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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

LATIN AMERICAN COMPETITION FORUM

Session II: Measuring Competition Advocacy's Impact in Latin American and Caribbean Countries

-- Call for Country Contributions --

23-24 September 2015, Montego Bay, Jamaica

The attached document is circulated in preparation for the discussion under Session II of the Latin American Competition Forum at its forthcoming meeting to be held on 23-24 September 2015 in Jamaica. Delegates are requested to send written contributions for that session to the Secretariat by 17 August 2015 at the latest. Advance notice of contributions by 10 July 2015 would be useful.

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LATIN AMERICAN COMPETITION FORUM



**13th Latin American Competition Forum
23-24 September 2015 • Montego Bay • Jamaica**

Session II

Measuring Competition Advocacy's Impact in Latin American and Caribbean Countries

CALL FOR COUNTRY CONTRIBUTIONS

1. Introduction

1. This request for contributions is circulated in preparation for the discussion to be held in Session II of the 2015 Latin American Competition Forum. Session II is entitled: **"Measuring Competition Advocacy's Impact in Latin American and Caribbean Countries"**. You are invited to make a written contribution for this session.

2. In this call for contributions we identify some topics that you may wish to address in your written and oral contributions. Please note that this list is neither prescriptive nor exhaustive. You are free to raise other relevant issues that reflect your experiences of the sector. Please prepare a concise and synthetic contribution, even if that ignores some of the questions.

3. To assist the IDB and the OECD Secretariat in planning the session, please inform us by **10 July 2015**, if you intend to submit a contribution. The contributions themselves should be sent by email (as a Word document in electronic format, 5 pages maximum in Spanish or English) to Angelique Servin (Angelique.Servin@oecd.org) and copied to: Mario A. Umana (mariou@iadb.org) and Ania Thiemann (Ania.Thiemann@oecd.org) by **17 August 2015** at the latest. Country contributions will be circulated to Participants through the LACF website (www.oecd.org/competition/latinamerica and www.lacf2015jamaica.com).

2. Background

4. During the 2014 LACF, we started the discussion about Mainstreaming Competition Policy. During the session on Advocacy, the panelists and participants identified the need of getting **better metrics** of the advocacy work in order to improve the mainstreaming of Competition Policy in the main government economic agenda. As it was stated last year, there is ample literature available on the role that Competition Advocacy should play in the ordinary work of competition agencies and the benefits and constraints thereof but much less research and studies are available on how to measure the success/overall impact of this advocacy role.

3. Measuring Competition Advocacy¹

5. Most of the focus (and budget) of Competition Authorities is centered on the enforcement of their respective competition law. This is particularly true for countries with mature competition agencies². Younger agencies on the contrary, are prone to start their implementation strategy with advocacy actions because legal and regulatory barriers to entry (and exit) are normally perceived to be more frequent in countries with less competitive culture and antitrust experience. Even though some of the most experience agencies have advanced in measuring the impact of their work as part of an effort to increase accountability, transparency and quality of management, this is mostly done for the enforcement side.

6. The truth is that although competition is often exalted in the general public debate as a commendable policy goal, it is privately battled by special interest groups (i.e.: lobbyists, trade unions, trade associations), incumbents, and even government agencies that were created to administer these barriers. The battle to improve competition is far from over and advocacy is an essential weapon, but lacks of measuring proves to be a substantial limitation.

7. Indeed, at the center of the battle to win the advocacy strategy, agencies find themselves with difficulties to measure the effectiveness of the actions, and the impact in the pockets of consumers. Some leading scholars have criticized the lack of adequate tools³.

¹ By competition advocacy it is commonly understood the proactive actions [by the Competition Authority] to bring about government policies that lower barriers to entry, promote deregulation and trade liberalization, and otherwise minimize unnecessary government intervention in the marketplace. See World Bank, OECD: A Framework for the Design and Implementation of Competition Law and Policy, Chapter 6, at 93, 1998. See also OECD: Competition Advocacy: Challenging for Developing Countries, available at <http://www.oecd.org/daf/competition/prosecutionandlawenforcement/32033710.pdf>.

² Even though agencies like the US FTC have remained active in competition advocacy, there is the temptation to think that the intellectual debate is over. See Stucke, Maurice E. (2012) "Better Competition Advocacy," St. John's Law Review: Vol. 82: Iss. 3, Article 7. Available at: <http://scholarship.law.stjohns.edu/lawreview/vol82/iss3/7>.

