THE AFRICAN CLIMATE FOUNDATION

THE 'SUPERMARKETISATION' OF AFRICAN FOOD SYSTEMS:

implications and responses

POSITION PAPER 02

#THECOPWENEED

1. INTRODUCTION

Supermarkets are a growing route to market for fresh and processed foods in many countries in Africa and are integral to food security for the continent in several ways. They increasingly act as 'gatekeepers' to end-consumers in food value chains, shaping the development and upgrading path of food growers and processors. This makes them a key player in the fight against climate change in the food industry, which is a major contributor to greenhouse gas (GHG) emissions, accounting for a third of global emissions (Crippa et al., 2021).

As part of commitments to COP26 in 2021, five of the UK's largest supermarket chains pledged to '*halve the environmental impact of a weekly food shop by the end of the decade*', primarily through reductions in carbon emissions, deforestation, food waste and packaging (Lee, 2021). The main South African supermarket chains have also made independent commitments over the past ten years to combat climate change, releasing position statements on efforts to reduce GHG emissions; improve energy efficiency in direct operations and in supply chains; increase the use of renewable energy; encourage more sustainable sourcing (which translates to more sustainable farming and food production practices); and accelerate shifts to reusable packaging, among others.[1]

These commitments, while recognising the substantial impact of the food industry on climate change, also need to reflect an appreciation of the converse – the impact of climate change on the four commonly cited dimensions of food security: availability, accessibility, utilisation, and food systems stability (FAO, 2008). Clapp et al. (2021) and IPES-Food (2020) have further argued for the addition of two more dimensions – agency and sustainability – given widening inequalities in food systems and the close interconnection between ecological systems and food systems. Supermarkets are integral for all six dimensions of food security, and the commitments they make with regards to climate change must also reflect their lead role in ensuring food security more generally.

This position paper emphasises that there is an urgent need to engage even more closely with supermarkets both in and out of Africa for food system transformation, development and sustainability on the continent. We argue that this requires addressing sustainability together with matters of competition and inclusion to ensure greater and more diverse participation in food systems. These cannot be viewed as separate agendas. They should be covered by a common 'Sustainability Compact' which will support food systems transformation to the benefit of all stakeholders.

'Supermarketisation', the trend in which food sales increasingly occur through the supermarket format of grocery retail, has a profound effect on food systems. Although not to the extent predicted by scholars in the early 2000s, supermarketisation has had, and continues to have, important implications for consumers, food producers and other food retail models in Africa.

As lead players that govern several key food value chains, supermarkets create opportunities for suppliers and affect their participation, innovation and upgrading along these chains. This has important implications for economic, social and environmental sustainability. But as past research has shown, suppliers must also meet stringent and escalating requirements and private standards to access supermarket shelves (see, for instance, Das Nair, 2020; 2019; Das Nair, Chisoro and Ziba, 2018). Pledges on climate change mitigation such as those by South African and UK supermarkets also necessarily affect their supply chains and shift certain associated costs and risks to suppliers, putting pressure on their margins.

Concentration in supermarket chains raises concerns of their substantial buyer power, depressing purchase prices or imposing costs on suppliers through various fees, terms and supply conditions. It is often only large suppliers who can meet or counter these trading terms, and small and medium-sized (SME) farmers and processors may be excluded from supplying through supermarkets. This reinforces high concentration levels in food markets, with control of production and distribution of food in the hands of a few players. Growing concentration levels are a grave concern in terms of contributing to rising inequality and anti-competitive behaviour, with impacts on food security.

In recognition of the power that modern supermarket chains wield in shaping participation and upgrading and investments in supply chains, countries like Australia, New Zealand, Kenya, South Africa, Namibia and those in Europe have intervened in different ways. Interventions have included competition authority-led market inquiries or investigations; the introduction of new legislation to deal with buyer power and unfair trade practices; private (and joint public) sector initiatives on supplier development programmes; mandatory and voluntary codes of conduct for supermarkets; industrial, agricultural and trade policies; and non-profit organisation and civil society efforts to monitor the eco-impact of foods on supermarket shelves.[2]

This position paper focuses on findings from extensive research undertaken by the Centre for Competition, Regulation, and Economic Development (CCRED) on supermarkets and their supply chains, highlighting the challenges that suppliers (particularly SMEs) face, and the wider implications for climate change mitigation efforts (Section 2). Our assessment demonstrates why it is essential to urgently engage with supermarkets for food systems transformation in Africa, and the potential for supermarkets to be at the forefront of inclusion and sustainability in food value chains. The interventions globally in the sector are then explored (Section 3) with the aim to develop a proposal on a way forward for a Sustainability Compact in which supermarket chains make concrete commitments towards more inclusive and sustainable supply chains (Section 4). This includes undertakings both on their behaviour towards suppliers as well as active investments in their supply chains to mitigate climate change, in collaboration with other stakeholders.

