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English - Or. English

27 November 2024

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

**The Interaction between Competition and Democracy – Summaries of contributions**

5 December

This document reproduces summaries of contributions submitted for Item 8 of the 144<sup>th</sup> OECD Competition Committee meeting on 5-6 December 2024.

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**JT03556397**

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## *Austria*

### Introduction

The interplay between democracy and competition law is crucial for maintaining democratic principles such as individual freedom, equal opportunity, and balanced power distribution. Competition law in Austria aims to prevent economic power concentration that could limit consumer choices and undermine democratic values.

### Key Roles of Competition Law

- **Economic Safeguards:** By curbing practices like bid-rigging and collusion, competition law upholds fair public procurement and fosters trust in public institutions.
- **Market Integrity:** Laws regulating market dominance and preventing monopolistic behavior help protect consumer choice and ensure open markets, supporting both economic efficiency and democratic norms.

### Cartels and Bid-Rigging

Bid-rigging negatively impacts public procurement, inflating project costs and straining taxpayer funds. In Austria, bid-rigging is prohibited under §1 of the Austrian Cartel Act and punishable under §168b of the Austrian Criminal Code. The Austrian Federal Competition Authority (AFCA) has intensified its focus on such offenses, exemplified by the high-profile construction cartel case involving 30 companies and fines exceeding EUR 192 million.

### Abuse of Market Dominance

Sections 4 and 5 of the Austrian Cartel Act address market dominance, defining a company as dominant if it holds a market share of at least 30%. The concept of relative market power includes dependency in digital and traditional markets, ensuring that influential platforms do not abuse their positions. Abusive practices outlined include unfair pricing, discriminatory behavior, and restrictive terms.

### Merger Control

Merger control in Austria is essential for maintaining competition and preventing undue concentration. This is particularly critical for media mergers due to their impact on media diversity and democracy. Media mergers undergo special scrutiny under the Austrian Cartel Act, with turnover thresholds for assessment and obligations to report potential impacts on media plurality. Cases such as the MEDIAFOREUROPE-ProSiebenSat1 and Raiffeisen-Holding-NÖ Pressehaus mergers highlight AFCA's rigorous approach to preserving independent media voices.

## Recent Legislative Trends

The European Union's Media Freedom Act aims to bolster media independence and curb concentration effects. The AFCA supports this initiative, recognizing media plurality as vital for a functioning democracy.

## Conclusion

Austrian competition law serves as a guardian of democratic values by ensuring fair markets, preventing economic overreach, and promoting consumer choice and media diversity. These efforts collectively uphold equality, autonomy, and fairness within the market and society.

## *Costa Rica*

This contribution explores the critical role of competition policies in protecting democracy in Costa Rica. A key premise is that fair competition among economic agents prevents the concentration of economic power, thereby safeguarding democratic processes. In a competitive market, citizens benefit from greater variety, fair prices, and more equitable access to goods and services, while avoiding the political influence of monopolies or conglomerates.

The modernization of Costa Rica's competition framework in 2019 has empowered the Commission to Promote Competition (COPROCOM) to ensure a balanced and fair marketplace, sanctioning anti-competitive practices and promoting a level playing field for all economic actors. Despite Costa Rica's sustained growth and social progress, challenges remain, such as monopolistic practices in strategic sectors that limit economic opportunities and undermine competition.

This analysis addresses key questions: How do competition policies reinforce democratic values? How does COPROCOM safeguard a democratic economic environment? What are the challenges and opportunities in fostering a competition policy that strengthens both consumer welfare and democratic principles?

The document emphasizes the interconnection between competition and democracy, noting how competition policy can limit economic concentration and prevent regulatory capture. It underscores the importance of COPROCOM's independence to uphold market fairness without political interference, which is essential for sustaining democracy. In conclusion, robust competition policies not only protect consumers but also reinforce the democratic foundation by promoting equity, innovation, and broader participation in both the economic and political fields.

