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**LATIN AMERICAN COMPETITION FORUM**

**Session II - Measuring Competition Advocacy's Impact in Latin America and the Caribbean**

**-- Contribution from El Salvador --**

**23-24 September 2015, Montego Bay, Jamaica**

*The attached document from El Salvador is circulated to the Latin American Competition Forum FOR DISCUSSION under Session II at its forthcoming meeting to be held on 23-24 September 2015 in Jamaica.*

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# LATIN AMERICAN COMPETITION FORUM



23-24 September 2015 • Montego Bay • Jamaica

## Session II - Measuring Competition Advocacy's Impact in Latin America and the Caribbean

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### ADVOCATING FREE COMPETITION – NOTARIAL SERVICES IN PERU AND THE PRACTICAL DRIVING TEST IN THE LIMA REGION

#### -- CONTRIBUTION FROM EL SALVADOR --

1. 2016 will mark the 10-year anniversary of the Salvadoran Competition Law (henceforth referred to as “LC”) coming into effect and the establishment of the Salvadoran Competition Department (henceforth “SC”), whose activities began with a strong competition advocacy programme, in order to reveal the content of the new law to the public and raise awareness among economic agents about how it could change their way of doing business, given that prior to the introduction of the LC, there existed anticompetitive concepts regarded as legal, such as certain agreements between companies and market sharing examples.
2. The impact of competition advocacy activities in El Salvador has not yet been the subject of proper measurement, but a growth in collective knowledge on the subject has been noted – *a modest increase, but an increase all the same* – from citizens’ various interactions with and involvement in SC actions: the level of complexity of the defensive arguments put forward by the advocates of economic agents, the type of questions posed by participants in awareness-raising events such as public presentations of results of studies on competitive conditions in the markets, and the awareness in certain regulated sectors of the importance of harmony between sectorial regulation and competition, among others.
3. Among its strategic activities for 2016, the SC plans to formulate a methodology for measuring the impact of its actions on the markets, both in terms of law enforcement and competition advocacy. Both parts are scheduled to be brought into use in 2017.
4. To this end, methodological guidelines for measuring this impact will be developed, one for the public policy opinions and recommendations issued (recommendations in accordance with Salvadorian law may be the result of studies on competition conditions in a specific sector, as well as opinions issued, resolved cases or revised economic mergers), and one for decisions relating to anticompetitive practices (which can give a go-ahead or not, apply a penalty and order a cessation of certain types of conduct).

5. As mentioned, a certain level of impact has been noted, mainly via the competition advocacy activities carried out by the SC, such as promotional events and the dissemination of institutional activities, training programs on the subject and presentations of the results of studies on competition conditions carried out in various sectors.
6. To date, the SC has concluded 18 sectorial studies and is presently developing five more. The studies may be put together internally or by an international consultant hired for that purpose supported by the SC team, and as a result of their findings, the SC makes public policy recommendations to improve competitiveness in the sector.
7. The studies' results are presented to residents through an open-invitation public event, to which those that participated in preparing the studies are also invited.
8. The development of these studies has proved to be an important tool in pinpointing barriers to market entry, but even when studies have helped to possibly eliminate or reduce a certain barrier, their impact has still not been measured, and this type of measurement will now be included in the project earmarked for 2017.
9. To carry out the studies, the SC makes use of different economic instruments, using simple econometric models such as the ones applied in the studies executed in the air travel and insurance sectors, but none that could be described as highly sophisticated. With regard to the use of game theory, some examples (Bertrand or Cournot models) and certain related concepts for analysing situations associated with the sector under the microscope – which imply game theory, but not a game in itself – have been used.
10. In addition, no assumption of “single equilibrium” is made in the studies. On the contrary, it is assumed that the concerns or instructions that motivate their execution stem from the fact that the markets do not operate in an environment of perfect competition.
11. To date, the SC has not yet encountered the problem of missing data or information because the data has always been made available; in addition, the technical team attends to the data provided by regulators and by economic agents<sup>1</sup>. There have been cases where economic agents have not demonstrated a clear willingness to cooperate (exceptional cases, as cooperation is the norm), and in such cases the penalty for non-cooperation, set by the LC, has been applied.
12. With respect to competition law hearings and dissemination options, if the political economy is taken into consideration, it comes down to adapting the message to different audiences, with the goal of emphasising the benefits of competition that a specific section of the public would find most striking and that help the message to spread more widely.
13. In order to reach a wider audience, simplified versions of the technical documents issued by the SC are made available. This advocacy work has been a gradual process, starting with summaries of the results of studies on competition conditions and recommendations issued, and will soon include opinions expressed by the SC on regulatory frameworks and public procurement processes. The goal is to make versions that remain relatively technical (due to the sectors addressed), but that can be educational for those who do not possess an in-depth knowledge of the sectors.

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<sup>1</sup> By legal mandate, there is an obligation to provide the SC with information if so requested, under penalty of fines for late delivery or delivery of inaccurate information. LC Articles 50 and 38, subsection 6.

14. Additionally, handbooks and manuals explaining competition law concepts have been produced, such as the recently released Manual of Leniency and Immunity, which explains the concept and how it is tackled internationally, and ends with how it is dealt with within the LC. And there is the handbook on Complaints, which clarifies when and how to file a complaint with the SC and which was also released in 2015. There are currently more manuals and educational documents in progress relating to studies, mergers and other such topics.

15. Social networks are novel tools that have been frequently used by the SC. As an example: the authority shares short informative/educational reports on Twitter. In addition, it is working on a digital application called “Casos en Línea” (“Cases Online”), the purpose of which is to share and spread SC cases, and which will enable people to obtain the key information related to a case and get a general idea of the case in around three minutes, as well as comment on it and share it.

16. That app was what helped El Salvador emerge victorious from the 2014 Competition Advocacy Contest, organised by the World Bank and the ICN (International Competition Network), in the “Promoting awareness of benefits of competition in a time of crisis” category.

17. The SC has met with little resistance from the media when disseminating its message and actions. Independently and at the request of the Salvadorian telecommunications regulator, the SC undertook a competition conditions study in the free-to-air television sector, a move that was considered controversial by the mass media, which reacted strongly, questioning what exactly would be analysed. The study was to be carried out by a foreign consultant, who therefore used his first visit to give interviews during which he was able clear up any doubts harboured by sector participants. The study is now in its final phase and its preliminary results have been presented to sector participants, with a satisfying outcome.