³ See Michael Porter, Competition and Antitrust: A Productivity-Based Approach, in UNIQUE VALUE: COMPETITION BASED ON INNOVATION: CREATING UNIQUE VALUE FOR ANTITRUST, THE ECONOMY, EDUCATION AND BEYOND 154, 160 (Charles D. Weller ed., 2004), available at <http://www.isc.hbs.edu/053002antitrust.pdf> : "the tools for measuring impacts on competition are frequently controversial. Too often the discussion between business and government in antitrust proceedings concerns arcane matters such as HHI that erodes the legitimacy of antitrust with the private sector. By relying too heavily on narrowly conceived consumer welfare theory, antitrust analysis may be overlooking some of the most important benefits of competition for society. Antitrust is not living up to its full promise in deterring behavior that is not in society's interest."

8. The IDB background paper will offer some ideas on how to improve the metrics in these areas: i) competition policy definition matters for adequate advocacy: Competition policy may not be completely neutral/inoculated of other policies. ICN members have considered long ago that the most important obstacle to their advocacy work surges from the different objectives and opinions held by other Governmental Authorities⁴. If the policy goals are only broadly defined or limited only to economic welfare, can we effectively measure impact? ii) Adequate baselines are necessary: Sector Studies that identify anticompetitive legal barriers must measure past and current economic impact on the society and consumers⁵; iii) Econometrics, game theory and data are key to assess and project economic impact: A more complex analysis may be needed when barriers are not limited to a particular sector (and thus not part of typical of sector studies) but affect all sectors and industries and are present in the general business climate. Moreover, the economic model used will affect the results: it is much harder to predict competitive outcomes in these dynamic markets than under the single equilibrium models of neoclassical economic theory⁶; iv) Audience matters: a better understating of the political economy is needed to guide the way effectiveness in advocacy is measured. Agencies need to be clear on the overall objective/goal of advocacy actions, including who is going to be affected if the barrier is lifted, in order to adjust the metric tools accordingly, recognizing that advocacy actions relate more to implementing competition policy than competition law⁷, and v) Delivering the message successfully: Agencies need to rethink the methods to implement advocacy actions. Should the sector Studies and other economic reports be limited to traditional seminars or workshops; what is the role of social media, press conferences, public relations strategy?

9. It is expected that country contributions will supplement the background information and form the basis for a roundtable discussion on to improve the metrics of advocacy success. We encourage all agencies, young and less young, to contribute to the discussion by sending your relevant stories.

10. The Annex identifies a number of relevant topics for this discussion. The list is just informative but should not limit the debate nor the contributions.

⁴ ADVOCACY WORKING GROUP, INT'L COMPETITION NETWORK, ADVOCACY AND COMPETITION POLICY REPORT 25 (2002), <http://www.internationalcompetitionnetwork.org/OutreachToolkit/media/assets/resources/advocacy-report.pdf>

⁵ To be sure, one of the major challenges in sector studies is to understand the right causalities; otherwise, the assessment on the economic impact may be completely flawed. Availability of reliable data may be one of the major constrains to sound economic analysis.

⁶ See Stucke, op cit, supra note 2, p 981.

⁷ Ibid, p 1000.

ANNEX. QUESTIONS FOR CONSIDERATION IN COUNTRY CONTRIBUTIONS

1. On competition policy definition:

- Does the definition matter for measuring advocacy success?

2. On Baseline/Sector Studies:

- How successful has been your agency in identifying relevant barriers to competition through sector/economic studies?
- If the barriers have been subsequently removed, have you been able to measure the impact in an ex-post fashion?
- Did the ex-post analysis match the ex-ante projections?

3. On the use of economic tools:

- Have your agency being able to use sophisticated econometric models, or game theory for advocacy activities like sector or other economic studies?
- Is perfect competition (single equilibrium) assumed?
- How have you solved the issue of poor or inexistent data?

4. On the Audience of Competition Advocacy and Delivery options:

- Is political economy a consideration in advocacy? Does the message vary depending on the audience?
- What has your agency done in order to translate complex economic analysis into simple messages for politicians and general public?
- What advocacy methods have been more successful?
- Do competition problems in the media sector itself hinder the delivery effort to the general public?