## *BIAC*

*Business at OECD* (BIAC) is pleased to contribute to the OECD Competition Committee discussion on the topic of competition and democracy.

Open market competition and democracy are each founded on the rule of law, and competition laws are a reflection of the democratic process. The goals of competition, e.g., promoting economic efficiency, is consistent with democracy and should be fostered in a manner that maintains the confidence of businesses and citizens alike, thereby ensuring the legal, economic, and political legitimacy of competition law. While BIAC acknowledges the ongoing debate over the political power of large enterprises, it fundamentally believes that broad input to decision making – including by business – must be encouraged to promote the marketplace of ideas. Indeed, private enterprise can act as a bulwark against abuses of state power in the hands of non-democratic actors and autocratic regimes. When considering whether to create a greater role for democracy in competition policy, policy makers must carefully consider whether the challenges they seek to address are indeed competition problems or non-competition problems that require other forms of resolution. Ultimately, the solution to promoting greater democracy does not lie in silencing or stifling the input or viewpoint of any party, including the voices of business.

BIAC's contribution will focus on two key trade-offs articulated by the Secretariat in the Annex to the Call for Contributions and in the Secretariat's Policy Paper.<sup>1</sup>

Potential links between democratic decision making and competition law enforcement; and

Key trade-offs involved in attempting to create a greater role for democracy in competition policy.

Before turning to these questions, BIAC will briefly address the relationship between competition and democracy.

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<sup>1</sup> OECD, *The Interaction between Competition and Democracy* (Competition Policy Paper No. 316, Nov. 7, 2024), <https://doi.org/10.1787/20758677>.

## *Ecuador*

The contribution of the Superintendency of Economic Competition of Ecuador underlines the importance of competition policy as a fundamental pillar for the strengthening of democracy, especially in the Ecuadorian context. Through its participation in a round table organized by the OECD Competition Committee, the Superintendency sets out how competition policy and democracy must interact to generate fairer and more transparent markets. The Ecuadorian Constitution establishes guarantees and responsibilities for the State, such as the right of citizens to freely choose quality goods and services and the promotion of equitable access to production factors, avoiding monopoly and the concentration of power in the hands of a few.

The document highlights that a democratic system is essential for the effective implementation of competition policies, as both share fundamental principles such as participation, equal opportunities and respect for the rule of law. Without a democratic framework, any attempt to regulate the market and protect competition would be destined to fail. In this sense, competition policy is not limited to economic objectives, but supports and fosters democratic principles by allowing the inclusion of all economic actors on equal terms.

Ecuador has developed a competition policy geared toward market democratization, exemplified by the Organic Law for the Regulation and Control of Market Power (LORCPM). This law includes regulations for fair trade practices, such as those applied to the supermarket sector in 2014, which require that 15% of products come from suppliers in the popular and solidarity economy. This has benefited small producers and diversified the offering for consumers. Between 2019 and 2023, purchases worth more than 800 million dollars were made from suppliers of micro, small and medium-sized companies, which shows the positive impact of these policies on the national economy.

To deepen the relationship between democracy and competition, the document suggests commitments such as balanced deregulation to protect small businesses, fiscal responsibility for digital platforms and international cooperation to strengthen democratic objectives in market regulation. It also addresses the indirect effects of competition policy, such as reducing inequality and corruption, especially in public procurement processes, where collusive practices affect both the State and citizens.

The paper concludes by stating that the implementation of competition policies should be considered as a means to achieve collective well-being, equity and transparency in public management. These policies, if implemented with a comprehensive approach and in coordination with other reforms, can contribute to a system where democracy and competition flourish for the benefit of society as a whole.

