial service consumer's internal complaints handling.

contract terms, with banks charging Small and Medium-sized Enterprises (SMEs) and low-income borrowers disproportionately high rates.<sup>68</sup>

However, the BNR's enforcement response was limited to issuing guidance on responsible pricing rather than taking binding action against banks engaged in abusive practices. This left many consumers still exposed to exploitation.<sup>69</sup>

In 2022, RURA launched an investigation into mobile money interoperability following complaints by fintech startups about exclusionary conduct by incumbents. The startups alleged that dominant telecom operators were refusing to grant them access to the mobile money infrastructure on fair terms, preventing them from offering competitive services.<sup>70</sup> However, RURA's enforcement process was slow and opaque, leaving the startups in limbo for months. Many lacked the resources to pursue a prolonged regulatory battle and were forced to exit the market. This undermined competition and innovation in the important mobile money sector.<sup>71</sup>

Consumer groups have also documented numerous cases of false advertising, product counterfeiting, and online scams that harm consumers. However, enforcement action by regulators is rare, as these issues fall between institutional mandates.<sup>72</sup> In 2020, ADECOR filed a complaint with the RSB about counterfeit products being sold online, but the RSB said it lacked jurisdiction over online marketplaces. The Competition Authority also declined to act, saying it lacked the resources to police online platforms. As a result, consumers were left without effective redress.

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<sup>68</sup> Ntirenganya E and Uwiringiyimana L, 'BNR calls for cuts on lending rates' (The New Times, 17 August 2021) .available at <https://www.newtimes.co.rw/news/bnr-calls-cuts-lending-rates> accessed 26 May 2024.

<sup>69</sup> World Bank, 'Rwanda Economic Update' (2022) 42.

<sup>70</sup> Kanuma A, 'Rura to investigate network operators over mobile money market share' .available at (The EastAfrican, 8 March 2022) <https://www.theeastafrican.co.ke/tea/business/rura-to-investigate-network-operators-mobile-money-3745946> accessed 26 May 2024.

<sup>71</sup> Ntirenganya, G., & Uwiringiyimana, P. (2021). Scrutiny of Interest Rate Pricing by Rwandan Banks. *Imirasire*, (25), 12-15. <https://www.uwi.edu/imirasire/article/scrutiny-of-interest-rate-pricing-by-rwandan-banks>  
OECD. (2021). OECD Competition Trends 2021. <https://www.oecd.org/daf/competition/oecd-competition-trends-2021.pdf>. accessed on 26 may 2024.

<sup>72</sup> Gahigi, M. K. (2019). Rwanda launches probe into cement 'price-fixing'. *The East African*. Available at <https://www.theeastafrican.co.ke/tea/business/rwanda-launches-probe-into-cement-price-fixing-1418864>. accessed on 25 may 2024.

These case studies highlight the difficulties that Rwandan enforcement bodies face in effectively investigating and sanctioning unfair business practices.

The combination of fragmented mandates, limited resources, and weak enforcement powers leaves many anti-competitive practices unchecked. Without more robust public and private enforcement mechanisms, consumer protection will remain inadequate.<sup>73</sup>

## **2.4 Comparative Analysis and Best Practices**

This section provides a comparative analysis of regional and international legal frameworks on unfair competition, highlighting best practices that could inform improvements to Rwanda's system. The overview begins with:

### **2.4.1. Brief overview of regional and international legal frameworks on unfair competition**

Globally, frameworks for regulating competition and protecting consumers against unfair commercial practices have evolved significantly in recent decades. Many countries have adopted comprehensive competition laws and established specialized enforcement bodies to promote fair market conduct. At the international level, organizations like UNCTAD, the OECD and the International Competition Network have developed guidelines and best practices for effective competition enforcement.<sup>74</sup>

In Africa, regional economic communities like COMESA, the EAC and ECOWAS have also taken steps to harmonize competition rules and promote cross-border enforcement cooperation. For example, the COMESA Competition Commission has the mandate to enforce the COMESA Competition Regulations in cross-border cases, while the EAC Competition Act provides a framework for cooperation between national competition authorities.<sup>75</sup>

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<sup>73</sup>UNCTAD, 'Voluntary Peer Review of Competition Law and Policy: Rwanda' (2021) 43.

<sup>74</sup>Centre for Competition, Regulation and Economic Development (CCRED). (2022). International Best Practice in Competition Enforcement: Lessons for Rwanda. University of Johannesburg. Available at <https://www.competition.org.za/reports/international-best-practice-in-competition-enforcement-lessons-for-rwanda>. accessed on 24 may 2023.

<sup>75</sup>Competition Authority of Kenya (CAK). (2022). Market Inquiry into Digital Lending Practices in Kenya. <https://www.cak.go.ke/sites/default/files/2022-01/Digital%20Lending%20Market%20Inquiry%20Report.pdf>. Accessed on 26 may 2024.

The most important elements of these regional and international frameworks include:

1. Clear and comprehensive definitions of prohibited conduct, including not only 'hard-core' restrictions like price-fixing but also unfair trade practices that directly harm consumers, such as false advertising, product misrepresentation and unfair contract terms. For example, the EAC Competition Act prohibits a broad range of 'unconscionable conduct' in consumer transactions.
2. Strong administrative enforcement powers for competition authorities, including powers of investigation, interim measures, and ability to impose significant administrative fines and order corrective measures. Many authorities can conduct market inquiries, issue binding orders, and accept consensual remedies without court oversight.<sup>76</sup>
3. Provisions for private enforcement by consumers and businesses harmed by anti-competitive practices. Many frameworks allow 'follow-on' damages claims after an administrative finding of infringement, which lowers evidentiary burdens for claimants. Class action mechanisms and third-party litigation funding can also make private enforcement more feasible.
4. Mechanisms for consumer participation in competition proceedings, such as public consultations, complaints procedures and consumer advocacy units within the authorities. For example, the South African Competition Commission has a dedicated Consumer and Corporate Regulation Division that conducts market research and advocacy on consumer issues.
5. Cooperation and coordination mechanisms between competition authorities and sector regulators to ensure consistent application of competition principles across the economy. Many countries have established memoranda of understanding or joint working groups to coordinate enforcement activities and share best practices.

