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Developing Countries' Experience with Extraterritoriality in
Competition Law

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Developing Countries' Experience with Extraterritoriality in Competition Law

Dr Marek Martyniszyn

Ninth Meeting of the UNCTAD Research Partnership Platform, 11th July 2018

Focus

- extraterritoriality– applicability of domestic competition legislation to foreign entities which are not present in the jurisdiction but whose conduct harms local consumers or producers
examples: a foreign price-fixing cartel; a foreign-to-foreign merger

Relevance

- the issue of transnational private anticompetitive conduct continues to be unaddressed at the international level
- growing number of states rely on extraterritoriality to protect domestic consumers
- however, an enforcement gap continues to exist as not all countries can and do actively protect domestic consumers

This project

- currently little is known about developing countries experience with extraterritoriality in competition law
- this project aims to fill in that gap by collecting and analysing relevant data
- the data will help us understand the nature of challenges faced by competition agencies in different countries in such context– with a view to seek feasible, workable solutions to address them
- this project uses a short and simple questionnaire to collect data

The questionnaire asks about

- (1) applicability of your domestic competition legislation to the conduct of foreign entities which are not present in your country but whose conduct harms local consumers or producers and the legal basis for it
- (2) any related enforcement efforts or their lack (and reasons behind it)
- (3) any factors hindering transnational enforcement

Your input

- completed questionnaires have already been received from 18 countries:
Argentina, Armenia, Belarus, Botswana, Bulgaria, China, Colombia, Costa Rica, Egypt, El Salvador, Honduras, India, Jamaica, Peru, Swaziland, Turkey, Ukraine, Zambia
- more input is needed for the data to be representative and to provide us with a better understanding of the nature of the challenges involved
- the questionnaire will be shortly re-distributed by email
- your contribution is important and it will be duly recognised in any resulting reports and publications



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Thank you

All comments are gratefully received at m.martyniszyn@qub.ac.uk

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