2. A BRIEF OVERVIEW OF SUPERMARKETISATION TRENDS IN AFRICA

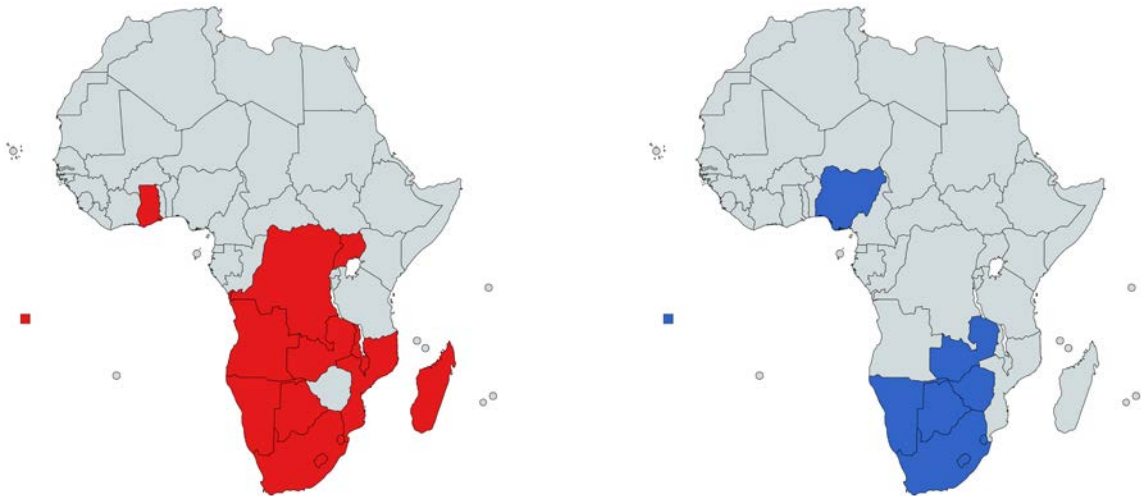
Supermarketisation has occurred rapidly in South Africa. The growth of supermarkets in other sub-Saharan African countries has been much slower, with only Kenya in East Africa and certain countries in Southern Africa seeing considerable growth and spread of African supermarket chains. There remains considerable variability in the degree of supermarketisation across regions in Africa, and between countries within regions. In many African countries, traditional, independent retailers, many of whom operate in informal markets, remain the cornerstone of socioeconomic systems and continue to collectively dominate routes to market for food and personal care products (Ivers et al., 2022).

Notwithstanding the slower than anticipated supermarketisation trends in Africa, the chains that are present on the continent hold considerable power to shape the food value chains that they are part of. This, in turn, has implications for participation and development in food production and processing levels affecting supply even to independent retailers. This also has substantial impacts on consumers and other food retail formats, as we discuss below.

Generally, there has been a 'regionalisation' of African-owned supermarket chains, rather than the 'internationalisation' of global multinationals and transnational corporations in Africa (Das Nair, 2021; 2019). The only large non-African chains that have entered the continent are the USA's Walmart, through its acquisition of South Africa's Massmart, and France's Carrefour. As seen in Figure 1, the South African chains tend to dominate in the Southern African region, with Shoprite Holdings being the largest in 13 African countries, followed by Pick n Pay in eight.

From a consumer perspective, growing urbanisation in Africa has driven the demand for supermarket formats

FIGURE 1: AFRICAN FOOTPRINT OF TWO LARGE SOUTH AFRICAN SUPERMARKET CHAINS



Shoprite is present in 13 African countries

Pick n Pay is present in 8 African countries

Source: Authors' own illustration based on company annual reports

and offerings, with consumers looking for daily food and non-food products in convenient settings and locations, providing an overall customer experience ('one-stop-shop') (Basker and Noel, 2013; Betancourt, 2006; Betancourt and Malanoski, 1999). Sophisticated, modern supermarket models have transformed procurement practices, allowing for quick responses to consumer demand, and in many ways, also shaping this demand. Supermarkets do this by collecting vast quantities of consumer data (big data) on purchasing patterns, enabled by digital technologies, which they use to shape their supply chains. Through shelf layout and space allocation, as well as low pricing, promotions, advertising and packaging, supermarkets can influence consumer purchasing habits.

While offering benefits to consumers, greater access to cheaper, highly processed energy-dense foods and sugar-sweetened beverages in countries like South Africa has seen marked shifts in consumption patterns. An increase in the overall energy intake of over 50% has been estimated between 1994 and 2015 because of overconsumption of such foods, leading to obesity concerns (Mielmann, 2019). Combined with the spread of supermarket chains to peri-urban and rural areas in South Africa, lower-income consumers are disproportionately affected, with serious public health consequences (Battersby, 2011). In Africa more broadly, this exacerbates the rapidly growing double burden of malnutrition (the coexistence of undernutrition along with overweight and obesity), or diet-related non-communicable diseases, within individuals, households and populations (Reardon et al., 2021).