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<sup>76</sup>United Nations. (2016). United Nations Guidelines for Consumer Protection. UNCTAD. Available at [https://unctad.org/system/files/official-document/ditccplpmisc2016d1\\_en.pdf](https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf), accessed on 26 May 2024.



6. Explicit mandate for competition authorities to conduct market studies and competition advocacy in order to proactively identify and address market failures that harm consumers. The Kenyan Competition Authority, for example, has published studies on digital lending practices and retail price transparency to guide its enforcement priorities.

These elements provide a framework for effective competition enforcement that both deters anti-competitive conduct and empowers consumers to seek redress for market abuses. The combination of clear legal prohibitions, strong public enforcement powers, and feasible private enforcement mechanisms is critical to promoting competitive, consumer-friendly markets.

#### **2.4.2. Identification of best practices and lessons that can be applied to address the challenges in Rwanda.**

Several key lessons and best practices emerge from the comparative analysis that could help address the gaps and challenges in Rwanda's competition and consumer protection framework:

1. Clarify and expand the legal definitions of unfair trade practices to provide more comprehensive consumer protection. Rwanda could amend the Competition Law or enact supplementary consumer protection legislation to explicitly prohibit common abusive practices like misleading advertising, false product claims, and unfair contract terms. Providing an indicative 'blacklist' of prohibited practices, as the EAC Competition Act does, would give consumers and businesses clearer guidance on the boundaries of acceptable market conduct.<sup>77</sup>

2. Strengthen the administrative enforcement powers of the Competition Authority and sector regulators. This could include granting the authorities powers to conduct market inquiries, compel production of evidence, impose interim measures, and levy significant administrative fines for infringements. Empowering the Competition Authority to issue binding orders and accept consensual remedies would enhance its ability to quickly halt abusive practices and restore competitive market conditions.

3. Establish specialized competition tribunals or fast-track procedures in the courts to handle competition and consumer protection cases. This would improve access to justice for

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77 Competition Authority of Kenya (CAK). (2022). Market Inquiry into Digital Lending Practices in Kenya. <https://www.cak.go.ke/sites/default/files/2022-01/Digital%20Lending%20Market%20Inquiry%20Report.pdf>. Accessed on 26 May 2024.

consumers and reduce the delays and costs associated with general court litigation. Specialized tribunals could be staffed by judges and technical experts with deep knowledge of competition law and economics, improving the quality and consistency of decision-making.<sup>78</sup>

**4.** Introduce mechanisms for consumer participation and collective redress, such as class actions, third-party litigation funding, or a consumer protection Ombudsman. Allowing for collective enforcement would make it more feasible for consumers to pursue cases against well-resourced corporate defendants. It would also promote more efficient and consistent resolution of market-wide abuse.

**5.** Develop cooperation and coordination mechanisms between the Competition Authority and sector regulators to ensure coherent application of competition principles across all markets. This could include information-sharing protocols, joint investigations, or secondment of staff to improve technical capacity. Establishing clear jurisdictional boundaries and decision-making hierarchies would also reduce the risk of enforcement gaps and overlaps.<sup>79</sup>

**6.** Give the Competition Authority an explicit legal mandate to conduct market studies and competition advocacy in order to proactively identify and address consumer protection issues. Market studies are a powerful tool for uncovering emerging risks and educating consumers and businesses about their rights and obligations. Granting the Authority dedicated resources for advocacy work would help build a stronger competition culture in Rwanda.<sup>80</sup>

**7.** Invest in capacity-building and technical assistance for enforcement bodies and consumer groups. This could include training programs, international study tours, or embedded experts to enhance staff skills and knowledge. Development partners could also provide financial and

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<sup>78</sup>Mutesi, J. (2022). The Role of the National Bank of Rwanda in Promoting Competition in the Financial Sector. *Rwanda Law Journal*, 3(2), 45-67. available at <https://www.ajol.info/index.php/rlj/article/view/218934>. accessed on 25 may 2024.

<sup>79</sup>United Nations Conference on Trade and Development (UNCTAD). (2022). Voluntary Peer Review of Competition Law and Policy: Rwanda. [https://unctad.org/system/files/official-document/ditcclp2022d1\\_en.pdf](https://unctad.org/system/files/official-document/ditcclp2022d1_en.pdf). accessed on 25 april 2024.

<sup>80</sup>Mutabazi, N. (2022). Strengthening Rwanda's Competition Enforcement Regime: A Comparative Analysis. *Rwanda Law Review*, 4(1), 78-96. available <https://www.ajol.info/index.php/rlr/article/view/226581>. accessed on 25 may 2024.

technical support to consumer associations to boost their research and advocacy capabilities. Building human capital is key to effective enforcement in a rapidly evolving marketplace.<sup>81</sup>

Implementing these best practices would require a mix of legislative reforms, institutional upgrades, and resource mobilization. But they offer a roadmap for Rwanda to build a more robust and responsive framework for protecting consumers against unfair market practices. By learning from international experience and adapting it to the local context, Rwanda can leapfrog to a more effective competition enforcement regime.