*Greece*

Forthcoming

## *Indonesia*

Competition must be seen as a positive and very essential thing in business activities. Business actors will compete to continuously improve products and innovate the products produced to provide the best for customers. In the same level of playing field in the market, business actors carry out business activities by prioritizing justice by providing equal opportunities for every business actor. In addition, sound business competition will also create transparency and decentralization of economic decision-making that opens up the participation of many parties. An effective law against monopolistic practise and unfair business competition forms an indispensable perquisite for well-working market. Indonesia ensure that democracy runs well, especially in key socio-economic areas. The founders of the Indonesia understood the importance of democracy, which is stated in the basic constitution of Indonesia. Democracy in the economic field is implemented, one of which is the promulgation of the Competition Law Number 5/1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition and Law (Indonesian Competition Law). The law prohibits agreements restricting competition, abuse of monopolistic power, and concentrated merger which dominate the market.

## *Italy*

Several unique aspects of the Italian legal and economic framework align with the view that competition policy can support democratic governance by addressing the balance between economic and political power.

Notably, two landmark rulings by the Constitutional Court in 2024 recognised the importance of competition for the economic and social system, extending beyond the traditional consumer welfare standard by enhancing freedom of choice for citizens and businesses. Additionally, the Court highlighted that competition entails the freedom to innovate, which underpins an efficient market and serves consumer interests.

By the same token, the Italian legislator has acknowledged the link between economic and political power by elevating competition to a fundamental principle in media services regulation. In recognition of the connection between economic and political influence, and the importance of transparency and accountability, the legislator has granted the Italian Competition Authority (hereafter the Authority or the AGCM) three atypical powers: monitoring the award of transport services by local authorities; identifying conflicts of interest and incompatibilities among government officials; and managing a “Legality Rating System” that evaluates companies’ compliance efforts across various legal areas, including anti-bribery, antitrust, and data protection laws.

Although democratic values are not explicitly embedded within Italy’s competition policy framework (e.g., there are no theories of harm based on democratic principles), the AGCM’s experience demonstrates how competition authorities can support democratic values such as transparency, accountability, fairness, and inclusivity in their priorities, case selection, acceptance of commitments, and the imposition of sanctions and remedies. Examples include the Authority’s actions on excessive pricing in the pharmaceutical sector, its robust efforts against bid-rigging, and its focus on protecting independent players when enforcing legislation on economic dependence or accepting commitments.

The AGCM also recognises the importance of incorporating democratic values into competition regimes. Since its inception, Italy’s competition policy framework has been built on principles of independence, transparency, fairness, and accountability, embedded in both investigative and decision-making processes. Over time, the Authority has fostered greater public participation, particularly in its guidance and procedural rules.

As emphasised by competition authorities and policymakers at the 2024 G7 Competition Summit, hosted in Rome by the AGCM, the interplay between competition and democracy has become increasingly relevant in a world where technological advancements and globalization are reshaping market dynamics and impacting individuals as both citizens and consumers. Economic power can influence political power, leading to a concentration of both that undermines democratic processes. Concentrated economic power can lead to lobbying and political capture, where the interests of a few dominate the political landscape, thereby eroding democratic principles.

In this contribution we explore the links between competition and democracy in Italy (section 2), the role of democratic values in the AGCM’s competition assessments (section 3) and how the functioning of Italy’s competition regime has been increasingly democratised (section 4). Section 5 provides some concluding remarks.

## *Lithuania*

This Note overviews the Lithuanian experience related to competition enforcement and regulation of economic activities in the light of democratic principles. The Note touches upon the nature of competition law and its democratic “roots”. It also describes how antitrust enforcement can contribute to the preservation of democratic institutes and their proper use. Finally, the Note discusses how democratic legislative process may influence competition.

In the view of the Lithuanian Competition Council, democratic legislation leads to more pro-competitive regulation. Moreover, the nature of competition law determines that it is one of the safeguards of democracy.

*Mexico*

Forthcoming

## *Norway*

Democracy and competition in markets are deeply interconnected. Norway has developed a comprehensive welfare state with centralized trade unions, and a system of regular consultation between government, unions, and employers. In what is typically referred to as the Scandinavian model, trust in democratic and government institutions is high.

Merger control and sanctions against collusion and abuse of dominance can deter illegal practices and assure consumers, small businesses, and voters that competition is protected. When enforcement works, it leads to lower prices, better opportunities for small firms, and a higher level of innovation.