Supermarketisation also impacts other models of food retail. In countries like South Africa, the spread of supermarkets has led to the displacement of independent retailers and specialist food stores like butcheries and bakeries, and limited line greengrocers. This has also been because of strategic behaviour on the part of the large supermarket chains aimed at keeping rival offerings out of malls and shopping centres through exclusivity practices with mall landlords (see Section 4; Competition Commission of South Africa, 2019). Displacement of informal small shops ('spaza' shops in the case of South Africa) in peri-urban and rural areas has also raised concerns about access to personalised products and services, the future of township economies and the loss of a diversity of retail models. While there are models of independent retailers, such as those under buyer groups, showing some resilience in South Africa, the barriers to entry and expansion remain high (Competition Commission of South Africa, 2019).

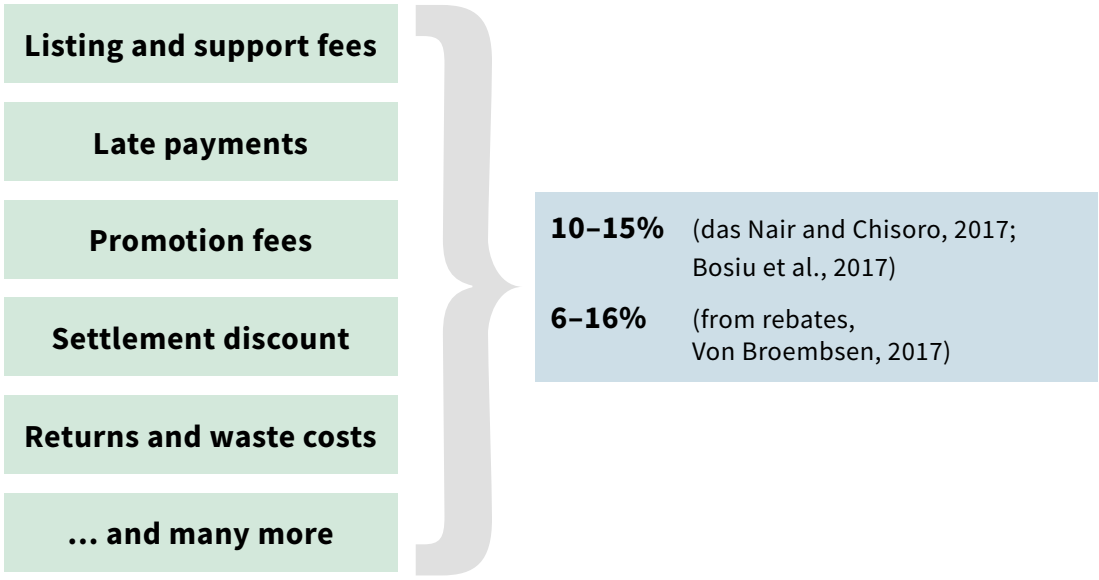
3. IMPLICATIONS FOR FRESH AND PROCESSED FOOD AND BEVERAGE SUPPLIERS

For suppliers to supermarkets (producers and processors of food and beverages, as well as suppliers of ancillary services like storage and logistics), supermarketisation opens access to larger markets, allowing suppliers to attain the scale needed to become competitive in national, regional and international markets. Supermarket chains act as 'gatekeepers' to access these larger markets, creating opportunities for the participation of food producers and processors.

But access to supermarket shelves is predicated on meeting the stringent requirements and standards of listing as a supplier. This compels suppliers to invest in developing their capabilities to meet price, quality and quantity standards, in addition to food safety and various health and safety standards at production and packaging facilities. Supermarket chains also require suppliers to meet increasingly stringent private social and environmental standards, which also speaks to the significant influence that they have in the context of reshaping supply and buyer patterns to address climate change. This necessitates regular supplier upgrading, usually in the form of product upgrading (producing higher quality and higher value-added products) or process upgrading (e.g. meeting higher food safety, hygiene or environmental standards, such as Hazard Analysis Critical Control Points (HACCP), Food Safety Management Systems (FSSC), the Marine Stewardship Council (MSC), the Aquaculture Stewardship Council (ASC) and Farming for the Future), and often both. For SME suppliers in Africa, this can be a challenge as they face a host of barriers to upgrading. Supermarket pledges, such as the ones noted above by South African and UK supermarkets, affect their supply chains, and shift at least some of the associated costs and risks to suppliers. This puts pressure on supplier margins, particularly those of smaller suppliers.