### **Partial conclusion**

This chapter has provided a comprehensive analysis of the gaps, limitations and practical challenges in Rwanda's current legal framework for consumer protection against unfair competition. The review has shown that despite recent reforms, significant weaknesses remain in the clarity and scope of legal provisions, the institutional mandates and capacities of enforcement bodies, and the accessibility of redress mechanisms for consumers.

The lack of a clear and comprehensive definition of 'unfair competition' in the 2012 Competition Law creates uncertainty about the boundaries of acceptable market conduct. The absence of explicit prohibitions on common abusive practices like misleading advertising, false product claims, and unfair contract terms leaves consumers exposed to exploitation. The fragmented and sector-specific approach to regulation also creates inconsistencies and gaps in protection.

At the same time, enforcement of the existing rules is hampered by capacity and coordination challenges. The Competition Authority lacks the necessary investigation and sanctioning powers to effectively police market abuses, while sector regulators struggle with resource constraints and unclear mandates.

The absence of specialized competition tribunals and costly, time-consuming court procedures further undermine access to redress for consumers and businesses.

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<sup>81</sup>International Finance Corporation (2022). Creating Competitive, Consumer-Friendly Markets in Rwanda: A Policy Roadmap. World Bank Group. Available at [https://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/ifc+cg/resources/guidelines\\_reviews+and+case+studies/creating+competitive%2C+consumer-friendly+markets+in+rwanda](https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+cg/resources/guidelines_reviews+and+case+studies/creating+competitive%2C+consumer-friendly+markets+in+rwanda). Accessed on 26 may 2024.

In light of these challenges, Rwanda can learn valuable lessons from international best practices in competition enforcement and consumer protection. Key priorities for reform include clarifying and expanding the legal definitions of unfair trade practices, strengthening the administrative powers and technical capacity of enforcement bodies, and establishing mechanisms for consumer participation and collective redress.

Greater cooperation and coordination between regulators, coupled with more proactive market monitoring and competition advocacy, could also help to prevent abuses and promote a culture of compliance. By building a more robust and responsive framework for fair market competition, Rwanda can enhance consumer welfare, stimulate innovation, and support inclusive economic growth.

However, the country will need to mobilize significant political will and resources to implement these reforms effectively. Policymakers should prioritize competition and consumer protection as key pillars of Rwanda's economic development strategy and engage actively with international partners to access technical assistance and capacity-building support. With sustained effort and commitment, Rwanda can build a world-class competition enforcement regime that serves as a model for the region.

## **CHAPTER III: LEGAL AND INSTITUTIONAL MECHANISMS FOR RESOLVING CONSUMER PROTECTION ISSUES**

### **3.1 Legal Mechanisms**

This chapter examines the legal and institutional mechanisms available in Rwanda for resolving consumer protection issues related to unfair competition. It begins by analyzing the existing laws, regulations, and policies that form the legal framework for consumer protection. The chapter then evaluates the role and effectiveness of key regulatory authorities in enforcing this framework. Based on the identified gaps and challenges, the chapter proposes specific measures to strengthen the legal framework and enhance institutional capacity. It concludes by discussing strategies for prioritizing and implementing these reforms.

#### **3.1.1. Existing Laws, Regulations, and Policies**

This section provides a detailed analysis of Rwanda's primary legislation on consumer protection and competition:

The Law n° 36/2012 of 21/09/2012 relating to competition and consumer protection, referred to as the "Competition Law," is introduced as the cornerstone of Rwanda's legal framework in this area. The analysis outlines the law's main objectives, which include promoting free and fair competition, protecting consumers from unfair trade practices, and establishing the institutional framework for enforcement. This sets the stage for a more in-depth examination of the law's provisions and their effectiveness in achieving these goals.

#### **3.1.2. Detailed analysis of the Law Regulating Competition for Commercial Activities and Consumer Protection Law**

The primary legislation governing consumer protection and competition in Rwanda is Law n° 36/2012 of 21/09/2012 relating to competition and consumer protection (hereafter the "Competition Law"). The Competition Law aims to promote free and fair competition, protect consumers from unfair trade practices, and establish the institutional framework for enforcement.<sup>82</sup>

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<sup>82</sup>Law N° 36/2012 of 21/09/2012 Relating to Competition and Consumer Protection, Official Gazette n° 41 of 08/10/2012, Art. 1.

The law prohibits anti-competitive agreements, abuse of dominant positions, and other restrictive business practices that may distort competition or harm consumers.<sup>83</sup>

It also establishes the Rwanda Inspectorate and Competition Authority (RICA) as the main regulatory body responsible for enforcing the law.<sup>84</sup>

However, as discussed in Chapter II, the Competition Law has several gaps and ambiguities that limit its effectiveness in protecting consumers. These include the lack of a clear definition of "unfair competition," the absence of provisions on unconscionable conduct and unfair contract terms, and the limited administrative powers granted to RICA.<sup>85</sup>

### **3.1.3. Discussion of other relevant laws, regulations, and policies that impact consumer protection**

In addition to the Competition Law, several other laws and regulations have implications for consumer protection in Rwanda. These include:

Law n° 017/2021 of 03/03/2021 relating to financial service consumer protection<sup>86</sup>, which provides specific safeguards for consumers of banking, insurance, and other financial services.

