

**EUROPEAN COMPETITION DAY 2007
ROUNDTABLE ON CONSUMER WELFARE AND EFFICIENCY:
NEW GUIDING PRINCIPLES OF COMPETITION POLICY?**

Outline for remarks by Eduardo Pérez Motta

Background

- *Efficiency is a broad economic term that may refer to:*
 - ✓ *Allocative efficiency: allocation of resources to their most productive use.*
 - ✓ *Productive efficiency: production in the least costly way.*
 - ✓ *Dynamic efficiency: rate of introduction of new products or improvements to products and production techniques.*

- *Some jurisdictions equate consumer welfare with total surplus; where that is the case, it would appear to pose no problems to equate consumer welfare with efficiency. If, however (as is the case in some other jurisdictions), consumer welfare is taken to mean consumer surplus, consumer welfare would ignore producer surplus and would therefore be different from market efficiency.*

- *In any case, the ICN's recent work on the objectives of Unilateral Conduct notes that for the vast majority of its member jurisdictions –including virtually all of the larger ICN economies– promotion of consumer welfare and the maximization of efficiency are among its core principles. These economic considerations are deemed central in pursuing unilateral conduct rules and enforcement.*

1. Efficiency and consumer welfare in Mexico's Federal Law of Economic Competition (LFCE)

1. Market efficiency is explicitly enshrined as the main goal of competition policy in Mexico since the law's passage in 1993.
 - Article 2 of LFCE states that "The object of this law is to protect the process of competition by eliminating monopolies, monopolistic practices and other restrictions to the efficient functioning of markets."

2. Last year's amendments to the LFCE provide that when determining whether a unilateral practice is anticompetitive, an economic agent investigated for violations to the law can ask the CFC to evaluate the net effect of the practice on consumer welfare, to determine whether there are efficiency gains derived from the practice (this is in addition to traditional rule of reason analysis).

II. Efficiency and consumer welfare in CFC practice

- Apart from casework, where the treatment of consumer welfare and efficiency are prescribed by the LFCE, the CFC makes special emphasis on these guiding principles in its advocacy efforts. Additionally, market efficiency is the main criterion for the priority-setting exercise the CFC is about to undertake.

Advocacy

- The CFC's increased public role in the past 2½ years has relied on underscoring the importance of competition for **consumer welfare**. ~~Mexico having little tradition of competition policy~~, it is essential to draw attention to its benefits for consumers – its main constituency (in spite of the often-cited collective action problems)
- (Allocative and productive) **market efficiency** has been the cornerstone for the CFC's involvement in promoting improved regulatory frameworks. The CFC has concentrated on four regulated sectors with horizontal impact on overall market efficiency:

The CFC is working to improve the functioning of markets in regulated sectors			
CFC's main opinions in regulated sectors			
Sector	Theme	Purpose of the opinion	NON EXHAUSTIVE Status
Energy	LP Gas	• To intensify competition in transport and distribution	●
	Gas stations	• To avoid territorial exclusivities	●
Telecommunications	Convergence	• To generate competition among telephony and restricted TV networks	●
	Contents	• To guarantee non discriminatory access to essential content for restricted TV	●
Transport	Railroads	• To strengthen competition in interlinear traffic and ensure effective trackage rights	◐
	Airports	• To ensure non discriminatory access to airports and airport services	◐
Financial services	Pension paymts	• To eliminate barriers and to focus competition on net yields	●
	Credit cards	• To evaluate impact of competition conditions on commissions and rates	◐

Priority setting

- This year, the CFC will undertake a formal priority-setting exercise for the next years, aimed at directing its scarce resources towards those economic sectors where it can have the biggest impact.
- Inspired by the recent analogous UK exercise in "horizon scanning", one of the main variables this exercise will in all likelihood include is productivity analysis (both by benchmarking against trade partners and by gauging recent trends), i.e., monitoring dynamic efficiency to detect and address bottlenecks caused by competition problems.