Compounding this pressure are concerns in several countries about the substantial buyer power of

FIGURE 2: COSTS THAT SUPPLIERS INCUR IN ACCESSING SUPERMARKET SHELVES



Source: Authors' own illustration based on company annual reports

supermarket chains. SME supplier margins are further squeezed by the various costs imposed on them through the exertion of buyer power because of the uneven bargaining power in negotiations of trading terms. Supermarket chains can depress the purchase prices or impose costs on suppliers through various fees, terms and conditions (Das Nair 2019; 2018). Figure 2 highlights examples of such costs in the Southern African region. Our previous studies have estimated that these costs can reduce the prices suppliers get paid by supermarkets by between 10–15%.

It is often only large suppliers who can meet or counter some of these trading terms, and SME farmers and processors are generally excluded from supplying through supermarket chain networks. This reinforces high concentration levels in food producing markets, with control of the production of food in the hands of a few players. Growing concentration levels in food systems have been highlighted as a concern in terms of rising inequality and anticompetitive behaviour, with impacts on food security (Clapp, 2021; IPES-Food, 2017; Meagher and Roberts, 2021). In South Africa, a clear dual food system has emerged since liberalisation in the 1990s, with large, often multinational food processing companies supplying key food products through formal supermarket chains, and SME suppliers forced to sell through alternative routes to market which are often precarious (Das Nair, 2021).

Effective competitive rivalry drives innovation. A lack of vigorous competition or rivalry reduces the urgency for suppliers to invest in climate change mitigation measures in their operations and in their own supply chains (for instance, investments in water management systems, energy saving technology, regenerative agriculture). Without pressure from rivals, suppliers have reduced incentives to innovate and make long-term investments, as consumers are forced to buy from them regardless of production methods given the lack of alternative options.

Weak competition curtails value-addition in food processing more generally on the continent, leading to imports of processed foods filling the gap. Developing Africa's food processing capacity and capabilities, including through stronger and more resilient regional value chains, contributes to greater industrialisation and reduces dependence on deep-sea imports. This can, in turn, reduce the carbon footprint of importing food.

Pressure from the 'Global North'?

The global sourcing of important buyers and large supermarket chains in the 'Global North' can also transfer the pressure and costs of environmental and other aspects of sustainability to suppliers in the 'Global South'. The South African wine industry provides a good example of how international buyer requirements have translated into substantial investments in grape growing and wine production.[3] For instance, the Systembolaget, or government-run Swedish monopoly responsible for purchasing wine in Sweden, requires very high social, ethical and environmental standards, particularly given the South African wine industry's troubled history. Other key buyers of South African wine include UK supermarket chains, which also set high sustainability standards. Economic, social and environmental upgrading by grape growers and wine producers has been substantial to meet these requirements.[4]

While such standards are important for sustainability, without support, producers in developing countries are unlikely to participate in global value chains. Adherence to these and other standards is expensive for suppliers and entails regular and costly audits to ensure compliance. Often value chain participants require multiple standards to access different markets, and this adds to costs and affects margins. Margins are further squeezed if large and powerful buyers force purchase prices downwards. With increasing consumer awareness and demand for environmentally sustainable products, some costs of investments in greening value chains might be passed on to consumers through higher prices, but this is difficult in the wine industry because of the perception globally of South African wine being of lower quality. Producers in developing countries should be supported to meet these requirements through supplier development programmes of large supermarkets and buyers, as we discuss in Section 5.

Pressure from the Global North also comes in the form of imposing regulations on imports from developing countries. For example, in July 2022, the European Union (EU) imposed new phytosanitary requirements on South African citrus imports, with very short lead times for producers to comply. The regulations were targeted at a native South African citrus pest. As a large export destination for South African citrus (the EU accounted for 41% of exports by value in 2021), such regulations put severe pressure and imposed substantial costs on South African exporters (Andreoni, Chisoro and Roberts, 2022).

4. SELECTED RESPONSES/ INTERVENTIONS IN FOOD RETAIL MARKETS GLOBALLY AND IN AFRICA

Distortions in food value chains, particularly because of highly skewed power dynamics, have led to interventions by competition authorities and other state actors to ensure fair treatment of farmers and other less powerful, dispersed and vulnerable players in food value chains. These have taken the form of competition interventions, including through market inquiries in several countries worldwide; newly introduced legislation on buyer power in some African countries; and legislation on unfair trade practices in Europe. We discuss a few interventions below and draw lessons from these for a Sustainability Compact, explored in Section 5.

