



Privatisation Initiative in Botswana: Any Bearing on Competition?

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One of the key economic liberalisation initiatives that has been pursued in many developing countries is privatisation. Botswana established a Privatisation Policy in 2000, and in 2005 came up with a Privatisation Master Plan, which outlines strategies, principles and practices to be followed to achieve key privatisation objectives. The country also adopted a Competition Policy in 2005, which provides a framework that integrates privatisation into a strategy for promoting a dynamic market-led economy. This briefing paper examines the relationship between privatisation and competition, highlighting implementation of the privatisation policy in Botswana and its likely impact on competition in the market. The paper also attempts to outline some competition aspects associated with privatisation that the competition authority may look into once it becomes operational in the country.

Introduction

Privatisation has been widely promoted as a means of improving economic performance in developing and transition economies. However, the policy remains controversial. Empirical evidence on the impact of privatisation on economic performance suggests that if privatisation is to improve performance in the longer-term, it needs to be complemented with policies that promote competition and effective state regulation¹. The overriding reason for privatisation in most instances, as also in Botswana is to promote competition, improve efficiency and increase productivity in the relevant sectors. The role of competition in the privatisation process also needs to be understood. If issues of anti-competitive practices before and after privatisation are not properly addressed, the intended benefits from privatisation may not be realised, or if realised, would be at the expense of the welfare of consumers.

Botswana is one of the countries that are currently undertaking a privatisation exercise, following the adoption of a Privatisation Policy in 2000. This policy was an outcome of a three-year nation-wide consultation by a 13-member taskforce. The Government also established the Public Enterprises Evaluation and Privatisation Agency (PEEPA) as an autonomous agency whose mandate is to carry out the twin tasks of effective monitoring and evaluation of public-owned enterprises

and companies; and advising Government on the commercialisation and privatisation processes. The overriding reason for privatisation in Botswana was increasing citizen's participation in the ownership of national assets, accelerating the rate of economic growth by stimulating entrepreneurship and investment, as well as reducing the size of the public sector. In 2005, there were 27 parastatal enterprises that were listed as potential candidates for privatisation².

To date³, none of the companies targeted has been successfully privatised, after Air Botswana (the first entity for privatisation) came close to it in 2007, before the deal collapsed. It is also important to note that although a competition policy is in place, Botswana has not yet put in place a competition law, which is, however, now at an advanced stage of finalisation and adoption.

Privatisation

A narrow definition of privatisation can be the transfer of ownership of public enterprises from government to private hands. This is usually done through selling all or some of the assets of public enterprises or other public entities to the private sector. This particular form of privatisation is often termed as divestiture, which may also be done by liquidation of assets to distinguish it from other forms of privatisation⁴.

Defined broadly, privatisation is much more than this: **privatisation encompasses all the measures and policies aimed at strengthening the role of the private sector in the economy.** However, privatisation does not involve government in discarding any of its core responsibilities for the safety and welfare of its citizens. It is widely recognised that privatisation is a political process as well as a commercial and economic one. Privatisation changes distribution of power within a society, as it curtails the control of the state over economy. Therefore, public support is a major consideration in any privatisation programme and many of the choices made in designing and implementing transactions reflect the need for such support.

Categories of Privatisation
<p>Privatisation takes many forms, covering a vast array of government assets, enterprises and operations. The nature of the assets being privatised or to be privatised provides a useful means of classification. Broadly, privatisation efforts can be classified as asset transfers, outsourcing and enterprise transfers.</p> <p>Asset transfers: transfer from the public to the private sector of non-operating assets, such as physical property (land, buildings, equipment, machinery, etc.) and the transfer from the public to the private sector of asset based (typically infrastructure) operations, such as water, wastewater, ports, airports, roads, railways and similar assets.</p> <p>Outsourcing: occurs when the government contracts from the private sector for services or products are being or have traditionally been performed or provided by government employees. Responsibility for service or product delivery is delegated to the supplier/contractor while the government retains oversight authority.</p> <p>Enterprise transfer: transfer of ownership from the public to the private sector of an operation or function (a going concern), which is producing a marketable good or service. The transfer may include people, intellectual property, facilities and other assets.</p>

Privatisation and Competition

The general trend in most developing countries is that most public institutions are statutory monopolies. In this context, privatisation is taken as a means of bringing the firms to competition by promoting entrance and taking monopoly out of the market. This is largely due to the fact that privatisation of the institution results in the removal or relaxation of some of the stringent conditions that had been protecting the institution from competition when it was government owned. This creates a level playing field in the industry, and new players often enter to compete with the monopoly. As a result, there is a direct link between privatisation and competition whereby former is generally regarded as one way of opening avenues for more competition and therefore better service provisions in the relevant sector.

