

**Intergovernmental Group of Experts on Competition Law and
Policy, Fifteenth Session**

Geneva, 19-21 October 2016

Round Table on:

"Enforcement of competition policy in the food retail sector"

Contribution

By

**Oscar García Cardoze, Head of the Panamanian Authority for
Consumer Protection and Competition Defense**

The views expressed are those of the author(s) and do not necessarily reflect the views of UNCTAD

Round Table on "Enforcement of competition policy in the retail sector: competition issues in the food retail sector"



Oscar García Cardoze

Head of the Panamanian Authority for Consumer Protection and Competition Defense

15th Session of the Intergovernmental Group of Experts on Competition Law and Policy
19 -21 October 2016, Geneva, Switzerland
Thursday 20 October 2016 (11:30 - 13:00)
Palais des Nations, Room XVII (First Floor)

a) What are the solutions adopted by countries to alleviate the problem of buyer power, unfair and anti-competitive practices?



-
- The Panamanian authority can, by complaint or on their own, investigate anti-competitive practices by retailers to their suppliers. To date there has been no formal complaints
 - In Panama you can prosecute the exclusionary abuse on competitors. The exploitative abuse is only seen when it turns into coordination between competitors.
 - In Panama City, 7 supermarket chains compete and in major cities within the countryside there are 3 or 4 of these retailing stores. Supermarket chains also compete with smaller businesses which together have a bigger and increasing greater share.

b) Do enormous and legal barriers restrict entry and expansion in the grocery retail markets? Which kind of measures could be adopted to avoid these barriers?



-
- Constitutionally, by Article 293, retailing is reserved for Panamanians.
 - The exception to this rule is in a letter accompanying the Trade Promotion Agreement between Panama and the United States (2012), under the figure of multiple services, an investment of more than 3 million dollars by US businessmen in Panama. To date, chains like Walmart have not invested in Panama.
 - In Panama there are no time restrictions. Indeed, there are supermarket chains that are 24/7.
 - Neither are zoning or discrimination against potential incomer to the retail sector



b) Do enormous and legal barriers restrict entry and expansion in the grocery retail markets? Which kind of measures could be adopted to avoid these barriers?

- In Panama since the second half of 2014, there is a temporary top prices control and top retail margins for 22 products of the basic food basket. Nevertheless, the design of this regulation neither protect inefficient retailers nor .
- In Panama there are no restrictions over discounts that retail chains may offer.

c) How to guarantee and improve the fair relations between producers, fabricants and retailers?



-
- In Panama an affected provider by unfair retail practice may file a complaint anonymously, even it can be filed via Web.
 - The competition authority of Panama may conduct inquiries on their own.
 - In Panama there is the figure of settlement as a mechanism of early termination of proceedings for anticompetitive behavior, which can be specified both in preliminary stages and trial stage. The settlements involve conducting surprise audits, which allow to verifying compliance with the agreement and detect restrictive behaviors of competition.

d) How the buyer power of the supermarkets and the progressive development of the own brand products can affect the choice and innovation in the food sector?



- Own brands become competition for brands of their suppliers.
- Limited shelf space implies that branded products are increasingly replaced by own brands. Own brand products are more profitable for supermarkets: lower promotional costs, the tight control of supermarkets on the suppliers of their own brands also helps reduce direct costs. Retailers also can exploit the advanced information on plans for branded products which have access in their capacity as buyers. Retailers' own brands, therefore do not always represent another alternative for consumers to choose.
- While at the beginning own brands are an option, the aggressive development of own brands discourages suppliers of branded products with regard to innovation, resulting in more harm to consumers. In the future, the quality and variety may be reduced.



Some practices identified exploitative abuse in the retail channel

- In Panama competition law does not prohibit unilateral conduct exploitative, only behaviors that exclude competitors.
- Payment de suppliers to be in the list of products with bar code.
- It is not paid the provider for the first delivery

e) How to improve and extend the benefits for consumers?



-
- By verifying that promotional offers meet consumer protection law requirements (duration, number of goods on sale, regular and promotional price in sight)
 - Instruments to address consumer complaints more expeditiously in the place of purchase. Responsible Economic Agent (AER program). Assessing the feasibility to extend to various forms of retail.
 - Promoting prices on line available to consumers through mobile apps

e) How to improve and extend the benefits for consumers?



- Consumers are the very first frontline for their protections by reporting consumer protection matters to the agency


10:31 AM


DETALLES DENUNCIAS

PUBLICIDAD ENGAÑOSA

Mercancía con desc., no identific.. ▾

Nombre de Negocio

Dirección 

Detalle de denuncia (opcional) 

ENVIAR

Round Table on "Enforcement of competition policy in the retail sector: competition issues in the food retail sector"



Oscar García Cardoze

Head of the Panamanian Authority for Consumer Protection and Competition Defense

ogarcia@acodeco.gob.pa



[@AcodecoResuelve](https://twitter.com/AcodecoResuelve)