United Kingdom

In the UK, a market inquiry by the former Office of Fair Trading (OFT) (now the Competition and Markets Authority) led to the mandatory UK Groceries Supply Code of Practice (GSCOP) in 2009, with an independent Grocery Code Adjudicator (GCA) set up in 2013 to oversee the functioning and adherence of the code. The code seeks to regulate the relationship between supermarkets and suppliers to prevent potential abuses by large supermarkets (Gov. UK, 2009). It puts certain restrictions on the purchasing practices of (currently) 14 large grocery retailers with annual groceries turnover of more than £1 billion in the UK. The GCA is funded by a levy collected from these 14 retailers and therefore is at the taxpayers' expense (Quinn, 2022). It aims to control practices which transfer excessive risks and unexpected costs to suppliers, which in turn impacts on suppliers' willingness to invest in quality and innovation.

Key elements of the code include fair dealing requirements; restrictions on unilaterally and retrospectively changing supply agreements; undertakings against de-listing suppliers without due notice; not delaying payments to suppliers; not requiring suppliers to contribute to supermarket marketing costs; not forcing compensation for shrinkage in supplier agreements and prohibitions on a range of other practices. Periodic reviews of the effectiveness of the GSCOP are undertaken, with past results suggesting that it has in certain areas improved the relationship between supermarkets and suppliers, particularly with regards to timeous payments. There have, however, also been criticisms of the usefulness and effectiveness of the GCA, particularly with respect to its lack of powers to tackle high prices during COVID-19. The UK government is holding consultations to review the GCA, due for completion in October 2022 (Gov.UK, 2022). There has been broad support from stakeholders for an independent referee with enforcement powers.[5]

Australia

In 2015, the Australian Competition and Consumer Commission (ACCC) instituted a legally enforceable voluntary Food and Grocery Code of Conduct prescribed under the Competition and Consumer Act 2010 to which some supermarket chains and wholesalers have signed up. Like the UK's GSCOP, the code intends *'to improve standards of business behaviour in the food and grocery sector, including the conduct of retailers and wholesalers towards suppliers'* (Australia Competition and Consumer Commission n.d., Food and Grocery Code of Conduct, 2010). Among other objectives, the code aims to deliver more contractual certainty in trading relations between suppliers and supermarkets, encourage the better sharing of risk and reduce inappropriate use of market power across the value chain (ACCC, n.d.). Unlike the GSCOP, the code is voluntary. This limits the powers of enforcement of the ACCC. In a 2018 independent review of the code, the recommendation was that the code should remain a prescribed voluntary code (Commonwealth of Australia, 2018). The ACCC rejected this recommendation, emphasising its stance that the code should be made mandatory, with non-compliance attracting penalties. Otherwise, it noted, there existed the ever-present risk that signatories would simply withdraw from the code when challenged (ACCC, 2018).

The ACCC in 2020 was also tasked by the Federal Government to inquire whether supermarkets were treating fresh produce farmers of milk, eggs, seafood and meat products fairly. Part of this inquiry in perishable product markets included reviewing the effectiveness of government's new dairy code of conduct between milk producers and processors, and considering whether this should be extended to supermarkets and other retailers. The Federal Agriculture Minister raised the possibility of 'an all-encompassing Agricultural Code' (Barbour, 2020) as part of more effectively governing food value chains given the power imbalances.

New Zealand

Following a recommendation by the New Zealand Commerce Commission for a mandatory grocery retail code of conduct, the Ministry of Business, Innovation and Employment in New Zealand released a consultation paper in July 2022 (Ministry of Business, Innovation and Employment, 2022). The Commission's report highlighted the power imbalance between large grocery retailers and their suppliers as a key problem, impacting suppliers' ability and incentives to invest and innovate, which in turn impacts entry and expansion into the retailer grocery market, ultimately harming consumers (Commerce Commission, 2022). Similar to the objectives of the codes discussed above, the proposed code intends to *'improve the dealings between the major grocery retailers and suppliers and competition in the market for the acquisition of groceries'* (Ministry of Business, Innovation and Employment, 2022). The consultation paper sets out different options on how such a code could be designed, what its main functions should be and what the thresholds for qualifying grocery retailers could be as part of gathering public feedback on the content of the code.

What is noteworthy about the New Zealand experience is how swiftly government responded to the recommendations for a mandatory code of conduct. In less than three months after the Commission released its report, the announcement to instate a mandatory code was made, and two months after that, the comprehensive consultation document released for public comment. This reflects the urgency in ensuring well-functioning food markets and improving competitive outcomes in food value chains.

South Africa

Countries like South Africa have also gone the route of market inquiries. In 2019, the Competition Commission of South Africa released its report on the Grocery Retail Market Inquiry (GRMI) following four years of in-depth scrutiny of the features that prevent, distort or restrict competition in the South African grocery retail sector. Dominated by a handful of large supermarket chains at the retail level, and highly concentrated markets at many food and beverage processing levels, competition concerns were one category of issues that the GRMI sought to address. The framing of the inquiry also allowed for the investigation and exposure of a wider set of factors affecting participation and competitiveness in grocery value chains more generally.