It is also important to note that privatisation of monopolies could lead to transfer of monopoly power from the public to private sector, and given the objectives of the private sector (unlike the government, the private shareholders' main interest would largely be profits), there might be substantial harm to the consumers. The interests of the consumers would be at stake in such a scenario, and there would be need for proper implementation of competition policy. The private monopoly would try as much as possible to maximise profits, and this can be done through output restrictions and excessive pricing, or other anti-competitive behaviour aimed at consolidating its monopoly position. Attempts at entrance by other firms in response to the high profits may be met with predatory behaviour by the monopoly, such that no other enterprise would be able to enter.

In a study on the effects of privatisation on firms and social welfare, Fisher, Cutierrez and Serra (2002) analysed in detail the effects of privatisation on the performance of telecommunications and the electric sector in Chile and found confirmation of the fact that in the regulated, natural monopoly sectors profits increased immediately after privatisation, whereas in sectors that are characterised by competition, profits have been lower⁵. As a result, before privatisation, the government should ensure firstly that it has proper mechanisms in place to control the behaviour of the monopoly after the exercise, and the best way to do this is through a comprehensive competition law.

There are also some government-owned institutions that are not statutory monopolies and are in competition with privately owned institutions. The trend at most of these organisations is that they tend to be less efficient compared to their privately owned counterparts, as their performance is affected by government intervention; in some instances being forced to undertake loss making projects as a way of promoting government social commitments. On being privatised, most of these responsibilities would be removed and the companies would have to pursue a new objective of maximising their shareholder value.

The performance of a privatised institution is expected to improve as a result, in terms of efficiency, output and profit making. Boubakri and Cosset's (1998)⁶ examined the financial and operating performance of newly privatised firms belonging to various industries in general. Their main findings were sales, profits, investment, and operating efficiency increased following privatisation, including employment. Empirical research on the impact of privatisation on financial and operating performance, labour, fiscal balances and distributional equity largely confirms the view that privatisation can be beneficial for firms operating in a competitive market structure in middle-income countries⁷.

As a result, the industrial concentration patterns are also expected to change in the sector in which a parastatal has been privatised, and normally, the government would give the privatised firm the necessary backing for it to quickly gain a foothold to the extent that it can even become dominant. On the other hand, other players may also engage in behaviour that is aimed at ensuring that the company would not succeed due to fear of increased competition. Thus, privatisation can not be looked at in isolation: there is always a need to ensure that privatisation policies are backed by sound competition laws.

Privatisation Policy in Botswana

Unlike many other countries, Botswana's Privatisation Policy was not imposed by international donors or as part of structural adjustment programmes⁸. Rather it was undertaken as a means to enhance efficiency in the economy and improve productivity.

The Privatisation Policy for Botswana (Government Paper No.1 of 2000)⁹ was a legislation enacted by Parliament in January 2000. Its policy objectives include:

- (i) promoting competition, improving efficiency and increasing productivity of enterprises;
- (ii) increasing popular participation in the ownership of national assets;
- (iii) accelerating rate of economic growth by stimulating entrepreneurship and investment;
- (iv) withdrawing from commercial activities which no longer need to be undertaken by the public sector;
- (v) reducing the size of the public sector; and
- (vi) relieving the financial and administrative burden of Government in undertaking and maintaining a constantly expanding network of services and investment in infrastructure.

The Privatisation Policy also provides for the establishment of an institution, PEEPA to help in the implementation of the policy. The mandate of PEEPA is to advise on and oversee all aspects of the implementation of commercialisation and privatisation process on behalf of the Government as well as to monitor the performance of public entities with a view to assess whether they are meeting their objectives and targets. PEEPA is also mandated to advise Government on the appointment of directors of public enterprises and monitor their performance.

Following its establishment, PEEPA carried out a major review of the operations and activities of public enterprises, including the

examination of opportunities for private sector participation in activities of central government departments and local authorities. The review culminated in the development and adoption of the Privatisation Master Plan (2005). This Master Plan outlines strategies, principles and practices to be followed to achieve privatisation objectives and the regulatory, institutional and legal changes that are required to ensure effective implementation of the policy. It is also important to note that privatisation is now part of a competition policy process after Botswana's national competition policy was adopted in August 2005. The competition policy provides a coherent framework that integrates privatisation, deregulation, and liberalisation of trade and investment into a strategy for promoting a dynamic market-led economy.