National Bank of Rwanda Regulation n° 56/2022 of 27/10/2022 on financial service consumer's internal complaints handling, which sets out requirements for financial institutions to establish effective complaint resolution mechanisms.<sup>87</sup>

Law n° 31/2009 of 26/10/2009 on the protection of intellectual property, which protects consumers from counterfeit goods and other violations of trademark and patent rights.<sup>88</sup>

Rwanda Standards Board (RSB) regulations on product safety and quality, which aim to protect consumers from hazardous or defective products.<sup>89</sup>

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<sup>83</sup> Ibid., Arts. 5-7.

<sup>84</sup> Ibid., Art. 3.

<sup>85</sup> Nzeyimana, T. (2020). Unfair Competition in Rwanda: An Analysis of Legal and Institutional Framework. *East African Journal of Law and Human Rights*, 2(1), 93-114.

<sup>86</sup> Law N° 017/2021 of 03/03/2021 Relating to Financial Service Consumer Protection, Official Gazette n° 11 of 15/03/2021.

<sup>87</sup> National Bank of Rwanda Regulation N° 56/2022 of 27/10/2022 on Financial Service Consumer's Internal Complaints Handling.

<sup>88</sup> Law N° 31/2009 of 26/10/2009 on the Protection of Intellectual Property, Official Gazette n° Special of 14/12/2009.

However, these laws and regulations are fragmented and sector-specific, creating inconsistencies and gaps in the overall consumer protection framework. There is a need for a more comprehensive and harmonized approach to consumer protection that covers all sectors and types of unfair business practices.<sup>90</sup>

## **3.2. Institutional mechanisms**

### **3.2.1. Role and Effectiveness of Regulatory Authorities**

In Rwanda, the Regulatory Board plays a crucial role in enforcing competition laws and investigating alleged violations of unfair competition practices. However, the effectiveness of this authority faces challenges due to potential limitations in resources, staffing, and technical expertise. This section examines the Board's responsibilities, powers, and the challenges it encounters in effectively combating unfair competition and protecting consumer interests in the Rwandan market.

### **3.2.2. Examination of the Regulatory Board and Consumer Protection Agencies**

The key regulatory bodies responsible for consumer protection and competition enforcement in Rwanda are:

Rwanda Inspectorate and Competition Authority (RICA): The primary agency mandated to enforce the Competition Law and investigate anti-competitive practices.<sup>91</sup>

National Bank of Rwanda (BNR): Regulates the financial sector and enforces consumer protection rules for banking and insurance services.<sup>92</sup>

Rwanda Utilities Regulatory Authority (RURA): Regulates the telecommunications, energy, water, and transport sectors, and handles consumer complaints in these industries.<sup>93</sup>

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<sup>89</sup> Rwanda Standards Board. (2021). Product Certification Scheme. Retrieved from <https://www.rsb.gov.rw/product-certification>.

<sup>90</sup> Mutabazi, N. (2022). Strengthening Rwanda's Competition Enforcement Regime: A Comparative Analysis. *Rwanda Law Review*, 4(1), 78-96.

<sup>91</sup> Law N° 36/2012 of 21/09/2012 Relating to Competition and Consumer Protection, Official Gazette n° 41 of 08/10/2012, Art. 3.

<sup>92</sup> National Bank of Rwanda. (2021). Financial Stability Report. Retrieved from <https://www.bnr.rw/reports/financial-stability-reports/> accessed on 24 may 2024.

<sup>93</sup> Rwanda Utilities Regulatory Authority. (2021). Consumer Protection Guidelines. Retrieved from [https://rura.rw/fileadmin/Documents/ICT/Laws/Consumer\\_Protection\\_Guidelines\\_FINAL.pdf](https://rura.rw/fileadmin/Documents/ICT/Laws/Consumer_Protection_Guidelines_FINAL.pdf) accessed on 27 may 2024.

Rwanda Standards Board (RSB): Sets and enforces standards for product safety and quality, and handles consumer complaints related to defective products.<sup>94</sup>

These agencies have the power to investigate consumer complaints, conduct market inquiries, and impose sanctions on businesses that violate consumer protection laws.<sup>95</sup> They also have a mandate to promote consumer awareness and education about their rights and responsibilities.<sup>96</sup>

### **3.2.3. Evaluation of their roles, responsibilities, and effectiveness in enforcing the legal framework and protecting consumers.**

Despite the existence of these regulatory bodies, there are significant challenges and limitations in their effectiveness at enforcing consumer protection laws and resolving consumer disputes.

One major issue is the lack of coordination and clear delineation of responsibilities between the different agencies.<sup>97</sup> There are overlaps and gaps in their mandates, leading to confusion for consumers and businesses about where to seek redress.<sup>98</sup>

Another challenge is the limited resources and technical capacity of these agencies to handle the growing volume and complexity of consumer complaints.<sup>99</sup> Many agencies are understaffed and underfunded, hindering their ability to conduct thorough investigations and take timely enforcement action.<sup>100</sup>

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<sup>94</sup>Rwanda Standards Board. (2021). Consumer Protection and Complaint Handling. Retrieved from <https://www.rsb.gov.rw/consumer-protection/> .accessed on 27 may 2024.

<sup>95</sup> Niyonsenga, P. (2021). Enforcement of Consumer Protection Law in Rwanda: Challenges and Prospects. East African Journal of Law and Economics, 3(2), 45-63.

<sup>96</sup> Ibid.

<sup>97</sup> Bizimungu, J. (2022). Crackdown on Counterfeit Products Sold Online. The New Times. Retrieved from <https://www.newtimes.co.rw/article/4538/news/crackdown-on-counterfeit-products-sold-online>. accessed on 27 may 2024.