One outcome of the GRMI was that it was able to achieve voluntary undertakings by some of the large supermarket chains to end the long-standing exclusionary practice of exclusive leases. Large supermarket chains have historically entered into leases with exclusivity clauses with mall property developers. This has undermined rivalry from smaller and single-line retailers (e.g. butcheries and bakeries) in a given geographic location. The GRMI recommended remedial action on such exclusive leases, and this was relatively quickly followed by voluntary undertakings by the two largest supermarket chains (Shoprite and Pick n Pay) to discontinue the practice, as well as cease and phase out (depending on whether it was in urban or non-urban areas) existing exclusive leases (Bonakele, Das Nair and Roberts, 2022). This opens space for SMEs and specialty stores, and, in turn, their suppliers to have better access to more diverse routes to market.

The GRMI also investigated a range of 'competition-plus' concerns which raised barriers to entry, and which impacted on competition at different levels of value chains, including exploitation of buyer power of supermarkets with respect to suppliers. The inquiry further considered the impact on independent retailers of FMCG suppliers potentially charging higher prices to compensate for the lower prices demanded by the large chains.[6] Recommendations were made that FMCG suppliers must ensure uniform and justified trading terms to different buyers or else a code of conduct should be considered targeting the conduct of FMCG suppliers. No recommendations for a code of conduct for supermarkets with respect to suppliers were made, with the likely expectation being that the new buyer power regulations (see below) would deal with unequal bargaining positions between supermarkets and suppliers.

South Africa therefore has had a slower and arguably weaker response to addressing the unequal bargaining power of large supermarkets than countries like New

Zealand, electing instead to go the legal route through the new buyer power provisions. But cases take time in South Africa, and no buyer power cases have yet been referred to the Competition Tribunal. Prolonged litigation has been the norm in abuse of dominance cases, and the likelihood of significant delays when testing out the new buyer power provisions is high. A mandatory code of conduct may achieve the desirable outcomes a lot sooner.

Other recommendations were made to try to strengthen SME and historically disadvantaged supplier capabilities through enterprise or supplier development programmes of supermarket chains and large agroprocessors, as well as through assisting such suppliers and independent retailers with investments in infrastructure and seed finance. These recommendations form part of newly proposed interventions in the 2022 Agriculture and Agroprocessing Master Plan.[7] A wider set of public policy related issues which affected the participation and competitiveness of smaller retailers and suppliers to supermarket chains, but which were not related directly to anticompetitive behaviour, were also probed in the GRMI.

As mentioned, an important step in developing the legal tools that allow for the enforcement of abuses of buyer power in South Africa came in the form of amendments to the Competition Act through the introduction of buyer power provisions in 2018 (effective 2020). The new provisions prohibit a dominant firm as a buyer in a designated sector to require from or impose unfair prices or trading conditions on SMEs or firms controlled or owned by historically disadvantaged persons (HDPs) in designated sectors. These sectors include agroprocessing, grocery wholesale and retail, e-commerce and online services. The Commission has also released comprehensive guidelines on the buyer power provisions. As noted above, however, no buyer power cases have yet been referred to the Tribunal for adjudication.

Kenya

In Africa, the only other country to explicitly prohibit buyer power in its competition legislation (also following a market inquiry) is Kenya. The challenges in the supermarket sector in Kenya were a major reason for the introduction of this legislation. According to the Competition Authority of Kenya (CAK), the failure of supermarkets to honour their contractual obligations with suppliers was the main driver of explicit legislation on the prohibition of the abuse of buyer power in 2016 (Ministry of Industry, Trade and Cooperatives, 2017). The CAK investigated 50 cases of buyer power, 17 of which were in the retail sector in the 2020/2021 financial year. These and earlier cases in the retail sector involved allegations of late payments, among others (Competition Authority of Kenya Annual Report, 2020/2021).

In addition to the legislation and to enhance compliance with the buyer power provisions, in May 2021, the CAK adopted the voluntary Retail Trade Code of Practice (RTCP). The RTCP seeks to regulate the retailer–supplier trade relationships in the Kenyan market, ensuring that retailers do not abuse their buyer power (Kigwiru, 2022). The content of the code is similar to the previous codes discussed.

Namibia

A unique intervention, and one of the first formalised interventions in Southern Africa, is the voluntary Namibian Retail Charter of 2016 (Das Nair and Landani, 2021). Driven by the Namibia Trade Forum, an agency of the Ministry of Industrialisation, Trade and SME Development, a primary objective of the charter was to stimulate local manufacturing (in line with Namibia's national development plan) (Namibia Trade Forum, 2016).