Methods of privatisation that have been adopted by the Government for implementation of the privatisation process include divestiture, contracting out (outsourcing) and public-private partnerships (PPPs)¹⁰. However, privatisation in Botswana has not yet started despite the policy being in existence for seven years now. The privatisation of Air Botswana, which was largely expected to be the first initiative, failed to take off and gives an indication to some of the challenges towards privatisation in Botswana.

According to the Privatisation Master Plan (2005), the Government has chalked out a sequence for the privatisation of Public Enterprises (PEs) in the country, as has been illustrated in the table below:

Privatisation Decisions →	Desirable under current conditions and immediately feasible	Desirable under current conditions but not immediately feasible	Not desirable under current conditions
Public Enterprises	<ul style="list-style-type: none"> • Air Botswana; • Banyana (PTY) Ltd • Botswana Agricultural Marketing Board • Botswana Building Society • Botswana Export Credit Insurance and Guarantee Company • Botswana Telecommunication Corporation • Botswana Vaccine Institute • Botswana Meat Commission. 	<ul style="list-style-type: none"> • Botswana Housing Corporation • Botswana Post • Botswana Power Corporation • Botswana Railways • Botswana Savings Bank • National Development Bank • Water Utilities Corporation¹¹. 	<ul style="list-style-type: none"> • Botswana Development Corporation • Botswana Motor Vehicles Accidents Fund • Rural Industries Promotion Company • Botswana Technology Centre • Botswana National Productivity Centre • Botswana Export Development and Investment Authority.

Likely Impact on Competition

Given that the privatisation drive in Botswana has not yet kicked off, its likely impact on competition is largely speculative. Statutory monopolies are also part of the targeted candidates, and the danger of the monopoly being transferred from Government, which has social responsibilities, to private shareholders motivated by profits is quite apparent. The privatisation policy paper specifically mentions that the promotion of competition will be given a high priority on the policy agenda. It was mentioned that a competition law will be developed to regulate policy issues involving anti-competitive practices in relation to the privatisation process. It therefore appears that the aim was to have the anti-competitive effects of privatisation being handled by the competition authority.

However, the privatisation initiative has gathered momentum at a time when the competition law is not yet in place. Moreover, the policy does not firmly mention how the welfare effects of transforming public monopolies into private ones will be dealt with. Thus, the privatisation process is likely to have negative effects on competition. The exercise, in case of statutory monopolies, should also be preceded by the repealing of such statutes to allow for competition as a means of controlling high service charges and prices. This is yet to be done. However, there is still hope, given that statutory monopolies have not yet been privatised fully and the competition law is also in the process of being finalised.

Most of the targeted institutions offer critical public services, making it very likely that outsourcing is the likely privatisation strategy with the government retaining control. This can still have a significant impact on competition. It might be possible to outsource to more than one supplier, resulting in competition for the service by interested parties. Even when outsourcing to a single supplier is desirable, there is still scope for competition through a transparent and competitive outsourcing process where initial tendering as well as periodic re-tendering may give rise to competition for the service.

A look at the competition scenario in a few selected sectors which are likely to be affected by the exercise, such as banking sector, the telecommunications sector, and the meat and meat products sector might shed some light on the likely impact of the exercise on competition.

■ *Banking Sector*

The state of competition in the banking sector in Botswana is currently quite limited. In 2000, the market was highly concentrated, as reflected by the three-firm-concentration ratio (CR3) of 79.¹² Market concentration refers to the extent to which the market is controlled by a few large firms. Using the Bank of Botswana's 2006 Banking Supervision Annual Reports figures, and

calculating market shares in terms of branch network, the market is still highly concentrated, with a four firm concentration ratio (CR4) of 95 in 2005, which improved slightly to 93.9 in 2006 following the entrance of Bank Gaborone among other factors. A CR4 of more than 75 is generally used as a benchmark in determining high concentration. This implies that there are potentials for anticompetitive practices in the banking sector if dominant firms' behaviour is not regulated.