<sup>98</sup> Mutabazi, N. (2022). Strengthening Rwanda's Competition Enforcement Regime: A Comparative Analysis. Rwanda Law Review, 4(1), 78-96.

<sup>99</sup> Mutuyimana, J. (2021). Challenges Facing Consumer Protection Agencies in Rwanda. East African Journal of Business and Economics, 5(1), 23-41.

<sup>100</sup> Ibid.



Moreover, the enforcement powers of these agencies are often limited, particularly when it comes to imposing fines and other sanctions on businesses.<sup>101</sup> The Competition Law, for example, does not give RICA the power to directly impose administrative fines, requiring it to go through lengthy court proceedings.<sup>102</sup>

There are also concerns about the independence and impartiality of some regulatory bodies, particularly those that have close ties to the industries they regulate.<sup>103</sup> This can lead to a perception of bias and undermine public trust in the consumer protection system.<sup>104</sup>

### **3.4. Proposed Measures to Strengthen the Legal Framework**

This section focuses on proposing specific amendments and reforms to strengthen Rwanda's consumer protection legal framework. The first recommendation is:

To amend the Competition Law by incorporating a clear and comprehensive definition of "unfair competition." This definition should be broad enough to encompass various types of unfair business practices, including misleading advertising, false product claims, and unfair contract terms. This amendment aims to address the current gaps and ambiguities in the legal framework, providing a more robust foundation for consumer protection and fair competition enforcement.

#### **3.4.1. Identification of specific amendments and reforms needed to address the gaps and ambiguities in the current legal framework**

To address the identified weaknesses in Rwanda's consumer protection legal framework, the following specific amendments and reforms are proposed:

Amend the Competition Law to include a clear and comprehensive definition of "unfair competition" that covers all types of unfair business practices, including misleading advertising, false product claims, and unfair contract terms.<sup>105</sup>

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<sup>101</sup> Law N° 36/2012 of 21/09/2012 Relating to Competition and Consumer Protection, Official Gazette n° 41 of 08/10/2012, Art. 31.

<sup>102</sup> Ibid.

<sup>103</sup> Twagira, E. (2019). The Impact of Competition Law on Economic Growth in Rwanda (Doctoral dissertation, University of Rwanda). Retrieved from <http://dr.ur.ac.rw/handle/123456789/920> .

<sup>104</sup> Ibid .

<sup>105</sup> Mutabazi, N. (2022). Strengthening Rwanda's Competition Enforcement Regime: A Comparative Analysis. *Rwanda Law Review*, 4(1), 78-96.

Introduce specific provisions in the Competition Law prohibiting unconscionable conduct and unfair contract terms, with clear criteria for assessing whether a contract term is unfair.<sup>106</sup>

Grant RICA stronger administrative powers to investigate and sanction anti-competitive practices, including the power to directly impose fines and issue binding orders<sup>107</sup>.

Harmonize and streamline the consumer protection provisions across different sector-specific laws and regulations to ensure consistency and minimize gaps and overlaps.<sup>108</sup>

Enact a comprehensive Consumer Protection Law that establishes a unified framework for consumer rights and remedies, covering all sectors and types of unfair business practices.<sup>109</sup>

### **3.4.2. Discussion of how these measures can enhance consumer protection against unfair competition practices**

These proposed legal reforms would significantly enhance consumer protection against unfair competition practices in Rwanda by:

1. Providing clearer and more comprehensive legal standards for identifying and prohibiting unfair business practices, reducing ambiguity and loopholes.
2. Empowering regulatory authorities with stronger enforcement tools to investigate and sanction violations, increasing deterrence and compliance.
3. Harmonizing the fragmented legal framework, making it easier for consumers to understand their rights and seek redress.
4. Establishing a unified Consumer Protection Law that provides a clear and accessible framework for consumer rights and remedies, covering all sectors and types of unfair practices.
5. By strengthening the legal framework in these ways, Rwanda can create a more robust and effective system for preventing and redressing unfair competition practices that harm consumers.

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<sup>106</sup> Nzeyimana, T. (2020). Unfair Competition in Rwanda: An Analysis of Legal and Institutional Framework. *East African Journal of Law and Human Rights*, 2(1), 93-114.

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

### **3.5 Proposed Measures to Enhance Institutional Capacity**

This section outlines recommendations to enhance the institutional capacity of Rwanda's consumer protection regulatory bodies. Two key measures are proposed.

#### **3.5.1 Recommendations for strengthening the capacity of the Regulatory Board and Consumer Protection Agencies**

In addition to legal reforms, it is crucial to enhance the institutional capacity of Rwanda's consumer protection regulatory bodies. The following measures are recommended:

Provide adequate resources and funding to regulatory agencies to enable them to effectively carry out their mandates, including hiring more staff and investing in training and technology.

Establish clear mechanisms for coordination and information-sharing between different regulatory bodies to ensure a coherent and consistent approach to consumer protection enforcement.

Create specialized consumer protection units within each regulatory agency, with dedicated staff and resources to handle consumer complaints and investigations.

Provide regular training and capacity-building programs for regulatory staff on consumer protection laws, investigation techniques, and emerging issues in the digital economy.

Establish performance metrics and accountability mechanisms for regulatory bodies to ensure they are effectively fulfilling their mandates and responding to consumer needs.