Key pillars of the charter are local sourcing, marketing and visibility, enterprise development, transparency procedures, consumer protection and cooperate social investment. The charter is the first of its kind to combine both code of conduct and enterprise/supplier development elements. Supplier development elements of the charter include getting supermarket chains (which are the South African supermarket chains with store networks in Namibia) to increase local procurement and local content by stipulated percentage points and supporting SME suppliers by building their capabilities through skills development and through providing labelling and packaging support to meet retail requirements. The signatories to the charter further commit to spending 5% of their advertising budget to promote local brands, and 1% of their net profit after tax to the development of SME suppliers. Code of conduct elements include undertakings to ensure transparency and fairness in procurement procedures, fair terms of credit and payment, fair rebate provisions and no discriminatory practices against local suppliers. While there have been some positive outcomes since the inception of the code, its voluntary nature has been noted to be a challenge (Das Nair and Landani, 2021).

Europe

In April 2019, the European Parliament and the Council adopted Directive 2019/633 on unfair trading practices (UTP) in business-to-business relationships in the agricultural and food supply chain (European Commission, 2021). EU countries were then required to transpose the Directive into national law by 1 May 2021 and apply it six months later. The Directive is binding on all member states. While some member states have transposed it into law, there appear to be delays in the adoption into law by others. The Directive considers the detrimental effects of UTPs for farmers and small and medium-sized businesses, who are both direct victims of these practices and indirect victims of their cascading effects when they happen at downstream levels of the value chain.

The UTP Directive distinguishes between 'black' and 'grey' practices. Black practices are strictly prohibited under all circumstances and include many of the same elements seen in the above-discussed codes of conduct (e.g. delayed payments – number of days which are specified – for perishable products and agri-food products, short-notice cancellations, unilateral changes in contracts, risks of loss transferred to supplier). Grey practices are permitted if the supplier and the buyer agree on them in advance in a clear and unambiguous manner (these include returns, listing or display fees, promotion fees, etc.).

5. TOWARDS A SUSTAINABILITY COMPACT

Sustainability in food systems cannot be tackled separately from food system transformation. High levels of concentration persist at different levels in key food value chains and transformation in this sense requires a forced rethink of market-shaping policies and interventions to create less concentrated and more diverse food systems. Competitive and inclusive food supply chains are essential to ensure that adequate climate change mitigation investments are made, and to ensure food security in Africa more broadly.

As important routes to market in many food value chains, supermarkets play a critical role in terms of the development trajectory of suppliers. Supermarket practices and conduct as key buyers shape supplier participation and upgrading. The various interventions in different countries discussed in this paper already reflect a recognition of their important role, but there is an urgent need to engage with supermarkets even more closely. Many of the existing interventions discussed are also at a national level, yet the impact of large supermarket chains transcends national borders through their governance of important global and regional value chains.

We propose that large supermarket chains in Africa, and those globally dealing with African suppliers, commit to a Sustainability Compact. Such a compact would include undertakings by supermarket chains to make their supply chains (irrespective of location) more diverse, inclusive and sustainable.

The compact would have two main elements.

First, it would include behavioural undertakings towards the fair treatment of suppliers. There is no need to fully reinvent the wheel here. The examples of interventions in the form of codes of conduct discussed earlier indicate significant convergence globally in the understanding of practices that harm suppliers, and that harm competition and effective rivalry at the retail level. The design of such a supra-national code of conduct as part of the Sustainability Compact can draw from and build upon what has worked in the various existing national codes and interventions.

A bigger challenge would be enforcing such a code if it has international reach. The record has shown that voluntary codes have been less effective than mandatory codes in dealing with imbalances in power in food systems, but jurisdictional limitations prevent national competition authorities or ombudsmen/adjudicators from addressing cross-border effects of conduct. Even a voluntary code requires monitoring to ensure compliance, and when suppliers are in a different country, this becomes difficult. However, this is where national and regional competition authorities and governments must step up. Market inquiries by competition authorities have been instrumental in unpacking practices that prevent and distort competition, and such inquiries provided the knowledge base for developing codes of conduct. Inquiries should be extended to better understand national, regional and global impacts on food systems and must inform governments on market-shaping policies for more sustainable value chains. Effective regional competition enforcement is needed alongside stronger national regimes, and far stronger international co-operation between competition authorities is required to catch cross-border abuses and arrangements that undermine competition in developing countries. Addressing legal obstacles to co-operation is part of this.

