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LATIN AMERICAN COMPETITION FORUM

Session I: Competition and Poverty Reduction

Contribution from Brazil

18-19 September 2012, Santo Domingo, Dominican Republic

The attached document from Brazil is circulated to the Latin American Competition Forum FOR DISCUSSION under Session I of its forthcoming meeting to be held on 18-19 September 2012 in Santo Domingo, Dominican Republic.

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LATIN AMERICAN COMPETITION FORUM

-- 18-19 September 2012, Santo Domingo (Dominican Republic) --

Session I: Competition and Poverty Reduction

-- CONTRIBUTION FROM BRAZIL –

1. Introduction

1. This short contribution presents a few Brazilian examples of competition enforcement in the field of essential goods and services. First, it describes a pending case in the cement market, which substantially affects, among other matters, a public housing policy for the poorest. Then, it analyses the extent of the negative effects of retail fuel cartels. Finally, it highlights an important and recent merger between two major Brazilian companies in the basic foods market, which had great impact in the related relevant markets.[1]

2. Cement market

2. The first example concerns the cement market, considering that anticompetitive practices that lead to higher prices of building materials may affect infrastructure investments as well as housing. To highlight the importance of this market, an international cartel in the sector was investigated by many countries, including the EU, Germany, France, UK, Poland, South Africa, Pakistan, Egypt, Taiwan, Korea, Romania and Argentina.

3. In Brazil, the cement market has been subject to a deep anticompetitive investigation from the former Secretariat of Economic Law ("SDE") of the Ministry of Justice. The investigations started back in 2006 and concluded for the existence of a substantial cartel that resulted in an increase of construction costs in general, including housing. This is a key-sector in Brazil, considering that:

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1 This contribution does not aim to answer the proposed general question of the roundtable – "Does competition in markets for essential goods and services reduce poverty?" – but rather to simply indicate some cases that had direct impact in the life of the poorest of the Brazilian society in order to foster discussions on the topic.

(i) cement is an essential product to civil construction;

(ii) demand for cement remained high in the past two decades; and

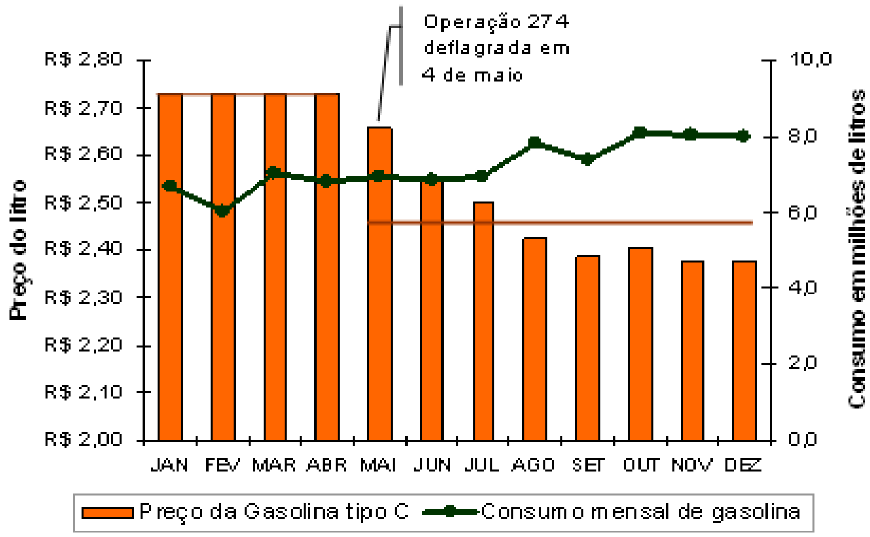
(iii) Brazil still has a "housing debt" to work on.

4. SDE calculated that the federal governmental program for housing to low-income families ("Programa Minha Casa Minha Vida") represented a demand of 11 million tons of cement (233 million cement bags of 50kg each), which totalized approximately R$ 6,3 billion (around US$ 3,15 billion). The case is still awaiting trial at the Brazilian Competition Tribunal, the current administrative decision body of the Brazilian Administrative Council for Economic Defense (CADE).

3. Retail fuel cartels

5. The retail fuel market is also interesting for the study of the relationship between competition and poverty, particularly in some countries, which remain highly dependent on its highway network for cargo and people transportation. In Brazil, highway network represents for 62% of total cargo transportation of the country, and even greater in regard to agriculture related products.[2] Among other possible reasons, this dependence is a legacy of a traditional public policy that favored the construction and development of roads and high-ways, rather than trains, subways and alternative transportation means. Henceforth, high prices of fuel have a direct impact on the day-to-day life of the poor people, since transportation costs affect directly the final prices of basic goods as well as bus tickets and inter-state bus tickets.

6. One particular case illustrates the positive impact of competition enforcement in this sector for consumers in general, which includes the poorest for the abovementioned reasons. A dawn raid carried out in 2007 uncovered an important gasoline cartel in the city of João Pessoa, capital of the State of Paraiba. The effects on prices – before and after the cartel – can be easily noticed in the graphic below:



2 Cf. Brazilian Institute for Applied Economic Research (IPEA). Available at: http://www.ipea.gov.br/sites/000/2/publicacoes/tds/TD_1592_web.pdf, pages 33-34 (last access on August 2012).

7. Fuel prices dropped from R$ 2,74 to an average of R$ 2,40 per liter – more than 10% difference. Considering an average of 8 million liters of fuel consumption per month in the city, multiplied by the R$ 0,34 cents savings per liter from the difference between price before and after the cartel, a general saving of around R$ 2.720.000,00 (over 1 million Euros) for the city is reached.

8. In addition, a strong competition advocacy effort has been made in Brazil during the last decade, particularly in the fight against cartels. Among these efforts is the institution of a National day of fight against cartels, which uses the retail fuel cartels as an example to easily expose the negative effects of this anticompetitive practice for consumers and for the country as a whole.

4. Basic foods

9. In the basic foods market, an important merger took place recently: the merger between Sadia and Perdigão, the two main Brazilian companies for industrialized foods, such as frozen pizza, pasta, chicken and meat.

10. The merger was notified to CADE in 2009 and, after a couple of discovery phase and negotiations, CADE's reporting Commissioner voted against the merger, arguing that it would lead to high concentration in the food market as well as harms to consumers, increase of basic food prices (40% of price increase in the specific markets of ham and sausages, for instance) and inflation. Nonetheless, after another set of negotiation round-tables with the merging companies, CADE approved the merger by majority as four Commissioners voted in favor of the merger – with substantial restrictions – and the first reporting Commissioner against the approval of the merger.

11. This case is another illustration of how competition enforcement is capable to affect directly the daily life of the poorest part of the society.