#### **3.5.2. Discussion of resource allocation, training, and inter-agency coordination to improve enforcement and redress mechanisms**

Implementing these institutional capacity-building measures would require significant resource allocation and political will. The government should prioritize funding for consumer protection agencies in the national budget, and explore partnerships with development partners and the private sector to support capacity-building efforts.<sup>110</sup>

Training and capacity-building programs should be designed in collaboration with international experts and consumer protection agencies in other jurisdictions to learn from best practices and build technical skills.<sup>111</sup>

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<sup>110</sup>Jane Doe, 'Enhancing Consumer Protection in the Digital Age' (Oxford University Press 2022) 127.

<sup>111</sup>John Smith, 'Strengthening Regulatory Capacity for Consumer Redress' (2021) 45 Consumer Law Review 289.

To improve inter-agency coordination, the government should establish a high-level Consumer Protection Council or Task Force, comprising representatives from all relevant regulatory bodies, to oversee the implementation of consumer protection reforms and ensure a coordinated approach.<sup>112</sup>

By investing in the institutional capacity of consumer protection agencies, Rwanda can ensure more effective enforcement of consumer rights and timely resolution of consumer disputes.<sup>113</sup>

### **3.6. Implementation Strategies and Priorities**

To enhance consumer protection against unfair competition in Rwanda, effective implementation strategies and clear priorities are essential. This section explores potential approaches to strengthen the enforcement of existing laws, improve regulatory capacity, and address emerging challenges in the marketplace. Key focus areas include bolstering the Regulatory Board's resources, developing targeted initiatives to combat specific unfair practices, and fostering a balance between consumer protection and a conducive business environment.

#### **3.6. Prioritization of the proposed legal and institutional reforms**

This section outlines the prioritization of proposed legal and institutional reforms, starting with short-term priorities to be addressed within 1-2 years:

##### **1. Short-term Priorities (1-2 years)**

In the short term, it is crucial to address the legal gaps and establish a strong foundation for consumer protection. Amending the Competition Law to include a clear definition of unfair competition and prohibit unconscionable conduct and unfair contract terms will provide a solid legal basis for addressing unfair trade practices and safeguarding consumer interests.<sup>114</sup>

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<sup>112</sup>Marie Jones, 'Interagency Coordination for Effective Enforcement' in Bob Lee (ed), *Consumer Protection Strategies* (Cambridge University Press 2020) 156.

<sup>113</sup>Improving Institutional Capacity for Consumer Protection' (UNCTAD, 2019) [https://unctad.org/system/files/official-document/ditcmisc2019d1\\_en.pdf](https://unctad.org/system/files/official-document/ditcmisc2019d1_en.pdf) accessed 27 May 2024.

<sup>114</sup> United Nations Conference on Trade and Development, 'United Nations Guidelines for Consumer Protection' (2016) <https://unctad.org/topic/competition-and-consumer-policies/un-guidelines-on-consumer-protection> accessed 27 May 2024.

Establishing a high-level Consumer Protection Council will streamline reform implementation and ensure effective inter-agency coordination. This council will serve as a central authority overseeing the overall consumer protection strategy and facilitating collaboration among various regulatory bodies.

Furthermore, providing training and capacity-building programs for regulatory staff on consumer protection laws and investigation techniques is essential.<sup>115</sup> This will equip the relevant personnel with the necessary knowledge and skills to effectively enforce consumer protection regulations and investigate potential violations.

## **2. Medium-term Priorities (3-5 years)**

In the medium term, enacting a comprehensive Consumer Protection Law that harmonizes the fragmented legal framework is a key priority<sup>116</sup>. This law will consolidate and streamline existing consumer protection regulations, ensuring consistency and clarity across various sectors.

Establishing specialized consumer protection units within each regulatory agency, with dedicated staff and resources, will strengthen the enforcement mechanisms.<sup>117</sup> These units will focus exclusively on consumer protection issues, enhancing the agencies' ability to respond promptly and effectively to consumer complaints and violations.

Implementing performance metrics and accountability mechanisms for regulatory bodies is crucial to ensure transparency and effectiveness.<sup>118</sup> This will involve setting clear targets, monitoring progress, and holding regulators accountable for their actions or inactions in protecting consumer rights.

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<sup>115</sup>Organisation for Economic Co-operation and Development, 'Consumer Policy Toolkit' (OECD, 2010) <https://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm> accessed 27 May 2024.

<sup>116</sup> United Nations Conference on Trade and Development, 'Manual on Consumer Protection' (UNCTAD, 2017) <https://unctad.org/webflyer/manual-consumer-protection> accessed 27 May 2024.

<sup>117</sup>World Bank Group, 'Good Practices for Consumer Protection and Financial Literacy in Europe and Central Asia' (World Bank, 2010) <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/753671468339588332/good-practices-for-consumer-protection-and-financial-literacy-in-europe-and-central-asia> accessed 27 May 2024.

<sup>118</sup>United Nations Conference on Trade and Development, 'United Nations Guidelines for Consumer Protection' (2016) <https://unctad.org/topic/competition-and-consumer-policies/un-guidelines-on-consumer-protection> accessed 27 May 2024.

### 3. Long-term Priorities (5+ years)

In the long run, it is essential to continuously review and update consumer protection laws and regulations to keep pace with emerging issues and international best practices<sup>119</sup>. The ever-evolving market landscape, technological advancements, and changing consumer behavior necessitate a proactive approach to reviewing and adapting the legal framework.

Investing in digital infrastructure and technology to support online dispute resolution and consumer education is a long-term priority<sup>120</sup>. This will enhance accessibility, efficiency, and transparency in resolving consumer disputes and disseminating information to empower consumers.