Second, drawing lessons from interventions in Africa, committing to enterprise/supplier development programmes should also form part of the Sustainability Compact. It is not sufficient to simply adhere passively to rules of good behaviour – the climate emergency requires a much more active approach to building supplier capabilities. Such programmes would include active investments in supply chains by large supermarket chains to facilitate economic, social and environmental upgrading to ensure greater competition and investments in food value chains. This is not an act of charity or pure corporate social responsibility on the part of the

supermarket. A diverse, competitive and more closely located supplier base also benefits supermarkets in the longer term commercially. It can improve efficiencies as well as reduce logistics, warehousing and transport costs for the supermarket. It also reduces reliance on imported food products and the associated exposure to exchange rate risks. For countries in Africa, developing local and regional food supply chains supports agricultural and industrialisation objectives of the continent, including as part of the African Continental Free Trade Area (AfCFTA) Agreement. For African supermarket chains, the impacts of climate change will increasingly put pressure on food systems, and the need to diversify and develop stronger local and regional supplier bases becomes critical. Supermarkets are not expected to do this on their own. They need complementary support and commitment from governments, development finance institutions, non-governmental organisations, universities and other stakeholders in food systems to design and implement effective supplier development programmes.

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ENDNOTES

1 See https://www.shopriteholdings.co.za/content/dam/MediaPortal/documents/shoprite-holdings/sustainability/position-statement-on-climate-change.pdf; https://www.picknpayinvestor.co.za/downloads/policies/climate-change-and-energy-policy.pdf; https://www.woolworths.co.za/images/elasticera/New_Site/Corporate/Woolworths_Climate_Change_Position_Statement.pdf; all accessed 10 August 2022.

2 See, for example, Foundation Earth: https://www.foundation-earth.org/

3 Ongoing research as part of a project, 'Power and inequality in global production systems', on the South African wine industry funded by the Danish Council for Social Science Research; a collaboration between CCRED, the University of Johannesburg and the Copenhagen Business School.

4 The South African wine industry has been a pioneer globally in sustainability matters and offers a good case study in this regard. The South African wine industry has globally recognised sustainability standards such as the voluntary Integrated Production of Wine (IPW) seal dating as far back as 1998. IPW is compliant with international environmental sustainability criteria. Ninety-five per cent of wine sold by volume and 75% of viticulture area in South Africa is IPW certified. Other voluntary standards include the WWF's Conservation Champions, in which members commit to biodiversity-friendly and regenerative farming practices, and to conserving their natural areas and improving their water and energy efficiencies. The globally recognised Fair Trade accreditation is yet another voluntary standard adopted by some players. It strives to ensure fair and decent working conditions for farmers and workers in developing countries, and is important for international buyers. Certain key buyers of South African wine, such as the UK's Co-op supermarket chain, now only stock Fairtrade-accredited South African wines on their shelves.

5 See, for example, representation of National Farmers Union and UK Food Ethics Council,https://www.fwi.co.uk/business/business-management/consultation-to-look-at-scrapping-groceries-code-adjudicator, accessed 10 October 2022.

6 This is called the 'waterbed effect', where suppliers attempt to recoup losses from unfavourable trading terms and conditions with large retailers arising from their weaker bargaining positions by charging smaller retailers higher prices. This skews the playing field as smaller retailers face higher costs for products, placing them at a competitive disadvantage to large retailers.

7 By the Department of Agriculture, Land Reform and Rural Development and the Department of Trade, Industry and Competition.

ABOUT THE AFRICAN CLIMATE FOUNDATION

The African Climate Foundation (ACF) is the first and only African-led and fully African-run climate change re-granting organisation on the continent. Through its grant making and thought leadership, the ACF seeks to support interventions at the nexus of climate change and development that have the greatest potential to deliver long-term socio-economic transformation and inclusive development in Africa.

ABOUT THIS SERIES

This report forms part of the ACF's African Food System Transformation Collective thought leadership series. The African Food System Transformation Collective is a network of African scholars, researchers and campaigners working on the structural, environmental and political factors impeding food security on the continent. It seeks to identify interventions to rapidly improve the resilience of Africa's food systems to ensure that they meet the needs of current and future generations.

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ABBREVIATIONS AND ACRONYMS

ACCC	Australian Competition and Consumer Commission
ACF	The African Climate Foundation
AfCFTA	African Continental Free Trade Area
ASC	Aquaculture Stewardship Council
CAK	Competition Authority of Kenya
COP	Conference of the Parties
CCRED	Competition, Regulation, and Economic Development
EU	European Union
FAO	Food and Agriculture Organization
FCCS	Food Safety Management Systems
FMCG	Fast Moving Consumer Goods
GCA	Grocery Code Adjudicator
GSCOP	Groceries Supply Code of Practice
GHG	Greenhouse gas
GRMI	Grocery Retail Market Inquiry
HACCP	Hazard Analysis Critical Control Points
HDPs	Historically Disadvantaged Persons
IPES-Food	International Panel of Experts on Sustainable Food Systems
MSC	Marine Stewardship Council
OFT	Office of Fair Trading
RTCP	Retail Trade Code of Practice
SME	Small and medium-sized enterprise
UK	United Kingdom
USA	United States of America
UTP	Unfair Trading Practices

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