A key message in this contribution is that effective competition and competition law enforcement build trust that markets work to the benefits of society. Such trust means that citizens can presume that firms are big because they are good competitors and have attractive products; not because of lax enforcement or because management is well connected to government. Thus, given the interconnection between democracy and competition, effective enforcement is a pillar of a well-functioning democracy.

## *Paraguay*

The paper aims to present the ways in which the national competition system of Paraguay incorporates and promotes citizen participation.

One of them is through the participation in the process for the election of the authorities of the National Competition Commission (CONACOM): the three Members of the Board and the Director of Investigation. This involves a public competition organized and assessed by a council that includes four members from the public sector, and four members from the private sector, who come from the associations of companies operating in the industry, production, services and trade sectors. The inclusive participation of members of the private sector alongside those from the public sector, including two elected congresspeople, ensures diversity, transparency and accountability in the selection process. The President of the Republic can then appoint one of the three people with the highest scores to the vacancy.

In addition to national transparency regulations that require the publication of a number of documents and information, CONACOM has its own regulations that set out a higher standard for transparency. Therefore, all decisions from the Board and the final opinions of the Directorate for Investigation pertaining anticompetitive practices and merger control are published on the agency's website, as well as all regulatory opinions, market studies and answers to specific enquiries on the application. The website is also updated regularly and supported by social media, maximizing the potential for citizens to monitor the activities of the institution.

The regulation also provides for a procedure for public consultations for any guidelines to be issued by the institution. After the regulatory term, the Board considers the changes proposed and this could lead to changes in the final document.

CONACOM is bound to prepare an annual report of its activities, covering its actions on anticompetitive practices, merger control, advocacy and administrative affairs and future plans and priorities. The report is published and presented to an open hearing and also before the commissions for matters of industry, trade, tourism, economy and finance of the Senate and the Chamber of Deputies.

CONACOM also holds a special open forum every year in which citizens can ask questions and make suggestions to the Members of the Board and the Director of Investigation on any number of topics pertaining to the institution.

CONACOM holds an annual contest for members of the public to identify barriers to competition in regulation. In addition to the promotion of the competition culture, the contest aims to serve as a channel for the Advocacy Unit to gather data that could be used in future regulatory opinions.

Public participation has improved the standing of CONACOM, which is seen by stakeholders as an open and reliable institution.

## *Poland*

Making links between competition and democracy causes controversy. Some argue that the link between competition and democracy is mutually reinforcing (positive-positive), with competition having a positive effect on democracy and democracy having a positive effect on competition, creating a positive feedback loop. However, at least in theoretical terms, this link can also be negative-negative (negative feedback loop), positive-negative (e.g., competition contributes to more democracy, but democracy can be destructive for competition), or negative-positive (e.g., democracy contributes to establishing an environment conducive to competition, but competition may harm democracy).

We believe that it would be useful to investigate what actual political/economic model can be discerned out of the competition-democracy entanglement, and for what reason this specific model is desirable, i.e. why it offers competitive advantages over other possible models, with both of its constituent elements (i.e., competition and democracy) being at the same time in some way similar and/or mutually-reinforcing. In other words, we think it would be useful to conceptualise the competition-democracy link in more technical terms. It seems to us that part of such a more technical description of the issue at hand might be that both competition and democracy provide room for changes and reconfigurations to take place in a swift manner. In other words, one could hypothesise that competition and democracy deliver higher levels of feedback and higher responsiveness to changing circumstances.

It seems to us that there are at least few areas in which links between antitrust and democracy could be further investigated – free speech might be one of such areas. Undoubtedly, there are challenges when it comes to featuring democracy-related issues in antitrust enforcement. However, what seems to be important is not to create a false dichotomy under which a narrow concept of antitrust is without controversy, while a broader concept of antitrust needs to always create much legal uncertainty. In this context, we are open to hear arguments on why and how democracy-related interests could be considered.

*Portugal*

Forthcoming

*United States*

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