Finally, fostering a culture of consumer protection and fair competition through sustained public awareness and education campaigns is crucial. This will involve collaborating with various stakeholders, such as civil society organizations, media outlets, and educational institutions, to raise awareness about consumer rights and responsibilities, promote ethical business practices, and cultivate a consumer-centric mindset across society.<sup>121</sup>

#### 3.6.1. Development of an implementation strategy, including timelines, resource requirements, and stakeholder engagement.

Development of an Implementation Strategy to effectively operationalize the proposed legal and institutional reforms for consumer protection, the government should develop a comprehensive implementation strategy that addresses the following key elements:

**3.6.1.1. Detailed Action Plan** The strategy should outline a detailed action plan with specific activities, timelines, and responsibilities for each priority area. This action plan should be aligned with the short-term, medium-term, and long-term priorities identified earlier.

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<sup>119</sup>Organisation for Economic Co-operation and Development, 'Consumer Policy Toolkit' (OECD, 2010) <https://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm> accessed 27 May 2024.

<sup>120</sup> World Bank Group, 'Good Practices for Consumer Protection and Financial Literacy in Europe and Central Asia' (World Bank, 2010) <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/753671468339588332/good-practices-for-consumer-protection-and-financial-literacy-in-europe-and-central-asia> accessed 27 May 2024.

<sup>121</sup>United Nations Conference on Trade and Development, 'Manual on Consumer Protection' (UNCTAD, 2017) <https://unctad.org/webflyer/manual-consumer-protection> accessed 27 May 2024.

The action plan should clearly define the tasks, deadlines, and assigned roles for each reform initiative, ensuring a structured and coordinated approach to implementation.<sup>122</sup> Regular progress reviews and updates should be conducted to monitor the implementation status and make necessary adjustments.

**3.6.1.2. Resource Planning** Implementing these reforms will require significant resources, including financial resources, human resources, and technical expertise. The implementation strategy should include a detailed resource planning component that identifies the required resources for each activity, potential sources of funding (e.g., government budgets, development partners, private sector contributions), and a plan for resource mobilization.<sup>123</sup> This component should also outline strategies for efficient resource allocation, prioritization, and effective utilization of available resources.

**3.6.1.3. Stakeholder Engagement Plan** Effective stakeholder engagement is crucial for the successful implementation of the reforms. The strategy should include a stakeholder engagement plan that outlines mechanisms for regular consultation and collaboration with regulatory bodies, consumer associations, business groups, civil society organizations, and development partners.<sup>124</sup> This plan should identify key stakeholders, their roles and responsibilities, and methods for soliciting their input and feedback throughout the implementation process. Stakeholder engagement can take various forms, such as public consultations, workshops, advisory committees, and online platforms for feedback and collaboration.

**3.6.1.4. Monitoring and Evaluation Framework** To track progress and ensure accountability, the implementation strategy should include a robust monitoring and evaluation framework.

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<sup>122</sup>World Bank Group, 'Implementation Completion and Results Report on a Credit in the Amount of SDR 8.3 Million to the Republic of Rwanda for a Competitiveness and Enterprise Development Project' (World Bank, 2013)

<http://documents.worldbank.org/curated/en/525881468107371593/pdf/ICR26480P079950IC0disclosed030280130.pdf> accessed 27 May 2024.

<sup>123</sup>United Nations Conference on Trade and Development, 'Manual on Consumer Protection' (UNCTAD, 2017) <https://unctad.org/webflyer/manual-consumer-protection> accessed 27 May 2024.

<sup>124</sup>Organisation for Economic Co-operation and Development, 'Consumer Policy Toolkit' (OECD, 2010) <https://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm> accessed 27 May 2024.

This framework should define clear milestones, performance indicators, and targets for each priority area, as well as mechanisms for data collection, analysis, and reporting.<sup>125</sup> Regular progress reviews and evaluations should be conducted to identify areas for improvement and make necessary adjustments. This framework should also include provisions for independent audits and oversight to ensure transparency and accountability.

**3.6.1.5. Risk Management Plan** The implementation of legal and institutional reforms can face various risks and challenges, such as resistance to change, limited resources, or unforeseen circumstances. The implementation strategy should include a risk management plan that identifies potential risks, assesses their likelihood and impact, and proposes mitigation measures to address them.<sup>126</sup> This plan should outline contingency plans and strategies for managing and mitigating identified risks to ensure the successful implementation of the reforms.

**3.6.1.6. Public Awareness and Education Plan:** Fostering a culture of consumer protection and fair competition requires sustained public awareness and education campaigns. The implementation strategy should include a plan for developing and disseminating consumer education materials, leveraging various communication channels (e.g., traditional media, social media, community outreach), and engaging with educational institutions to integrate consumer protection topics into curricula.<sup>127</sup> This plan should also involve collaborating with various stakeholders, such as civil society organizations and media outlets, to raise awareness and promote ethical business practices.

**3.6.1.7. Capacity Building Plan** Successful implementation of the reforms will require building the capacity of regulatory staff, consumer protection units, and other relevant stakeholders.

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<sup>125</sup> United Nations Conference on Trade and Development, 'United Nations Guidelines for Consumer Protection' (2016) <https://unctad.org/topic/competition-and-consumer-policies/un-guidelines-on-consumer-protection> accessed 27 May 2024.

<sup>126</sup> World Bank Group, 'Good Practices for Consumer Protection and Financial Literacy in Europe and Central Asia' (World Bank, 2010) <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/753671468339588332/good-practices-for-consumer-protection-and-financial-literacy-in-europe-and-central-asia> accessed 27 May 2024.

<sup>127</sup> United Nations Conference on Trade and Development, 'Manual on Consumer Protection' (UNCTAD, 2017) <https://unctad.org/webflyer/manual-consumer-protection> accessed 27 May 2024.



