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**Enforcing competition law in digital markets and ecosystems:
Policy challenges and options**

Contribution

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Speaking Notes for the IGE on Competition Law and Policy

Commissioner Victor Oliveira Fernandes

INTRODUCTION

Dear participants of the IGE on Competition Law and Policy, 22nd Session,

First, I would like to express my sincere gratitude to UNCTAD for the opportunity to speak at this distinguished event.

I apologize for not been able to present this in person.

Earlier this year, the Brazilian Competition Authority (CADE) had the privilege of publishing the second report on competition policy in Brics countries.

It entails a comprehensive study conducted in collaboration with the competition authorities of Russia, India, China, and South Africa.

The main objective of this report was to deepen the debate on digital markets across several dimensions, both in terms of mergers and anticompetitive conducts.

The report covers a wide range of topics, including the methods and principles used for market definition, the assessment of market power, the distinctive challenges raised by anticompetitive conducts and concentrations in the digital sphere, and an outline of possible remedies to address competition concerns.

QUESTIONS

1. *"What are the best policy options to promote competition in digital markets from a BRICS Competition Authority perspective?"*

There are several key policy options that BRICS countries can pursue to promote competition in digital markets:

- Adapt competition analysis frameworks to the realities of digital markets.
 - This includes recognizing the unique features of digital markets such as multi-sidedness, zero-price services, network effects, and the role of data and innovation.

- Scrutinize potentially anticompetitive practices that are more prevalent in the digital economy.



- The report highlights several conducts of concern, including algorithmic collusion, across-platform parity agreements, exclusive dealing, various pricing abuses, and self-preferencing by dominant platforms.
- Competition authorities should proactively investigate these practices and develop sound theories of harm suitable to the digital context.
- Strengthen international cooperation and knowledge sharing.
 - The BRICS countries represent a diverse set of large and innovative economies. Collaborating through working groups, reports, and regular interactions can help develop common understanding and best practices, while still allowing for experimentation based on each country's particular circumstances.
- Engage in advocacy and promote a pro-competition culture.
 - Competition authorities can play an important role in advising governments and educating the public on fostering competition in the digital era. Advocating against unnecessary regulatory barriers and promoting open, interoperable standards can help level the playing field.
 - BRICS authorities should leverage the diversity of their legal, economic, and institutional contexts.
 - The plurality of the BRICS provides a rich basis for testing different approaches and learning from each other's successes and challenges.
 - At the same time, some level of convergence and cooperation is valuable for providing clarity to market participants and addressing cross-border issues effectively.

2. "Could a coordinated action strategy between the BRICS confront the huge economic power of digital platforms and ecosystems?"

Based on the comprehensive report from the BRICS Competition Authorities Working Group on the Digital Economy, there are several key areas where coordinated action among BRICS countries could help address the significant market power of large digital platforms and ecosystems:



- **Developing common frameworks for analyzing digital markets.** The BRICS authorities recognize the need to adapt traditional competition analysis tools to the realities of multi-sided markets, zero-price services, the role of data, and dynamic innovation. Collaborating to establish best practices on market definition, market power assessment, and theories of harm suitable for the digital economy could strengthen the ability of BRICS authorities to identify and address anticompetitive conduct and mergers.
- **Sharing experiences on remedies for digital markets.** As BRICS authorities increasingly take enforcement actions against dominant digital platforms, exchanging knowledge on the design and implementation of effective remedies will be valuable. This could include behavioral commitments, data-related measures, interoperability requirements, and even structural solutions in some cases. Learning from each other's successes and challenges can help refine approaches over time.
- **Advocating for pro-competition policies and regulations.** Beyond enforcement, competition authorities can coordinate to promote laws and regulations that lower entry barriers, ensure fair access to key inputs and customers, and maintain open and interoperable standards in digital markets. Speaking with a common voice could amplify this advocacy with other policymakers and the public.
- **Cooperating on cross-border enforcement.** Many digital platforms and ecosystems operate globally, requiring authorities to work together on mergers, cartels, and unilateral conduct cases that have effects in multiple jurisdictions. The BRICS provide a valuable forum to facilitate cooperation, both informally through dialogues and formally through the exchange of confidential information and coordination of remedies where appropriate and legally permissible.
- **Pooling resources for research and policy development.** Analyzing fast-moving digital markets requires specialist skills and tools that can be costly for authorities to develop individually. Jointly investing in research capabilities, such as on algorithmic collusion screening, could yield collective benefits. Similarly, co-developing policy guidance on emerging issues like self-preferencing could accelerate convergence.

The diversity of the BRICS economies is a strength in pursuing this agenda. The differences in market conditions, legal frameworks, and institutional arrangements provide a rich basis for experimentation and mutual learning. At the same time, the shared challenges of regulating powerful digital platforms creates an impetus for closer collaboration. While respecting each authority's autonomy, targeted coordination among the BRICS on the digital economy could help tip the balance towards preserving vibrant competition and innovation for all.