It is important to note that there are two state-owned banks, the Botswana Savings Bank and the National Development Bank (NDB). NDB currently does not offer services, such as accepting deposits and foreign exchange transactions, as it focuses largely on loan financing, as per the statutory provision guiding its establishment. It is, therefore, not included in the competition scenario described above. If the institution is privatised, there is little doubt that its mandate will extend to all banking activities as it will no longer be under the statutory obligation. Thus, it is very likely that concentration levels will decline following privatisation. Also, it is likely that the market will become relatively more competitive compared to the current scenario. It is also important to note that Botswana Building Society, another parastatal in the financial sector, is the only building society in Botswana, a situation which is unlikely to continue after privatisation, as state protection would be removed. Thus, privatisation is likely to be good for competition in the sector.

■ *Telecommunications Market*

The Botswana Telecommunications Corporation (BTC) used to be a monopoly in the provisions of all public communication services prior to the Botswana Telecommunications Corporation (Amendment) Act, 1996 which eliminated this monopoly. The amendment was in line with Botswana's adoption of market liberalisation and allowed the embracement of mobile technology. BTC continues to be a monopoly in the fixed-line communication network, but the introduction of mobile technology created effective competition.

In 1998, the regulatory authority, Botswana Telecommunications Authority (BTA) licensed two new market entrants – Mascom Wireless (PTY) LTD (Mascom) and Vista Cellular (PTY) LTD – to provide mobile cellular services. The presence of the two competitive mobile operators forced BTC to realise that if it did not provide the level of service customers demanded then they would lose their business to another service provider. The subsequent licensing of other service providers, such as internet service providers (ISPs) and data service providers have increased competition in the sector. The Government has been subsidising BTC to keep it in competition, as shoddy service would have driven it out of the market.

BTC's telephone market share fell from a high of 100 percent before the introduction of mobile services in 1998 to around 20 percent six years later. Mobile telephone has, on the other hand, grown rapidly, capturing an 80 percent market share. The reasons for this are two fold. First, the demand for fixed line telephony was not being fulfilled by BTC at the time that mobile operators began operating in the market. But more devastating for BTC was the loss of trust that resulted from a billing fiasco in 2000. Some clients went without bills for six months, and were then either sent huge or incorrect bills. People terminated their fixed line services in droves and switched to mobile completely¹³. The implication then is that the monopolised fixed-line telephone segment of the market is not efficiently run, hence the loss of confidence from subscribers. The listing of BTC as a candidate for privatisation gives more credence to expectation of better service to give more competition to the mobile service operators. Allowing BTC to be in private hands may also give more incentives for other players to enter the currently statutorily monopolised fixed line segment of the market. Thus, privatising the institution is likely to improve competition in the market.

■ *Meat and Meat Products Market*

The Botswana Meat Commission (BMC) is on the list of feasible candidates for privatisation. It is important to note that BMC is currently a statutory monopoly in the beef export market (beef, canned meat and live cattle). It is also solely responsible for the slaughter of livestock for BMC and only its abattoirs can be used. The BMC Act states that no permit shall be issued to anyone interested in entering the export market by the Minister, without the concurrence of BMC unless it is in the public interest to do so. In addition, no slaughter house shall be licensed as an export slaughter house unless it is operated directly or indirectly in association with BMC. It is, therefore, quite apparent that currently the market is very anti-competitive¹⁴. With privatisation, the Government will no longer have any incentive to maintain all these restrictions, and their removal may see the beef export market becoming relatively more competitive.

BMC is also an active player in the supply of beef for the domestic market. It is in direct competition with about 12 other private players.¹⁵ However, given the advantages that BMC has, in terms of state assistance and protection, the nature of competition can not be regarded as fair. This was also reflected by the nature of market concentration in 2000, where, despite the fact there were 29 registered players in the meat and meat products market (all meat can be regarded as a substitute for beef, hence they are all in the same market), the market was almost a pure monopoly in terms of a CR3 figure of 100 for the periods 1995, 1997 and 2000¹⁶. At most, only three players were active. Given the large number of interested players, it is quite apparent that the beef market has potential to become more competitive once BMC is privatised and the market becomes more open after removal of statutory restrictions.

Stakeholders' Views

The failed privatisation of Air Botswana demonstrates the extent to which stakeholders are against privatisation. Workers and political parties in Botswana were at the forefront in denouncing privatisation moves. The Botswana Federation of Trade Union produced a 30-page report, outlining why they are opposed to privatisation.¹⁷ The opposition Botswana Congress Party (BCP) threatened to take the legal route to halt the process. Another opposition party, the Botswana National Front (BNF) also said it rejects privatisation.

