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

LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM

Session II: Market Definition in the Gas Sector – Call for contributions

27-28 September 2022

This document is circulated in preparation of the discussion under Session II of the Latin American and Caribbean Competition Forum (LACCF) that will take place during 27-28 September 2022 in Rio de Janeiro, Brazil. Delegates are requested to submit their written contributions to the Secretariat by 17 June 2022 at the latest. Advance notice of your intention to submit contributions before or by 25 April 2022 would be useful.

In case you need additional information related to this session, please contact:

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Session II: Market Definition in the Gas Sector - Call for Contributions -

Introduction

1. This year's LACCF will feature a session on "Market Definition in the Gas Sector". This document provides some background information on the topic, and invites delegates to make a written submission to the discussions.
2. Oil and natural gas are major energy sources in the world and play a key role in the global economy including in Latin America and the Caribbean. They represent together around 67% of the world's total final consumption by energy source, followed by electricity related sources (i.e. hydroelectric, nuclear plants), biofuels, and coal. The figure is similar in Central and South America, where they represent together around 60% of total consumption by energy source. When considered the total supply of energy, they also represent a significant share and reach almost 90% of total energy supply in certain Latin American countries such as Mexico (IEA, 2021).
3. As for its main applications, oil is largely used in roads and aviation sectors (around 50% and 10% respectively), whereas natural gas benefits various industries and residences (around 40% and 10% respectively) in Latin America (IEA, 2021). In fact, many of the products that consumers use in a daily basis come directly from the oil and gas industries including gasoline, diesel, natural gas, engine oil/lubricants, and liquefied petroleum gas (LPG) used as fuel gas for household cooking.
4. The markets related to oil and natural gas are often divided in three main segments: upstream, midstream, and downstream, which refer to the location of a given business activity in the supply chain. While the upstream segment focuses on the extraction and production of oil and gas, the downstream part is closer to final consumers and generally includes retailers (i.e. gas stations) and larger distribution infrastructure (i.e. pipelines and gathering systems). The midstream segment relates to the refinement of petroleum crude oil and the processing of natural gas, which refer to intermediate improvements of these products for commercial purposes.
5. This session will focus mainly on competition enforcement of market definition issues in the downstream segment of the oil and gas industries. Both product and geographic dimensions will be addressed as they play an important role in the assessment of market power and consequently the competition analysis in concrete cases. This may include updates in methodologies to improve the definition of relevant markets (i.e. tools used to define geographic clusters in the gas retail market), the interplay between products that have some degree of substitutability but are usually defined as separate relevant markets (i.e. natural gas and liquefied petroleum gas), tying and bundling strategies (i.e. sale of gasoline and engine oil in gas stations), vertical integration matters (i.e. acquisitions of small retail firms by large energy groups), and the general legal requirement to define relevant markets in enforcement cases (i.e. merger analysis and market inquiries).

6. As you know, market definition serves to identify the boundaries of the market where companies compete, and is one of the most fundamental concepts underpinning essentially all competition policy issues including mergers and abuse of dominance cases (OECD, 2012). It also provides an analytical framework for the ultimate inquiry of whether a particular transaction or conduct is likely to produce anticompetitive effects since the exercise of monopoly power will not be feasible if buyers can easily switch to other products (demand side substitution), or other companies are able to increase production or easily enter the market (supply side substitution). The session intends to cover the legal, economic, and practical dimensions of market definition in the gas sector.

7. As in past years, the quality and utility of this session will be greatly strengthened by written contributions. In order to assist you with the preparation of your contribution, the Annex includes a number of questions on which you may wish to focus and a suggested bibliography. The list in the Annex is not exhaustive, and you are encouraged to raise and address other issues in your submissions and during the discussion. We also strongly encourage you to discuss and comment on your relevant enforcement experience in this area.

8. The session will be supported by a Secretariat's Note, which will compile the main issues related to the topic and will be circulated on O.N.E. in the coming months. The LACCF webpage will be the primary vehicle for conveying documentation and related links on this subject. It will become available on its main page at www.oecd.org/competition/latinamerica. Unless explicitly requested not to do so, the Secretariat will reproduce all written contributions on the site.

9. In order to ensure an effective preparation of the session, we would be grateful if you could let the Secretariat know by **Monday 25 April 2022** at the latest if you are planning to make a written contribution on the topic. Written submissions are due by **Friday 17 June 2022** and failure to meet this deadline may result in your contribution not being distributed to delegates via O.N.E. in a timely fashion in advance of the meeting.

10. All communications regarding the documentation for this session should be sent to Ms. Angélique Servin (Angelique.Servin@oecd.org) with copy to Ms. Lynn Robertson (Lynn.Robertson@oecd.org) and Mr. Paulo Burnier da Silveira (Paulo.Burnier@oecd.org).

Annex A. Suggested questions for consideration in the written contributions

Session II on Market Definition in the Gas Sector

This Annex provides a list of questions for consideration in preparing a written contribution. A contribution does not need to cover every listed question, and you may wish to address issues not listed here. Please prepare your contribution as an integrated essay rather than a list of answers to questions.

A. Introduction

- Please provide a short introduction of the gas sector in your jurisdiction including your main energy sources, any particular regulation, the existence of state-owned enterprises, possible process of liberalization of the sector, and other recent developments.

B. Main issues

- What are the main issues in your jurisdiction related to the geographic dimension of market definition in the gas sector?
- What are the main issues in your jurisdiction related to the product dimension of market definition in the gas sector?
- Do regulatory issues (i.e. regulations at local or state level) or demographic variables (i.e. income levels, location and homeownership of end users) influence any of these definitions?
- In which products or geographic areas have you seen a stronger interrelation in terms of substitutability (i.e. natural gas and LPG; areas served by pipelines and complemented by local transportation; other transportation features such as self-service to end users)? Please consider both the demand and the supply perspectives in your answer.

C. Tools and techniques

- Which are the most used techniques by your competition authority to define relevant markets in the gas sector (i.e. SSNIP test; and Elzinga-Hogarty test) and how are they implemented? Please indicate both quantitative and qualitative techniques.
- Have you used techniques related to the assessment of the catchment area for purposes of defining the geographic dimension of relevant markets in the gas sector? If yes, please expand on how the methodology was applied including possible advantages and limitations.
- Can your authority leave the market definition open, and simply indicate alternative plausible market definitions when analysing cases; or is it legally obliged to reach a precise market definition? Please consider separately merger and anticompetitive cases in your answer.

D. Enforcement experiences

- Please indicate the main enforcement experiences of your jurisdiction in this topic including the main challenges and lessons learned.
- Have you cooperated with sector regulator(s) in this topic? If yes, please describe your experience including benefits and challenges.
- Did you have any enforcement experience related to tying or bundling strategies (i.e. sale of gasoline and engine oil in gas stations)? If yes, please indicate how it relates to market definition issues.
- What role has innovation in the energy sector played in your enforcement experience (i.e. emergence of electric vehicles, and solar panels for residential and industrial use)?

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