Role of market studies in the regional context

Martha Martínez Licetti

*Competition Policy Team, Global Lead*

Trade and Competitiveness Global Practice

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Stubbornly low productivity growth in LAC makes increasing market competition a priority for the region (LAC Flagship on Entrepreneurship, 2014).

Market competition is essential to spur entrepreneurship and innovation, in turn raising productivity, as well as maintain social progress and further reduce income inequality in the region (LAC Flagship on Entrepreneurship, 2014).
Antitrust enforcement has improved in LAC, but intensity of market competition is still low.

Even LAC countries where competition laws have been enacted more than 10 years ago score low in effectiveness of anti-monopoly policy and extent of market dominance.

Source: WEF Global Competitiveness Report, 2014
Discriminatory regulations and rules that facilitate cartel behavior affect competition in key sectors in LAC countries.

State control and barriers to entry and rivalry drives PMR restrictiveness across LAC countries.

Foreign transport operators are restricted in picking up freight on their way back after delivering goods. Associations of road freight companies are involved in setting entry restrictions and pricing guidelines to this transport sector.

State-controlled monopolies are excluded from the application of the competition law.

Price controls in competitive consumer product markets (milk, sugar, chicken); government-backed price agreements in basic grains.

Mobile phone interconnection charges are not regulated.

Examples of regulations included in each PMR sub-indicator.

State control and barriers to entrepreneurship and barriers to trade and investment drives PMR restrictiveness across LAC countries.

Foreign ownership in national airline or shipping companies is limited to 40 percent.

Business associations can discretionally prevent registration of new retail outlets for certain products (e.g., pharmacies).

Note: Data for 2013, except for United States from 2008 as of Aug 2014. Sources: OECD, Product Market Regulation Database; OECD-WBG, Product market regulation indicators for LAC.
Removing constraints to competition in key sectors of the economy can boost growth and shared prosperity in local, national and regional markets.

• In Peru, in the first half of 2014 over 1200 bureaucratic barriers were identified that hinder entry or growth in local markets, including **transport** (ban on new entrants in over 50 interstate routes), **telecommunication** ($80million investment stalled) and **retail**.

• Due to backhauling and other restrictions, Central American road freight markets suffer from lack of competition and freight prices are higher than in some African countries.

• Lack of competition in consumer products markets harm families, especially the poorest. In Mexico, **wealth of poorer households is 20% more affected** than richer ones due to anti-competitive overcharges of 40% for products that represent 7% of families’ spending (Urzúa, 2010).

• The Mexican **telecom reform** is expected to generate savings for more than 60 million users and an increase in per capita income of more than 170 USD.
Characteristics specific to the Latin American and Caribbean region pose challenges to the market studies

1. Challenges to effective market competition lies in regulatory barriers to competition at the national and subnational level
   - Focus market studies on sectors in which there are apparent regulatory barriers.
2. Key markets for growth and shared prosperity are still severely affected by lack of competition.
   - Prioritize markets and sectors that are key to growth, productivity and poverty reduction.
3. Governments are committed to competition policy only to a limited degree
   - Design market studies so that they can serve as communication and advocacy tool
4. Relatively smaller markets, few market players and multi-market contact
   - Think strategically on whom, when and how to ask for information.
5. Establishing a dynamic relationship and strengthening institutional reputation
   - Think about other tools at disposal, how to use for multiple objectives, focus/opportunity
6. Limited resources
What a market study can achieve: Opening market to competition in the domestic container shipping in the Philippines

Context/Background

High shipping costs, few shipping operators on primary routes, burdensome registration procedure

Existing shipping operators in a route delay/prevent entry of competitors and usage of foreign vessels can be restricted by domestic players, via "Certificate of Public Convenience" (CPC).

Output

Simplification of the CPC issuance procedure for existing operators to avoid delaying/preventing entry

Outcome

No incumbent has the opportunity to contest

Expedites issuance of CPC (from >50 days to 4 days)

Impact

Expected additional investment generated in the shipping industry: $18 million

Shortened period between the filing of an application for CPC and hearing by the Shipping Regulatory Authority (< 4 days)

Elimination of the need to inform incumbents of the entry of a new operator
What a market study can achieve: Voluntary end to an exclusivity agreement in acquiring networks

- In 2006, Banco Central do Brasil (BCB), the Secretariat for Economic Monitoring (SDE), and the Secretariat for Economic Law (SEAE) launch a market inquiry on the payment card industry.
- Ensuing reaction by the market led to approximately $43 billion savings for merchants and consumers.

Net merchant discount rate (MDR)

Card-based sales volume

Source: Mercator Advisory Group

• Ideal vs. Second-best (long-term/short-term)
• Appropriate and proportional use to narrowly defined goal (follow up as necessary)
• Whom to ask? (entrant/affected firms vs. incumbent)
• Predictability in information requirement (template)
• Confidential handling of information

How to request? (Presentation letter; context; questions; thank-you note)

12 jurisdictions guarantee confidentiality of the information by law*, but implementation challenges

A legal competition reform takes several years at the minimum

*Source: CRCAL
Take advantage of resources outside agencies (multilaterals); existing regional market study or in neighbor country to benchmark or identify trends

More is not always better

Study on Medicine in ESV, on Pharmaceuticals in Honduras as well as Regional study on Pharmaceuticals in Central America

India with numerous market studies but few follow-up actions
Legal Framework
- Conduct Market Study
- Ask for information

Resources

Prioritization and Objective

Relationship with Stakeholders

Role of the Government

Evaluation Ex Post

(1) Priorities → Effectiveness and also professional accountability/independence (objective/technical criteria for prioritization)

(2) Define objectives to adjust resources and information requirements

- Relevance for economy, spillover, shared prosperity, market failures, reform feasibility
- Consider sequencing studies (value chains, sectors with similar characteristics, markets within sector (agriculture in Honduras))
- In response to reports/claims by associations, consumers (air transport, El Salvador) etc., or follow up to other agency’s effort to analyze competition (payment systems, Central Banks)
- Generating knowledge on new market (financial services, México, South Africa) vs. testing hypothesis about specific market failure (e.g. evidence already generated)
- Analysis of regulatory barriers vs. analysis of conduct-related barriers
- Evaluation if specific public policies respect competition principles

Key markets still affected by lack of competition
Legal Framework
- Conduct Market Study
- Ask for information

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Evaluation Ex Post

Timeline of communication / Decision on format of study
Enforcement after market study: Do’s and Don’ts
Relationships: Dynamic and multi-market
Capitalize on success / High risk of one failure

Political Economy (Civil Society Engagement)
Role of Market Study as Training/Education
Legal Framework
- Conduct Market Study
- Ask for information

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Evaluation Ex Post

• Political Economy within Public Sector (agriculture in Honduras, transport in Dominican Republic, notaries in Peru)

• Strategic advocacy + Champions (Egypt vs. Costa Rica)
  - Pressure on governments to react (air transport, El Salvador)
  - Realistic Expectations

Build up competition advocacy over the long run to influence policy more systematically (El Salvador)
- Accountability / Measure of success?
- Take into account in design (set baseline)

Not only follow-up action but also potential component of the market study (evaluation of previous enforcement/advocacy)

- Recommendation on law proposal/existing law
Practical guiding principles

1. Identification and Feasibility
   - Prioritization – technical and institutionally strategic
   - Scare resources as an opportunity (Value for money / Opportunity costs)
   - One tool in the tool box and big picture

2. Implementation
   - Dynamic relationship and multi-market contact
   - Momentum of successful studies

3. Dissemination
   - Communication / Promotion of competition
   - Strategy to address political economy