The reasons given for different stakeholders' rejection includes fears that the exercise would:

- (a) undermine national self-determination as it may result in the take over of such vital sectors by the foreign capital because the majority of the citizens are either too poor or barely survive on meagre incomes or have the inclination or and capacity to buy shares;
- (b) deny the poor vital services as Botswana ranks among the most inequitable and poverty-stricken countries in the world, and electricity, water and telecommunications are already reputed to be expensive by regional standards, such that privatisation would lead to an increase in charges for such services and hurt the poor;
- (c) undermine development, as people-centred development requires fundamental restructuring of the economy. This cannot be left to the market forces, which are only driven by profit maximisation. State control of vital assets provide a strategic lever to stimulate development, both by extending infrastructure and production and by maintaining cross-subsidies for poor, small and medium scale enterprises;
- (d) worsen unemployment and poverty, as Botswana's economy is characterised by unacceptably high levels of unemployment and poverty, which have persisted despite impressive economic growth rates. The restructuring of various parastatal corporations in preparation of privatisation has already resulted in job losses. Full-scale privatisation is likely to lead to further job losses; and
- (e) erode democratic control, as public enterprises are the embodiment of public funds, they were set up with the tax payer's money; hence, in principle, they can be held accountable by the electorate. But as private business they operate under a cloak of 'commercial confidentiality' because of cut-throat competition. Hence privatisation means that the affairs of the nation will be entrusted to undemocratic, unelected and therefore unaccountable private businesses¹⁸.

This shows that privatisation in Botswana may not result in most of the anticipated competition benefits as it is quite apparent that the Government did not embark on a consultative process to educate the various stakeholders on the need and benefits from privatisation. This has been compounded by the delay in getting the competition law off its feet. There is need for more public education on privatisation, as acceptance by stakeholders is key foundation for the policy to be able to derive benefits. One of the points that could be included in consultation and advocacy programmes is to use the success of the telecom sector to demonstrate how competition could be useful.

Conclusion

Although the privatisation initiative in Botswana can be regarded as a well planned initiative since it is backed by a general commitment to embrace market-oriented reforms, with a competition policy in place to complement it the exercise can give rise to anti-competitive concerns, particularly given that the competition law to control the behaviour of the privatised institutions is yet to be finalised.

It has also been noted in the paper that most of the institutions targeted for privatisation are statutory monopolies, and the drive has not yet put in place measures of safeguarding the public against the concerns associated with converting an institution from being a public monopoly into a private monopoly. Again this is worsened by the absence of a competition law and agency to deal with the concerns when they arise. The exercise however is generally expected to be pro-competition, as it allows some sectors that could not be accessed due to statutory provisions to become open.

The paper also demonstrates the extent to which the Government did not involve the important stakeholders in the initial stages to allow the stakeholders to feel part of the process. Politicians and labour representatives bring well argued reasons for their refusal of the initiative, which the Government has to address for their acceptance. Only the business sector has accepted the initiative largely because of opportunities that will come out once the exercise commences. Unless the initiative is accepted by all stakeholders, the privatisation initiative in Botswana can not bear much fruit.

Endnotes

- 1 Kirkpatrick C, Parker D and Yin-Fang Zhang (2003), 'Regulatory Impact Assessment in Developing and Transition Economies: A Survey of Current Practice and Recommendations for Further Development', Centre on Regulation and Competition Institute for Development Policy and Management, University of Manchester UK.
- 2 J Galaforolwe, CEO, PEEPA , interview with M&G, issue 21, Feb-May 2005.
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- 4 Republic of Botswana (2000), 'Privatisation Policy for Botswana', Government Paper No. 1, 2000.
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- 6 Boubakri, N and Cosset J.C (1998), 'Privatisation in Developing Countries: An analysis of the performance of newly privatised firms', Public Policy for the Private Sector, Note No. 156, Nov 1998
- 7 Boyko, Shleifer and Vishny, (1996), 'A Theory of Privatisation', Economic Journal, 106: 309-19
- 8 Bidpa, 2002, Economic Mapping for Botswana.
- 9 Supra note 4.
- 10 This is a contract between a public institution and a private party whereby the private party performs an institutional function and/or uses state property in accordance with agreed output specifications.
- 11 Botswana Federation of Trade Unions (2006), 'Position Paper on Privatisation in Botswana'.
- 12 Supra note 8.
- 13 Sebusang S, Shedden M and Joseph Chumai (2005) in 'Towards an African E-Index : ICT Access and Usage', Chapter 3.
- 14 Supra note 8.
- 15 African Directory Services, 2006.
- 16 Supra note 8.
- 17 Supra note 11
- 18 Obtained from allafrica.com website.

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