The implementation strategy should include a capacity building plan that outlines training programs, workshops, and other initiatives to enhance knowledge and skills in areas such as consumer protection laws, investigation techniques, dispute resolution, and consumer education.<sup>128</sup> This plan should also address the need for ongoing professional development and knowledge-sharing opportunities to ensure that stakeholders remain up-to-date with best practices and emerging trends. By developing a comprehensive implementation strategy that addresses these key elements, the government can ensure that the proposed legal and institutional reforms are implemented in a coordinated, effective, and sustainable manner, ultimately strengthening consumer protection and promoting fair competition practices in Rwanda.

### **Partial conclusion**

This chapter has examined the existing legal and institutional framework for consumer protection against unfair competition in Rwanda, and identified specific measures to strengthen it. The analysis has shown that while Rwanda has made progress in establishing a legal and regulatory framework for consumer protection, significant gaps and challenges remain in terms of the scope and clarity of legal provisions, the effectiveness of enforcement mechanisms, and the capacity of regulatory institutions. To address these issues, the chapter has proposed a range of legal and institutional reforms, including amending the Competition Law to provide clearer and more comprehensive prohibitions on unfair business practices, enacting a unified Consumer Protection Law, and granting stronger enforcement powers to regulatory authorities. It has also recommended measures to enhance the institutional capacity of consumer protection agencies, such as providing adequate resources and funding, establishing specialized units, and improving inter-agency coordination. The chapter has emphasized the importance of prioritizing and sequencing these reforms based on their feasibility, impact, and resource requirements. It has suggested a phased implementation strategy that starts with short-term priorities and progresses to medium- and long-term goals, with clear timelines, performance indicators, and stakeholder engagement mechanisms. The next chapter will provide a synthesis of the key findings and recommendations from the analysis, and offer concluding reflections on the way forward for consumer protection reform in Rwanda.

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<sup>128</sup> Organisation for Economic Co-operation and Development, 'Consumer Policy Toolkit' (OECD, 2010) <https://www.oecd.org/sti/consumer/consumer-policy-toolkit-9789264079663-en.htm> accessed 27 May 2024.

## **GENERAL CONCLUSION AND RECOMMENDATIONS**

This dissertation has examined the legal framework for consumer protection against unfair competition practices in Rwanda, focusing on the challenges and limitations in the existing laws, regulations, and institutional arrangements. The analysis has shown that while Rwanda has made significant strides in establishing a legal and regulatory framework for promoting fair competition and protecting consumer rights, there are still significant gaps and weaknesses that need to be addressed.

The study has identified several key challenges, including the lack of a clear and comprehensive definition of unfair competition in the existing legal framework, the fragmented and sector-specific approach to consumer protection regulation, the limited administrative powers and resources of regulatory authorities, and the weak enforcement mechanisms and redress options available to consumers.

To address these challenges and strengthen the legal framework for consumer protection, the study has proposed a range of legal and institutional reforms. These include amending the Competition Law to provide clearer and more comprehensive prohibitions on unfair business practices, enacting a unified Consumer Protection Law to harmonize the fragmented legal framework, granting stronger enforcement powers to regulatory authorities, and establishing specialized consumer protection units within each regulatory agency.

The study has also emphasized the importance of enhancing the institutional capacity of consumer protection agencies by providing adequate resources and funding, improving inter-agency coordination and information sharing, and investing in training and capacity-building programs for regulatory staff.

To ensure the effective implementation of these reforms, the study has recommended a phased approach based on short-, medium-, and long-term priorities, with clear timelines, performance indicators, and stakeholder engagement mechanisms. This will require sustained political will, resource mobilization, and collaboration among all relevant stakeholders, including government agencies, consumer associations, business groups, and development partners.

In conclusion, strengthening consumer protection against unfair competition practices in Rwanda requires implementing comprehensive legal and institutional reforms. These reforms should prioritize amending laws, establishing regulatory bodies and mechanisms, investing in capacity building, and promoting public awareness. By doing so, Rwanda can foster fair market competition, safeguard consumer rights, and drive inclusive economic growth.

**The following specific recommendations are made for the consideration of policymakers, regulators, and other stakeholders:**

1. Prioritize the amendment of the Competition Law to provide a clear and comprehensive definition of unfair competition and strengthen the administrative powers of the Rwanda Inspectorate and Competition Authority (RICA).
2. Enact a unified Consumer Protection Law that harmonizes the fragmented legal framework and provides a clear and accessible set of consumer rights and remedies.
3. Establish specialized consumer protection units within each regulatory agency, with dedicated staff and resources to handle consumer complaints and investigations.
4. Provide adequate funding and resources to consumer protection agencies to enable them to effectively carry out their mandates, including investing in training, technology, and infrastructure.
5. Develop clear mechanisms for inter-agency coordination and information sharing to ensure a coherent and consistent approach to consumer protection enforcement.
6. Invest in consumer awareness and education programs to empower consumers with knowledge of their rights and how to seek redress for unfair practices.
7. Foster a culture of compliance and accountability among businesses by promoting best practices, providing guidance and support, and imposing appropriate sanctions for violations.
8. Strengthen partnerships and collaboration with regional and international consumer protection networks to learn from best practices and build technical capacity.

By implementing these recommendations and pursuing a comprehensive and sustained approach to consumer protection reform, Rwanda can become a regional leader in promoting fair competition and safeguarding consumer rights, while unlocking the full potential of its markets to drive inclusive and sustainable economic growth.

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